

March 8, 2018: National Advocacy Update

Congress should closely scrutinize proposed CVS-Aetna merger

The AMA last week asked Congress to closely scrutinize the massive proposed merger of CVS Health and Aetna because of the potential negative impact it poses to American health care consumers. The AMA submitted a statement to the House Judiciary Subcommittee on Regulatory Reform, Commercial and Antitrust Law in anticipation of a Feb. 27 hearing entitled "Competition in the Pharmaceutical Supply Chain: The Proposed Merger of CVS Health and Aetna."

The statement expresses the AMA's concerns that the proposed merger has the potential to worsen competition (or reduce hopes for amelioration) in three poorly performing markets: pharmacy benefit manager (PBM) services; local health insurance markets; and many local retail pharmacy markets.

Since CVS-Aetna announced the deal in early December, the AMA has been proactively analyzing the merger. Unlike health insurance mergers, which involve merging of competitors, the CVS-Aetna merger is largely a merger of non-competitors, i.e., a "vertical merger." It is much harder to analyze and predict the anticompetitive effect of a vertical merger than a horizontal merger. The merger itself is in its early stages, and the AMA will continue to evaluate the merger's likely effect on competition in health insurance, PBM, and retail pharmacy markets, as well as the impact that the merger might have on physician practices and patient care.

In its investigation and review of the proposed CVS-Aetna merger, the AMA is following the same evidence-based, joint AMA-Federation model that proved so effective in opposing the Anthem-Cigna and Aetna-Humana mergers. Evidence-based merger advocacy is essential for the AMA to protect and build on the well-earned reputation for credibility that it achieved when opposing the health insurer mega-mergers.

The AMA has already built a coalition of all state medical associations in markets that might be affected by the CVS-Aetna merger, as well as interested national medical specialty societies. The AMA is also reaching out to nationally known health economists and other antitrust experts, and communicating with other potential advocacy allies. The AMA will continue to work with these medical

societies, experts and allies to maximize ways to persuade state regulators to closely scrutinize the CVS-Aetna merger and make available to the AMA and Federation as much merger data as possible via public hearings and other public proceedings.

Health groups call for action on firearm violence prevention

The AMA joined 74 other national medical, health, public health, and research organizations in letters sent to the House and Senate on Feb. 22, urging Congress to find a bipartisan path toward enacting commonsense solutions to the public health threat of firearm-related injuries and fatalities. In particular, the organizations recommended strengthening firearm background-check systems and supporting public health surveillance. Research is needed to build the evidence base on the causes of firearm violence and on the effectiveness of intervention and prevention strategies.

AMA raises concerns about proposed association health plans

The AMA provided comments on the Department of Labor's (DOL) proposed rule regarding Association Health Plans (AHP) that stemmed from President Trump's Executive Order on Promoting Healthcare Choice and Competition Across the United States. The AMA supports efforts to maximize health plan choices for individuals and small businesses seeking coverage in the individual and small group markets. However, the AMA opposed the expansion of AHPs as defined by and outlined in the proposed rule. The AMA urged DOL to withdraw the proposed rule and work with state insurance commissioners and health care stakeholders to seek a solution that would expand affordable insurance coverage options through AHPs without undermining state authority to regulate AHPs to protect patients and physicians against such things as fraud and insurer solvency.

The AMA also warned that without proper oversight to account for insolvency and fraud, AHPs have the potential to increase already-high insurance premiums and overall health care costs, while threatening patients' health and financial security and the financial stability of physician practices. AMA recommended that DOL take the following steps to prevent potential insolvent and fraudulent AHPs:

- Require AHPs to receive a federal designation
- Require AHPs to provide explicative notice to participants and beneficiaries
- Provide a clear statement on states' enforcement authority over AHPs
- Adequately fund DOL implementation and oversight activities

AMA submits letter on Medicare Advantage risk adjustment model changes

On March 1, the AMA submitted a letter to the Centers for Medicare and Medicaid Services (CMS) on the Advanced Notice of Methodological Changes for CY 2019 for the Medicare Advantage CMS-Hierarchical Condition Categories (HCC) Risk Adjustment Model Notification.

The AMA has consistently expressed to CMS that a key element of success of the Medicare Advantage program is ensuring that payments to plans reflect the relative risk of beneficiaries who enroll. Therefore, the AMA supported many of the improvements to the risk adjustment methodology proposed by CMS. However, the AMA also cautioned CMS to ensure that any improved risk adjustment methodology does not increase physician reporting burden in the Medicare Advantage program. The AMA will continue to work with CMS to make improvements to risk adjustment methodology in the Medicare Advantage and other Medicare programs going forward.

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