Cost Trends and Market Performance

Health Policy Commission

Committee Meeting

April 29, 2014

Agenda

- Approval of the minutes from the February 24, 2014 meeting
- Discussion of the regulation development for material change notices (MCN)
- Schedule of next committee meeting (June 4, 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 February 24, 2014, as presented.

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  - Background of Statutory Definitions for HPC Review of Material Change Notices
  - Proposed Definitions and Discussion of Significance of Statutory Factors
  - Proposed Updates to Material Change Notice Filing
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HPC Review of Material Changes

- The HPC was chartered upon a commitment to foster innovative health care delivery and payment models, many of which may contemplate material changes to the operations or governance structure of providers.
- Chapter 224 dedicates the HPC to advancing the transformative potential of innovative care delivery and payment models by requiring that providers proposing to undertake significant changes provide measurable indicators of how those changes are likely to result in improved performance.
- The purpose of the HPC's reviews is not to presume that market changes will have negative impacts, but rather to examine such changes with data rigor to promote transparency and accountability, and to encourage the positive outcomes of any given change and minimize any negative impacts.

Statutory Factors for Review of Material Changes

MARKET FUNCTIONING

- Unit prices, including whether prices are ***materially higher*** than other providers
- Health status adjusted total medical expenses (TME) including whether TME is ***materially higher*** than other providers
- Provider costs and cost trends
- Provider size and market share within ***primary service areas*** and ***dispersed service areas***, including whether the provider has ***dominant market share***
- Quality of services provided, including patient experience
- Availability and accessibility of services within ***primary service areas*** and ***dispersed service areas***
- Impact on competing options for health care delivery, including impact on existing providers
- Methods used to attract patient volume and to recruit or acquire health care professionals or facilities
- Role in serving at-risk, underserved, and government payer populations
- Role in providing low margin or negative margin services
- Consumer concerns, such as complaints that the provider has engaged in any unfair method of competition or any unfair or deceptive act
- Other factors in the public interest

Approach to Developing Definitions for Statutory Terms

Example Considerations

- Flexibility versus strict guidelines, e.g.
  - Predictability for market participants must be balanced against the need to understand providers in the context of their unique markets.
  - The healthcare marketplace is continually evolving.
- Availability of reliable data, e.g.
  - Regularly reported data is not available for all payers.
  - More comprehensive data is currently available for certain services, but the HPC anticipates increased access to statewide data for other services in future.

HPC Approach and Results

- In consultation with experts, conducted extensive modeling:
  - Modeled multiple definitions and thresholds, using the best data available.
  - Assessed where numeric thresholds could be applied, and where flexibility should be retained.
  - Modeled across multiple types of providers, e.g. physicians, hospitals and multi-provider organizations.
- The HPC's proposed definitions yield consistently reliable results across a wide spectrum of providers and provider types.
- The HPC's proposed definitions balance the need for flexible and fact-specific methodologies with the need for predictable thresholds.

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Statutory Background

Section 13 of Chapter 6D of the General Laws

Subsection (e): "[In a preliminary report], the commission shall identify any provider or provider organization that meets all of the following criteria: (i) the provider or provider organization has a ***dominant market share*** for the services it provides; (ii) the provider or provider organization charges ***prices for services that are materially higher than the median prices*** charged by all other providers for the same services in the same market; and (iii) the provider or provider organization has a ***health status adjusted total medical expense that is materially higher than the median total medical expense*** for all other providers for the same service in the same market."

Subsection (f): "The commission shall refer to the attorney general its report on any provider organization that meets all 3 criteria under subsection (e)."

Subsection (j): "The commission shall adopt regulations for conducting cost and market impact reviews and for administering this section. These regulations shall include definitions of … ***dominant market share, materially higher prices and materially higher health status adjusted total medical expenses***…"

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.

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

Exemplar median price	Exemplar mean price	Exemplar weighted mean price
0.96 →	1.01 →	1.28
Higher than 51% of providers	Higher than 62% of providers	Higher than 89% of providers

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 physician services, in such Provider's service area that is of significant importance to payer networks. For commercial 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 Hospital Services → **Physician Services** → **Outpatient and Post-Acute Services**

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Types of Transactions Noticed

April 2013 to Present

Type of Transaction	Frequency
Physician group affiliation or acquisition	30%
Acute hospital acquisition	22%
Clinical affiliation	19%
Acquisition of post-acute provider	11%
Change in ownership or merger of owned entities	15%
Formation of contracting entity	4%

Note: May not sum to 100% due to rounding

Proposed Updates to Material Change Notice Filing

- Interim Guidance issued March 12, 2013 currently governs the filing of material change notices.
- That process has generally worked well, and we do not recommend significant changes to that process.
- We recommend a few minor process clarifications:
  - Reinforcing that the 30-day review begins when a material change notice is complete, including any requested materials.
  - Clarifying that one party to a transaction being an out-of-state entity would not necessarily exempt the transaction from notice.
- Simultaneously, we recommend updating the form to include:
  - A description of any service changes anticipated; and
  - A request for certain, standard materials to be filed with the HPC upon filing a notice (e.g. copies of underlying agreements, certain quantitative materials)

Next Steps

- Working closely with experts and stakeholders (ongoing)
- Proposing regulations, which will be subject to the full regulatory process, including opportunities for stakeholder feedback through a public hearing and written comments (Spring - Summer 2014)

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Contact us

For more information about the Health Policy Commission:

- Visit us: http://www.mass.gov/hpc
- Follow us: @Mass_HPC
- E-mail us: HPC-Info@state.ma.us