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OUTLINE:
— IN THE NEWS: HOSPITALS
— SURPRISE BILLING & NO SURPRISES ACT
— MEDICARE ADVANTAGE
The pared-down version of the measure, which now is awaiting Gov. Michelle Lujan Grisham's signature, gives the Office of Superintendent of Insurance oversight of changes in hospital ownership for the next 16 months. Sponsors, the superintendent's office and health care industry representatives said they plan to work on a more permanent version of the measure before next year's legislative session.

The office will have to consider a number of factors, including whether the deal would reduce or eliminate access to essential services, drive up costs, affect "availability, accessibility and quality" of health care to the local community, or whether it could stifle competition. The office could then approve the deal outright, approve it with conditions or, in what Duhigg said she considered "the very rare case," block the transaction.
How Steward Health’s relationship with private equity soured

Private equity investors can spur innovation and bring much-needed financial support to providers struggling to keep the doors open. But the firms typically look to cuts costs and sell organizations, leaving providers and communities to deal with any potential fallout.

Cerberus Quadruples Money After Unusual Exit From Hospital Giant

- Private equity firm makes an $800 million profit in a decade
- It exits after offloading to Steward Health Care doctors

Hospital debacle puts focus on private equity
~460 U.S. hospitals are owned by PE firms, representing:
- 8% of all private hospitals
- 22% of all proprietary for-profit hospitals

(Source: PESP Private Equity Hospital Tracker)
Changes in Hospital Adverse Events and Patient Outcomes Associated With Private Equity Acquisition

Conclusions and Relevance  Private equity acquisition was associated with increased hospital-acquired adverse events, including falls and central line-associated bloodstream infections, along with a larger but less statistically precise increase in surgical site infections. Shifts in patient mix toward younger and fewer dually eligible beneficiaries admitted and increased transfers to other hospitals may explain the small decrease in in-hospital mortality at private equity hospitals relative to the control hospitals, which was no longer evident 30 days after discharge. These findings heighten concerns about the implications of private equity on health care delivery.
Private Equity–Acquired Physician Practices And Market Penetration Increased Substantially, 2012–21
Mystery Solved: Private-Equity-Backed Firms Are Behind Ad Blitz on ‘Surprise Billing’

Two doctor-staffing companies are pushing back against legislation that could hit their bottom lines.

The proposed legislation, which may advance to floor votes this year, is potentially bad for business for TeamHealth and Envision. The two groups have waged many battles against insurers over what they see as low physician payments for emergency room visits. When there is no agreement with an insurer, the physicians work “out of network,” and bill patients for the amount that insurance does not pay.

Published Sept. 13, 2019

Doctors and insurers clash over US law that protects against surprise billing

Private equity-backed staffing companies are fighting No Surprises Act, which protects patients from unexpected out-of-network bills

But litigation and aggressive billing by physician staffing companies, some backed by private equity, have continued as insurance companies and doctors duke it out in court. The result is an enormous backlog of cases in arbitration, cashflow problems for independent doctors, and the potential for patients to once again be stuck with the costs. Some argue that there’s also a balance of power tilted toward insurance companies.

Fri 29 Sep 2023 06.00 EDT
No Surprises Act: Independent dispute resolution (IDR) filings

**OUTCOMES (CMS analysis):**
— Providers, facilities, or air ambulances prevailed in 77% of payment determinations
— In 82% of payment determinations the prevailing offer was higher than the qualifying payment amount

<table>
<thead>
<tr>
<th>Initiating Party or their Representative</th>
<th>PE Firm</th>
<th>2023-H1, Total Disputes Initiated</th>
<th>2023-H1, Percent of Disputes Initiated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Team Health</td>
<td>Blackstone</td>
<td>81,747</td>
<td>30%</td>
</tr>
<tr>
<td>SCP Health</td>
<td>Onex</td>
<td>55,356</td>
<td>20%</td>
</tr>
<tr>
<td>Radiology Partners</td>
<td>Heritage Group, Whistler Capital Partners</td>
<td>30,433</td>
<td>11%</td>
</tr>
<tr>
<td>Envision Healthcare</td>
<td>KKR</td>
<td>24,249</td>
<td>9%</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td>191,785</td>
<td>70%</td>
</tr>
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(Source: PESP analysis of CMS data)
Following the Medicare Modernization Act of 2003, private equity firms have played a role in facilitating consolidation of early-stage Medicare Advantage carriers, especially ones focused on dually eligible populations. These health plans may go public through an IPO or be sold to large, publicly traded insurance companies.

