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HEALTH CARE

Where are the private sector innovators?

LEGAL PERSPECTIVE

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The federal health care reform legislation focuses on expanding the number of citizens with health insurance coverage. The act, however, also introduces a number of innovative programs and payment reforms intended to improve the quality and decrease the cost of health services paid for by the federal government.

These nascent efforts to "bend the cost curve" include demonstration projects for bundled payments and gain-sharing, as well as the introduction of the Accountable Care Organization, a delivery model that permits risk sharing among Medicare fee-for-service providers.

Many of these innovations are intended to align health care providers' financial incentives and to facilitate both cost savings and quality improvement. The Centers for Medicare and Medicaid Services (CMS) is working hard to develop the regulatory framework for these new models, and the Secretary of Health and Human Services has the authority to waive existing federal regulatory requirements that interfere with the implementation of these programs.

Some argue that the introduction of demonstration projects or payment experiments is not enough, and that the government needs to accelerate its payment reform efforts to get health care spending under control. Nevertheless, most consider the models outlined in the Affordable Care Act as either worthwhile experiments or essential steps toward the modification of the payment system.

Regardless of one's view of these efforts, the Affordable Care Act evidences the federal government's acceptance of the need to innovate.

Surprisingly, the private sector appears to be less interested in changing payment structures and facilitating cost controls and improved quality.

Far from providing a training ground for new models, many commercial health insurers are hesitant to adopt alternative payment methodologies short of a fully capitated managed care model.

"Medical homes" and other means of aligning providers' incentives fall short of a fully capitated managed care model.

Commercial insurers, however, are in the best position to bring about change. They are not subject to many of the Byzantine regulatory barriers that are imposed when Medicare or Medicaid is the payor. The infrastructure to support the new payment models could be developed internally by the commercial plan, or the administration of the programs could be delegated to providers or management organizations.

In short, there is no obvious barrier to commercial insurers pursuing payment innovations focused on aligning provider incentives.

The good news is that change may be on the horizon. With premium increases triggering both employer and public resentment, more commercial insurers may begin to focus on bending the cost curve as an alternative to increasing rates.

This should generate greater interest in and experimentation with new payment models. For example, a commercial insurer could adapt the federal Accountable Care Organization structure to allow physicians, hospitals and other providers to share in the cost savings generated by their collective efforts, and to provide efficient and effective health care services to a defined population of the insurer's enrollees.

Insurers could also use bundled payments for specific procedures or episodes of care to encourage providers to work together to reduce costs and improve the quality of care delivered to the insurer's enrollees. There are already examples in the marketplace of successful global pricing arrangements that prove the viability of this model.

Employers also have a role to play in encouraging commercial insurers to innovate. If payment reforms help control costs and improve quality, employers who offer health insurance benefits to their work force would share in the benefits generated by such changes. It makes sense for employers to make payment innovation a part of their negotiation strategy and urge health insurers to take advantage of their ability to align provider incentives to control costs.

The other important factor that should not be overlooked is the public reaction to innovation in the health care delivery system. Some of the innovations will require insurers to educate their enrollees and employers to educate their employees about the new models and how they will affect the patient experience, costs and quality.

The tasks may not be easy but the alternatives do not appear to be any less formidable.

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