Cost Trends and Market Performance

Health Policy Commission

Committee Meeting

June 4, 2014

Agenda

- Approval of the Minutes from the April 29, 2014 Meeting
- Discussion of Regulatory Definitions for Material Change Notices
- Schedule of Next Committee Meeting (August 6, 2014)

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Vote: Approving Minutes

Motion: That the Cost Trends and Market Performance Committee hereby approves the minutes of the Committee meeting held on April 29, 2014, as presented.

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- **Discussion of Regulatory Definitions for Material Change Notices**
  - Proposed Definitions for Review of Material Change Notices
  - Points of Consensus
  - Stakeholder Feedback
  - Remaining Questions and Next Steps
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Proposed “Materially Higher Price” Definition

Materially Higher Price: A Provider’s price, as may be defined by CHIA pursuant to 957 CMR 2.02 or by the Health Policy Commission, for a payer or set of payers which constitute at least one-third of such Provider’s revenue, which exceeds the weighted mean price of similar Providers or Provider types for the same payer or set of payers.

Difference Between Median, Mean, and Weighted Mean (2012 Hospital RP)

	BCBS	HPHC	THP
Median	0.93	0.88	0.93
Mean	1.00	1.00	1.00
Weighted Mean	1.14	1.04	1.11
Difference between Weighted Mean and Median	0.21	0.16	0.18

Difference Between Median, Mean, and Weighted Mean (2011 Physician RP)

	BCBS	HPHC	THP
Median	0.92	0.95	0.97
Mean	1.00	1.00	1.00
Weighted Mean	1.07	1.22	1.17
Difference between Weighted Mean and Median	0.15	0.27	0.20

Proposed “Materially Higher Health Status Adjusted TME” Definition

Materially Higher Health Status Adjusted Total Medical Expenses: A Provider’s health status adjusted total medical expenses, as may be defined by CHIA pursuant to 957 CMR 2.02 or by the Health Policy Commission, for a payer or set of payers which constitute at least one-third of such Provider’s revenue, which exceeds the weighted mean health status adjusted total medical expenses of similar Providers or Provider types for the same payer or set of payers.

Proposed “Dominant Market Share” Definition

Dominant Market Share: A Provider’s percentage share of health care services, including but not limited to inpatient services, outpatient services, or professional services, in such Provider's service area that is of significant importance to payer networks. For inpatient services, a Provider or Provider Organization has Dominant Market Share if it has 40% of the commercial inpatient discharges in one or more of its hospitals’ Primary Service Areas.

Exemplar Development of “Dominant Market Share” Thresholds

Inpatient Services → **Primary Care Services** → **Outpatient and Post-Acute Services**

Proposed “Material Change” Definition

Material Change:

- A Merger or Affiliation with a Carrier; or an Acquisition of or Acquisition by a Carrier;
- A Merger with or Acquisition of or by a hospital or hospital system;
- Any other Acquisition, Merger or Affiliation with another Provider or Provider Organization where such Acquisition, Merger or Affiliation would result in an increase in annual Net Patient Service Revenue of the Provider or Provider Organization of ten million dollars or more;
- Any Clinical Affiliation with another Provider or Provider Organization which itself has an annual Net Patient Service Revenue of $25 million or more in the preceding fiscal year; and
- Any formation of a partnership, joint venture, common entity, accountable care organization, or parent corporation created for the purpose of contracting on behalf of one or more Providers or Provider Organizations.

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Points of Consensus

Materially Higher Price and Health Status Adjusted Total Medical Expenses
Consensus to move forward with the definitions of price and TME published by CHIA.
Consensus to be more restrictive: Set a threshold for “materially higher price” that is weighted by volume, which is more restrictive than a threshold at median or mean. At the same time, recognize that each metric is only one of three prongs that would trigger a mandatory referral.
Consensus not to identify a provider’s price as materially higher if that price only applies for a small payer or set of payers who represent a small fraction of the provider’s business. Therefore, require that the materially higher price must apply to a payer or set of payers who constitute at least one-third of the provider’s revenue.
Consensus, reinforced by statute, to compare prices and TME among similar providers.
Dominant Market Share
Consensus that markets should be examined by service line (e.g., inpatient, ambulatory, primary care).
Consensus that the relevant market for inpatient services is a hospital PSA.
Consensus that a quantitative threshold for dominance should be based on empirical modeling of market-wide data.

