The Unfinished Business Of Health Care Reform
Congress Turns to Medical Price Transparency

Stephen Barlas

Less than two months after playing key roles in the passage of health care reform, House and Senate committees are considering additional legislation to address the shortcomings of the bill, called the Patient Protection and Affordable Care Act (PPACA). One of the reasons that President Obama and congressional Democrats were eager to pass that bill was to put downward pressure on health care costs, thereby containing increases in medical insurance premiums.

Five weeks after the PPACA was passed, however, Senator Dianne Feinstein (D-Calif.), in what must count as one of the more remarkable admissions in recent Congresses, told the Senate Health, Education, Labor, and Pensions Committee on April 20: “I believe ... a missing piece of health care reform is ... the ability to block unreasonable premium increases.”

That is the post-PPACA congressional cause célèbre now: restraining premium increases, particularly for small businesses and individuals who are at the mercy of health insurers. Insurance companies must now comply with new PPACA requirements, such as placing a cap on what they can spend on administrative costs and earn in profits, known as the medical loss ratio provision.1

Karen Ignagni, President and Chief Executive Officer of America’s Health Insurance Plans (AHIP), says that it is those new PPACA mandates and increasing prices for medical care and drugs that are leading to higher health insurance premiums. Clearly, Congress is not going to roll back the PPACA provisions related to new insurance company mandates. That puts provider costs in the congressional bull’s-eye.

That is what three post-PPACA House bills are aimed at: medical input costs. They are all, in one sense or another, medical price transparency bills. It is actually a physician, Representative Steve Kagan (D-Wisc.), who has proposed the widest-ranging House bill—the Transparency in All Health Care Pricing Act (H.R. 4700). That bill is considerably broader than two other competing proposals. It establishes a federal dictate for publishing a wide range of medical prices for hospitals, physicians, drugs, home health care, and so forth.

The other two bills—the Health Care Price Transparency Promotion Act of 2009 (H.R. 2249) and the Patients’ Right to Know Act (H.R. 4803)—are narrower in scope; they require state-by-state laws, and they restrict health care providers who would be covered. It is worth noting that Representative Joe Barton (R-Tx.), the top Republican on the Committee on Energy and Commerce (E&C), sponsored the latter bill. Consequently, support for price transparency, at least as mandated by the state, has a bipartisan cast.

Dr. Kagan complained that the actual prices consumers pay for medical care are hidden and that hospitals, insurance companies, and drug manufacturers (he omits physicians, not surprisingly) charge “whatever they can get.” They can do this because (1) there is no price transparency in the medical marketplace and (2) the PPACA has no remedy for that shortcoming.

“There is no reason patients should be prevented from knowing the price of a pill before they buy it—and knowing what the person in line in front of them is paying for the same prescription,” he argued during hearings in the E&C Committee’s Subcommittee on Health on May 6.

Steven J. Summer, President and Chief Executive Officer of the Colorado Health and Hospital Association, testified in the House on behalf of the American Hospital Association. He said that hospital pricing is complicated because the cost of a surgical procedure can vary, depending on the complications of the operation, as dictated by the patient’s condition.

He stated: “For example, a gallbladder operation for one patient may be relatively simple, but for another patient, it could be fraught with unforeseen complications, making meaningful ‘up front’ pricing difficult and, perhaps, confusing for patients.”

But at the hearings, Dr. Kagan poked fun at that rationale. He said:

Some will argue that a hospital cannot know in advance what to charge you for taking out your bad gallbladder, because there may be complications, and that no two patients are exactly the same. This may be true, but if they want to do something really complicated, they should go to Subway and order a sandwich. There are 2-to-the-23rd-power combinations of choices to make in placing your order, but a foot-long sandwich costs you $5—no matter what you decide to put into it. If the owners of Subway can figure out how to make money by ‘lumping’ their prices, so can our nation’s hospitals.

There have been some efforts at both the state and the federal level to provide transparency in health care pricing. But Regina Herzlinger, the Nancy R. McPherson Professor of Business Administration at Harvard Business School, said that they fall short. Hospital Compare, the Web site of the U.S. Department of Health and Human Services, for example, reports on only six medical conditions and 26 surgical procedures.

“Although more than 40 states and a number of private organizations provide some health care transparency, they, too, continued on page 372

Mr. Barlas is a freelance writer based in Washington, D.C., who covers issues inside the Beltway. Send ideas for topics and your comments to sbarlas@verizon.net.
are not fully responsive," she said.

Hospitals in particular, are likely to object to a broad *federal* transparency effort. At the House hearings, though, Steven Summer said that the AHA supports H.R. 2249 because it builds on this existing state-based structure; it also requires insurers to participate in the disclosure process by providing information on estimated out-of-pocket costs for health care services.

The speed with which Congress pursues legislation regarding medical price transparency will probably be determined by the size of future insurance premium increases for individuals and small businesses.

**REFERENCE**