<table>
<thead>
<tr>
<th>MEDICARE ADVANTAGE CARRIER</th>
<th>FORMER PE INVESTORS</th>
<th>CURRENT STATUS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alignment Healthcare</td>
<td>Durable Capital Partners, Fidelity Management &amp; Research, T. Rowe Price, Warburg Pincus, General Atlantic, CRG, and Ascension Ventures</td>
<td>IPO in March 2021 (NASDAQ: ALHC)</td>
</tr>
<tr>
<td>HealthSun</td>
<td>Summit Partners</td>
<td>Sold to Anthem (NYSE: ANTM) in 2017</td>
</tr>
<tr>
<td>MMM Healthcare</td>
<td>Bain Capital, Summit Partners, The Straus Group</td>
<td>Sold to Anthem (NYSE: ANTM) in 2021</td>
</tr>
<tr>
<td>Aveta, Inc.</td>
<td>The Straus Group</td>
<td>Sold to UnitedHealth Group (NYSE: UNH)</td>
</tr>
</tbody>
</table>
FIGURE 2: NUMBER OF PE-BACKED MEDICARE ADVANTAGE DEALS PER YEAR, 2016-2023
Some PE-owned Medicare Advantage companies

<table>
<thead>
<tr>
<th>COMPANY</th>
<th>DESCRIPTION</th>
<th>PE FIRM(S)</th>
<th>NUMBER OF EMPLOYEES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Integrity Marketing</td>
<td>insurance brokerage and marketing group</td>
<td>Minority owned by Harvest Partners, HGGC, Silver Lake</td>
<td>5,000</td>
</tr>
<tr>
<td>Group</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>AmeriLife Group</td>
<td>health insurance distribution and marketing</td>
<td>Genstar Capital, Thomas H. Lee Partners</td>
<td>1,800</td>
</tr>
<tr>
<td>Beneft Technologies</td>
<td>health insurance distribution platform and marketing group</td>
<td>Madison Dearborn Partners</td>
<td>855</td>
</tr>
<tr>
<td>InnovaCare Health</td>
<td>value-based provider and payer organization</td>
<td>Bain Capital, Ergo Partners, Summit Partners</td>
<td>259</td>
</tr>
<tr>
<td>The Hilb Group</td>
<td>insurance brokerage and marketing group</td>
<td>Carlyle Group</td>
<td>2,000</td>
</tr>
<tr>
<td>AllyAlign Health</td>
<td>offers Medicare Advantage plans for senior living communities</td>
<td>New Enterprise Associates, Heritage Group, Health Enterprise Partners, Oak HC/FT, Town Hall Ventures, Link-age, Lorient Capital Management</td>
<td>149</td>
</tr>
<tr>
<td>Matrix Medical Network</td>
<td>partners with Medicare Advantage plans to conduct in-home health assessments for plan members</td>
<td>Frazier Healthcare Partners, ModivCare</td>
<td>5,000</td>
</tr>
</tbody>
</table>
Recent action

Increased scrutiny has led to government action. Under the Biden administration, CMS issued and implemented new rules to more effectively regulate Medicare Advantage plans, brokers, and marketers, including:

- Requiring CMS review of all prospective television advertisements.\(^\text{108}\)
- Requiring insurance companies to have greater oversight over the third parties with which they contract.\(^\text{109}\)
- Requiring that the relevant insurer must be identified in the advertisement of specific plans.\(^\text{110}\)
- Prohibiting the marketing of plan benefits in areas where those benefits are not available.\(^\text{111}\)
- Updating the audit process to help recover improper risk adjustment payments made to Medicare Advantage plans.\(^\text{112}\)

Recommendations

1. **Prohibit or Limit Dividend Recapitalizations** – Require private equity and other corporate owners to refrain from indebting newly acquired companies in order to pay shareholder dividends. To the extent dividend capitalization is allowed, limit dividends to a percentage of profits.

2. **Joint Liability for Portfolio Companies** – Require joint and several liability for private equity owners and portfolio companies. This would mean that if portfolio companies were sued for violations of the False Claims Act or other alleged illegal behaviors, the private equity owner could be held liable as well.

3. **Greater Antitrust Enforcement** - Because private equity rollups and mergers typically fall under the radar of antitrust regulation,\(^\text{115}\) the Federal Trade Commission (FTC) and the Department of Justice (DoJ) should scrutinize healthcare deals involving private equity firm owners even if individual deals do not meet the typical threshold to trigger FTC review.
Federal Trade Commission, the Department of Justice and the Department of Health and Human Services Launch Cross-Government Inquiry on Impact of Corporate Greed in Health Care

March 5, 2024

U.S. Department of Health and Human Services
Enhancing the health and well-being of all Americans

U.S. Department of Justice

Senate Budget Committee Digs into Impact of Private Equity Ownership in America’s Hospitals

12.07.23

Senate Committee on the Budget

Federal Trade Commission
Protecting America’s Consumers
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