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Stakeholder Resistance to the Transparency Revolution

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How Do Key Stakeholders View Transparency?

Given the clear need for transparency, and the gaps towards achieving the level needed to create full accountability to drive lower costs and improved quality in U.S. health care, one might assume that all key stakeholders would embrace the concept. Unfortunately, this is not the case. While views are not universally shared within each key stakeholder group, many elements of the supply chain are resistant to the concept of full transparency.

Insurance Carriers and Health Plans

While insurance carriers are making progress in developing proprietary tools to advance transparency for the plans and networks they offer, they often oppose transparency when it would require them to disclose the negotiated fees they pay providers to third parties and emerging transparency specialty vendors whom they may view as competitors. Many view this as proprietary information that offers them a competitive advantage. This creates multiple issues. For example, if a given provider scores better on one carrier's proprietary measure compared to that reported by a competing plan, neither the consuming public nor the provider being measured know whose results they can trust. Carriers and providers may also enter into "most favored nation clauses" through which they agree to mutually beneficial financial terms in exchange for the carrier being a preferred distributor for the provider's services. While these arrangements may benefit the provider and carrier who have entered into them, they are not necessarily in the interests of the broader market. Disclosure of negotiated prices paid by carriers to providers would expose the adverse impact these arrangements can have on purchasers and consumers. Some carriers go as far as requiring employers to agree to non-disclosure requirements to assure they do not publish the fees paid by the carrier to providers, or the administrative fees paid by the employer to the carrier for administering their health plan.

Pharmacy Benefit Managers (PBMs)

Some PBMs have been particularly resistant to full transparency, especially as it pertains to the actual price they pay for drugs and other revenue streams they receive in administering prescription drug benefits. Today, the pharmacy benefit market primarily operates based on negotiated discounts off what is called average wholesale price, or AWP. This is the equivalent of offering a discount off manufacturer's suggested retail price when buying a car. With this approach, employers do not know what the actual cost is that the PBM is paying drug manufacturers, or the amount that the PBM is marking up that price when passing on a claim for the employer to pay.

Health Care Providers

While the vast majority of clinicians strive to provide the best care possible, many health care providers resist public reporting. This is in part based on fear of the unknown. It is like being graded for the first time, and having no idea if you are an above average, average, or failing student until the test scores are released. Providers may see nothing to gain as a result, especially if they are already operating a successful and financially viable business

without full disclosure of price and quality. In some cases, providers go as far as requiring health plans to agree to non-disclosure terms in their contracts with them that prohibit the carriers from disclosing their negotiated fees.

Some providers directly benefit from a lack of price or quality transparency. For example, if a provider has dominant market share, they may command higher fees when negotiating with a given health plan since it is more important to have a provider in the health plan's network if they serve a large number of patients. Without price transparency, that higher cost cannot be passed on to the consumer, which would make providers who are paid more by health plans directly accountable to the consuming public for their price.

There is also concern among some that the new Accountable Care Organizations, or ACOs, may create a mutual resistance to robust transparency among some health plans and providers who work together to create ACO structures. If both the plan and providers can command a higher fee through this relationship, they will both have a vested interest in a lack of disclosure on both the relative cost and quality of care provided. The same can be said for some rural markets. If a single provider entity and a single carrier dominate a market, they may both have an incentive to resist price and quality transparency as they have the equivalent of a bilateral monopoly for the service area in question.

Provider resistance to transparency is also caused by a distrust of the measures and quality of data used for those measures. This can result in "letting the perfect be the enemy of the good," as providers are reluctant to support public reporting unless ideal measures using pristine data sources are applied. This concern applies to both cost and quality indicators. Providers are also concerned that more robust disclosure on the relative quality of their care could also increase their risk of malpractice claims. In addition, providers are concerned about the cost of gathering the necessary data, especially when measures are based on clinical data that may exist only on paper, and not in electronic medical records.

Health Care Manufacturers

Medical device and drug manufacturers can also be resistant to cost and quality transparency. In the case of both devices and prescription drugs, new products may replace an existing treatment alternative at a higher cost. Without robust measures on both the cost and relative outcomes of these new technologies compared to other alternatives, the market has no way of rationally accepting or rejecting them once they are approved by the FDA. This can result in increased costs for these new treatment alternatives relative to the value of other existing options. It can also lead to new FDA approved technologies existing for some time in the market before the consuming public becomes aware that it may have unknown quality or patient safety issues that were not fully identified at the time they were approved.

Policy Makers

Policymakers have embraced transparency to some degree, including noteworthy progress made by the U.S. Department of Health and Human Services (HHS) and the Centers for Medicare and Medicaid Services (CMS) in measuring and reporting hospital, physician and nursing home quality; however, they have not been pursued the concept with the sense of commitment and urgency that is needed. One reason is intense lobbying from the supply chain that tends to resist the concept of robust transparency. And because health care

purchasing is not the core business of most employers, they are often out-resourced by the health care supply chain in the public debate over the importance of rapidly advancing health care transparency.

