

## FTC and DOJ Hold Workshop on Health Care Payment Models and Effects on Competition

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Health care is the single largest industry in the *United States* with expenses comprising 18 percent of the gross domestic product. Costs need to be controlled while maintaining and improving the quality of care provided. This can be accomplished either through competition or regulation. In addition to offering insurance through the federal and state exchanges, the **Affordable Care Act (ACA)** also promotes various experimental programs and pilot projects in an effort to reshape the delivery of health care through new health care organizations and payment incentives. In light of the changes to the health care delivery system accelerated by the ACA, the **Federal Trade Commission (FTC)** and **Department of Justice (DOJ)** recently held a two-day conference examining health care competition. They heard testimony from various industry stakeholders, scholars, and economists on the following topics:

- provider network design and contracting,
- health insurance exchanges,
- accountable care organizations (ACOs),
- alternative payment arrangements, and
- provider consolidation.

Both the FTC and DOJ emphasized that these goals are consistent with, but do not supplant antitrust efforts to encourage competition. Key workshop messages were:

- **Consolidation is not the same thing as integration.** ACOs, to date, do not appear to impede competition. However, consolidation of hospitals and/or physician practices without true cultural changes that focus on redesigning the delivery of care are really about leveraging higher prices, which will only impede competition and raise prices.
- **Product markets are not insular.** Payment incentive changes in Medicare and Medicaid affect the commercial market and vice-versa. To achieve true delivery system reform, payment incentive changes and care delivery models must occur across all product markets and the spectrum of health care services.
- **Value-based payments are intended to drive delivery system reform.** The current shift away from fee-for-service to value-based payment or risk-sharing arrangements is really about trying to drive delivery system reform. The timing and manner in which the shift to risk-based payment occurs is important and will cause fluctuations in the market. In addition, these payment structures will not help reduce costs to the system with a monopoly or market power provider.
- **New relationships and incentive models must be accompanied by technology and transparency.** Reform of the health care delivery system will be more successful if providers and payors have the necessary technology, infrastructure, and analytical tools, and there is transparency for consumers about the quality of care delivered.



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- **Narrow networks can promote competition.** Narrow networks may, in fact, help promote competition and be a key tool to control costs. However, the quality of the network is important. In addition, these efforts can be thwarted if provider contracts preclude tiered networks or steering of patients.
- **Researchers need access to data.** Access to more data from the government and the private sector is needed in order to understand the impact these new innovations have on competition.

The views held by many of the stakeholders on the summation roundtable were that:

- The FTC and DOJ should keep a watchful eye on the industry, but allow the exploration and implementation of new health care organization models and payment incentives.
- It is important for the FTC, DOJ and CMS to communicate and coordinate their efforts.
- The government should not only influence and encourage the collection and reporting of data, but also educate and inform state agencies and other actors on how competition could be promoted in the health care market. In some instances, state consumer protections - such as "any willing provider" laws and network adequacy standards - can actually impede competition. In lieu of enforcement actions, the FTC and DOJ can directly address these issues through education and guidance in order to shape and promote competition. Such direction has a soft but influential effect on stakeholders and promotes competition.

Information about the workshop and its materials can be found [here](#), and comments and questions can be submitted to the agencies until April 30, 2015.

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