

Draft Pending Adoption

Attachment Two
Health Insurance and Managed Care (B) Committee
3/18/24

Draft: 3/27/24

Health Innovations (B) Working Group
Phoenix, Arizona
March 17, 2024

The Health Innovations (B) Working Group of the Health Insurance and Managed Care (B) Committee met in Phoenix, AZ, March 17, 2024. The following Working Group members participated: Nathan Houdek, Chair, and Jennifer Stegall (WI); Amy Hoyt, Vice Chair, and Jo LeDuc (MO); Sarah Bailey (AK); Debra Judy (CO); Andria Seip (IA); Alex Peck (IN); Julie Holmes (KS); Kathryn Callahan (MD); Chrystal Bartuska and Karri Morris (ND); Todd Rich (NV); Daniel Bradford (OH); TK Keen (OR); Ryan Jubber, Tanji J. Northrup, and Shelley Wiseman (UT); Ned Gaines (WA); and Joylynn Fix (WV). Also participating were: Maggie Reinert (NE); Glen Mulready (OK); and Michael Humphreys (PA).

1. Adopted its 2023 Fall National Meeting Minutes

Northrup made a motion, seconded by Hoyt, to adopt the Working Group's Dec. 1, 2023, minutes (*see NAIC Proceedings – Fall 2023, Health Insurance and Managed Care (B) Committee, Attachment One*). The motion passed unanimously.

2. Heard Presentations from the AIC, CHIR, and PESP on Private Equity in Health Care

Commissioner Houdek said that private equity investments in health care companies have grown significantly. He said there may be impacts on consumers and market competition from private equity practices. He said federal agencies have announced a request for information on potential impacts on consumer access to care and other effects.

Jamal Hagler (American Investment Council—AIC) presented to define private equity and describe the private equity industry's benefits for investors and consumers. He outlined the distinction between private equity and the private equity industry. He said private equity is a source of capital, while the industry is a group of investment advisors who raise capital from institution investors using a fund vehicle with a terminal date. He said researchers often fail to make this distinction.

Hagler said the private equity industry is different from other investors. He said private equity managers work with companies to create value. He said investors work with doctors and hospital executives to make health care more efficient without jeopardizing the quality of care.

Hagler said investors, business owners, workers, and consumers all benefit from private equity investments. He said positive spillover effects occur when private equity invests in a company. He said private equity has been transformative for a variety of health care organizations, allowing practitioners to focus on practicing medicine rather than paperwork. He said private equity-backed companies represent a small share of health care businesses.

Hagler said that health care providers must deal with challenges like low margins, high labor costs, and low payment rates from government payors. He said private equity can add efficiencies that allow providers to better respond to these challenges. He cited research that shows private equity investment in hospitals is associated with greater efficiency without a reduction in quality of care. He said private equity owns about 5% of nursing

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homes and that research has shown they perform similar or better than their peers. He said private capital is crucial for modernizing medical practices.

Hagler said some have used anecdotal evidence to demonize private equity investments. He said recent studies focusing on patient mortality in hospitals and nursing homes were flawed. He said his organization's report on health care showed improved access to care through urgent care centers.

Commissioner Humphreys asked whether facility closures are more or less likely when private equity invests in a facility type. Hagler said private capital helps businesses generally expand, increase their footprint, and invest in new technology. Humphreys asked whether there are more balance billing disputes among private equity-backed providers compared to others.

Seip asked for examples of private equity increasing employee productivity. Hagler said new technologies can allow providers to see more patients in the same amount of time.

Maanasa Kona (Center on Health Insurance Reforms—CHIR) presented on trends in private equity's investments in health care, as well on emerging evidence of its impacts. She cited large investments from private equity in health care in recent years. She said investments occur in a wide range of health care companies, including hospitals, physician practices, revenue management, nursing homes, hospice, and others.

Kona described common private equity strategies. She said most investors make short-term investments, such as for three to seven years. She said private equity firms add debt to the companies they own and sometimes charge them fees, while the investor is shielded from liability.

Kona cited a study that found a 10% increase in mortality among Medicare patients at private equity-owned nursing homes and another that found an increase in hospital-acquired infections.

Kona described potential private equity impacts on markets, including bankruptcies and closures of facilities, vertical and horizontal consolidation, and increased leverage in price negotiations with payors. She said that price transparency data is essential to understand the impacts of consolidation and private equity acquisitions.

Kona said her colleagues will soon publish a paper with more details on the impacts of private equity in health care.

Commissioner Houdek asked how greater price transparency will help to mitigate the impacts of private equity. Kona said the price and cost implications of private equity are not well understood and that having price transparency data will help make those connections.

Michael Fenne (Private Equity Stakeholder Project—PESP) presented on private equity impacts on hospitals, balance billing disputes, and Medicare Advantage. He said New Mexico recently passed legislation to give the state insurance commissioner authority over hospital mergers.

Fenne reviewed recent news on Steward Health Care, which is owned by a private equity firm. He said Steward's experience shows private equity tactics. He said the private equity owner required Steward to pay rent to the owners of its real estate. He said the company now has inadequate staffing and is in danger of closure.

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Fenne showed the geographic distribution of private equity-owned hospitals, which account for about 8% of all hospitals. He shared the results of studies on adverse events that occur in private equity-owned hospitals, which indicate greater adverse events in such hospitals.

Fenne highlighted the frequency with which a small number of private equity-backed companies use the independent dispute resolution process under the federal No Surprises Act. He said four companies accounted for 70% of disputes in the first half of 2023. He said that overall, the provider prevailed in 77% of disputes.

Fenne outlined private equity investment in Medicare Advantage. He said private equity was involved in Medicare Advantage at a lower level until 2018. He said private equity often buys marketing companies or brokerages, consolidating them and then selling to a large insurer. He said private equity investments in Medicare Advantage has declined since 2021.

Fenne offered recommendations for policymakers, including greater antitrust enforcement and joint liability for portfolio companies.

Commissioner Houdek asked about any other recommendations for state insurance regulators, particularly regarding oversight or data collection. Fenne said greater transparency in facility ownership would be helpful because it is hard to know which hospitals have private equity owners.

Having no further business, the Health Innovations (B) Working Group adjourned.

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