One can argue that this political dynamic is illustrated by the disproportionate focus in the Affordable Care Act on regulating and disclosing the costs charged by insurers combined with what many consider to be relatively modest corresponding disclosure requirements for other elements of the health care supply chain. The great majority of costs that are making U.S. health care unaffordable are driven by elements of the supply chain other than insurance carriers. However, despite recent noteworthy efforts on the part of HHS and CMS to advance transparency, it appears a disproportionate priority has been placed on measuring and monitoring the quality, costs and margins for the insurers, with far less emphasis on creating similar accountability and disclosure for other aspects of the health care supply chain. While carriers should be held just as accountable as all other elements of the supply chain, it could be that the disproportionate attention on measuring (and regulating) the carriers' cost and quality is in part due to political expedience – insurers do not have the grass roots lobbying power of main street providers, and they are an easier target in the public debate over where the waste is in the supply chain.

Some policymakers may also resist full cost transparency due to the potential for cost shifting from Medicare and Medicaid to private payers referenced earlier. Many believe that in effect, the government for decades has funded these programs in part through what one could argue is a hidden tax on private payers by reimbursing providers at mandated levels below what the private sector can negotiate. Having full cost transparency would allow for the impact of Medicare and Medicaid provider reimbursement policy on the cost of private plans to be more thoroughly documented. This could in turn create increased public pressure to fundamentally change how Medicare and Medicaid pay providers instead of continuing to rely on cost shifting to the private market to address affordability issues for entitlement programs. As mentioned earlier, it may even lead large employers to begin advocating for policy changes that would guarantee their private plans access to the same fees that Medicare pays providers.

Employee Benefit Consultants

The employee benefit consulting industry has generally supported transparency. One major firm even attempted to work with large employers and carriers to create a national claims data warehouse that could be used for public reporting. However, that effort was not successful due in large part to resistance from the health care supply chain and certain health plans who would not submit their claims data. Also, some employers were reticent to pay the cost of participating in this effort. While benefit consultants continue to support transparency, at this time they seem to be more focused on building private health care exchanges and assisting employers with various issues pertaining to ACA implementation and compliance rather than advancing transparency.

Consumers

Historically, the consuming public, those who ultimately have the most to gain through access to improved cost and quality information, have not fully or even sufficiently embraced or demanded the degree of transparency required to give them the tools they need to make informed choices. This is in part due to the tendency of many consumers to believe that the doctor or hospital they currently have is best. Some consumers fear the added responsibility and autonomy that comes with the consumer-centric approach driven by consumer directed health plans. For example, a recent survey found that more than 50% of American workers prefer to have their employer take the responsibility of choosing a health plan for them. For those individuals, transparency is not viewed favorably because they are concerned about having added responsibility to make informed choices in order to manage out of pocket expenses.

Another reason why the consuming public resists transparency is concern over data privacy. While the Health Insurance Portability and Accountability Act (HIPAA) provides robust consumer protection, some data privacy advocacy groups still oppose using claims and clinical data to measure and publicly report the cost and quality of health. These concerns are voiced even when stringent HIPAA requirements are being met.

The good news is that it appears that American health care consumers are beginning to more fully embrace transparency. This is in part due to the introduction of consumer driven, high deductible plans that give beneficiaries a direct economic interest in comparing prices. For example, one major employer, after introducing consumer driven plan designs, has had 70% of households use their transparency tools, with a 75% incidence of repeat users. There has also been a growing amount of publicity about the significant variation in quality of care, which is also likely helping more effectively engage consumers in pursuing information that allows them to compare providers and treatments.

Employers

How do employers, who cover more than 160 million Americans and pay a huge portion of the nation's health care bill, view transparency? For years, employers have tended to say all the right things regarding the importance of improved transparency. They have launched some promising initiatives such as The Leapfrog Group and supported other important efforts like the National Committee for Quality Assurance and National Quality Forum to advance this concept. Yet in the end, their rhetoric and efforts have fallen short of meeting both their own needs and the needs of those to whom they provide coverage.

The fact that health care is not part of their core business makes it difficult for most companies to commit the time and resources required to address this need in light of the significant resistance they encounter from the health care supply chain. Further, even the nation's largest private employers have very limited influence in advancing transparency when considering their purchasing power relative to a \$2.7 trillion national health care economy.

However, growing concerns over the impact of the Affordable Care Act combined with ongoing concerns over the cost and quality of American health care and the rise of consumer driven plans appear to have moved the transparency agenda higher up on corporate priority lists. This is illustrated by the following results of a March 2013 survey of Chief Human Resource Officers. In the survey, published by the HR Policy Association, 93% of CHROs reported that they believed that effective transparency mechanisms could help bend the health care cost curve in a favorable direction. Unfortunately, only 8% felt that their own companies had fully effective transparency mechanisms in place. They also revealed some skepticism about the ability to procure the transparency tools they needed: only 11% felt that the tools they needed were available, and another 6% felt that they were available, but not at an affordable price.

Conclusion

Market-based solutions cannot work to address the health care cost and quality problems in the United States without a degree of transparency that far exceeds what is available today. Many powerful interests do not embrace the goal to have a fully transparent health care market, and employers and consumers likely have the most to lose if that goal is not achieved. In order to bring about the considerable benefits transparency has to offer, transparency advocates will have to overcome the resistance of a variety of health care stakeholders.