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Stakeholders Who Have Provided Feedback to Date

- Atrius Health
- Blue Cross Blue Shield of Massachusetts
- Center for Health Information and Analysis
- Greater Boston Chamber of Commerce
- Massachusetts Coalition of Nurse Practitioners
- Massachusetts Association of Health Plans, including:
  - BMC HealthNet Plan
  - Harvard Pilgrim Health Care
  - Health New England
  - Tufts Health Plan / Network Health
- Massachusetts Hospital Association
- New England Quality Care Alliance
- Steward Health Care System
- Tufts Medical Center

Principal Points of Feedback To Date

Feedback Received	Response
1. While meeting all three definitions would trigger a mandatory referral, the HPC should retain discretion to elect to refer transactions to the AGO.	1. Confirm with stakeholders that this perspective is consistent with the HPC's views and approach.
2. Clarify whether the payer or set of payers which constitute one-third of a provider's revenue will be calculated by book of business (commercial versus otherwise).	2. Confirm with stakeholders that the one-third calculation will be by book of business (commercial v. government payer).
3. Clarify how the threshold for materially higher price and TME will be weighted.	3. Confirm with stakeholders that the threshold for materially higher price will be weighted by provider volume and the threshold for materially higher TME will be weighted by provider HMO/POS member months.

Principal Points of Feedback To Date

Feedback Received	Response
4. Does setting the threshold for "materially higher price" in a way that weights by volume mean that the HPC will be weighting all providers' prices by volume in reporting on materially higher prices?	4. No. The calculation of a weighted price is for the exclusive purpose of determining the appropriate place to set the *threshold* for materially higher. It is CHIA's "pure" price for each provider that we will be using to compare a provider's price against this threshold.
5. How will "similar providers" be determined?	5. Confirm with stakeholders that, at a minimum, providers will be compared with other providers of the same service type (e.g., general acute care hospitals compared with other general acute care hospitals; physician groups with other physician groups). Additionally, as described in our CMIR reports, similar providers may be further determined by geography, scope of service offerings, and patient flow patterns.
6. In developing a definition of Dominant Market Share for "physician services," primary care services provided by non-physician clinicians such as nurse practitioners should not be excluded.	6. Confirm with stakeholders that a definition of market share for professional services will be framed as share of "primary care services" rather than "physician services," reflecting the HPC's interest, consistent with stakeholders', to include primary care services provided by non-physician clinicians wherever possible.

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Remaining Questions

Question 1:	Should the HPC include an HHI (market concentration) threshold in defining Dominant Market Share?
Recommended Approach:	While HHIs are used in our modeling of Dominant Market Share, we recommend that layering on an additional HHI requirement is neither necessary nor appropriate. A certain level of share (e.g., 40%) always corresponds to a minimum level of concentration (here, an HHI of more than 1,600), or a market that is, at minimum, moderately concentrated. Additionally, the fact that the HPC examines market share *in conjunction with* Materially Higher Price and TME reduces the salience of a fixed HHI threshold (the HPC does not need to rely exclusively on market concentration as a proxy for potential pricing power because it is also required to directly examine actual pricing and efficiency levels).

Remaining Questions

Question 2:	Why does the HPC provide a quantitative threshold for Dominant Market Share for inpatient services, but describes Dominant Market Share for other service lines qualitatively ("a provider's percentage share of health care services . . . that is of significant importance to payer networks")?
Recommended Approach:	The HPC is committed to developing thresholds for dominance empirically based on modeling of robust Massachusetts data. Because adequate statewide data is not yet available for all service lines, we recommend a balanced approach: (a) "dominance" is defined qualitatively (the degree of importance to payer networks represented by the market share in question) and (b) on a rolling basis, as statewide data allow, the HPC provides more specific quantitative thresholds by service category to further guide market participants. A provider should only be characterized as having Dominant Market Share in a service category for which we have defined a quantitative threshold.

Remaining Questions

Question 3:	Should the HPC establish a fixed threshold above the median in defining Materially Higher Price or HSA TME, to account for the potential that provider rates will converge in the future?
Recommended Approach:	We recommend the following approach for purposes of being responsive to an evolving market: (a) defining the threshold for materially higher at the weighted mean, which is significantly above the median and is already responsive to market changes by self-adjusting as provider volume and member months change; and (b) as may be necessary to further address future market changes, relying on the regulatory process to modify our current thresholds for materially higher price and HSA TME.

Remaining Questions

Question 4:	Should we add the closure of a health care facility or service line to the definition of a Material Change?
Questions for Consideration:	• Given the current statutory responsibilities of providers to report changes of essential services and closures to DPH and the subsequent statutory review by DPH and the AGO, what additional role, if any, should the HPC play in review of such closures? • Is the MCN/CMIR process, with its 185-day timeline, appropriate and effective to fulfill any such HPC role?

Next Steps

- Discuss and vote on proposed regulations at the August 6th CTMP Committee Meeting
- Full Commission vote on proposed regulations at an early September Board Meeting
- Issue draft regulations subject to full regulatory process, including notice and public hearing, with further opportunities for stakeholder feedback (September 2014)

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Contact us

For more information about the Health Policy Commission:

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