

A woman wearing a blue hard hat and a grey safety vest over a maroon shirt is holding a clipboard and a pen, looking upwards. She is in a warehouse setting with high shelves of cardboard boxes in the background. Other workers in blue shirts and yellow hard hats are visible in the distance.

April 8, 2021

The Cost of Provider Consolidation: The Employers' Perspective

State of Reform

Federal Health Policy Conference

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Consolidation in the Health Care Industry is a Major Concern to Employers

Antecedents

- Health care provider market consolidation
- Lack of antitrust action by FTC/Others

Economic Distortions

- Greater bargaining leverage for dominant health systems
- Ability to engage in anti-competitive pricing and contracting
- Increased political clout of dominant health care systems, entrenching status quo policy

High costs, low quality

- Very high prices for purchasers and individuals
- Prices divorced from quality outcomes, access, and patient experience

Downstream Effects

- Higher premiums and out-of-pocket costs for workers
- Deferred care
- Crowd-out of business investment in growth and jobs
- Depressed wages

The California Experience: The Sutter Health System Lawsuit

- Class action lawsuit + AG lawsuit: alleged anti-competitive contracting practices that strengthened Sutter's market power to raise prices
- Settlement: \$575 million for past damages; and agreement not to engage in anti-competitive contracting practices in the future.

The New York Times

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Sutter Health to Pay \$575 Million to Settle Antitrust Lawsuit

The deal resolves allegations of anti-competitive behavior by the large hospital system in Northern California.



The Sutter Medical Center in Sacramento, part of the vast Sutter Health hospital system in Northern California. Rich Pedroncelli/Associated Press

By Katie Thomas

Dec. 20, 2019



Sutter Health, the large hospital system in Northern California, said Friday that it had agreed to pay \$575 million to settle claims of anti-competitive behavior brought by the California state attorney general as well as unions and employers.

In addition to the settlement amount — which will go to compensate employers, unions and the state and federal governments — Sutter will also be prohibited from engaging in

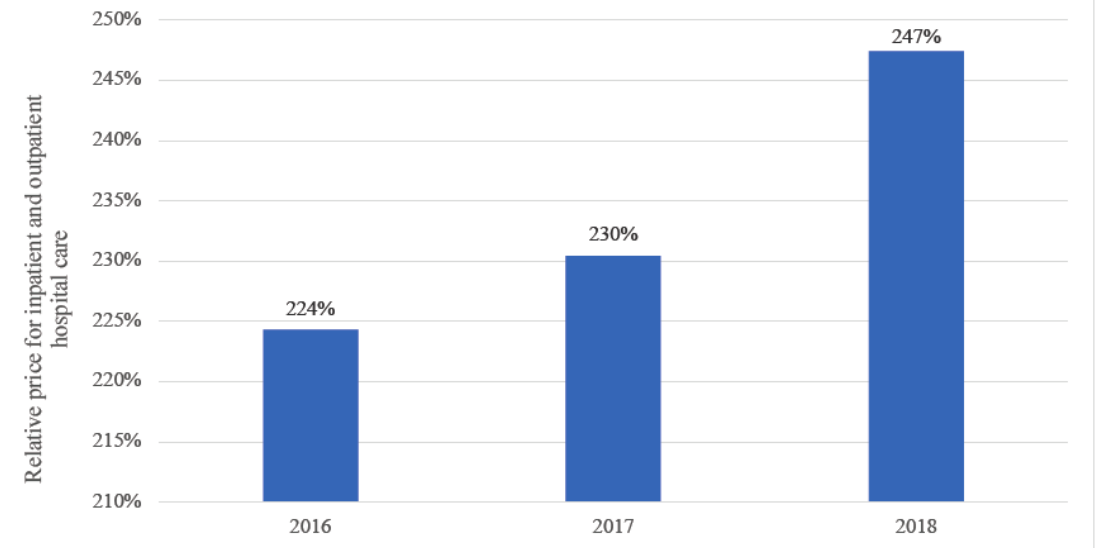
The Problem is Getting Worse

Many Hospitals Charge More Than Twice What Medicare Pays for the Same Care

The gap between rates set for private insurers and employers vs. those by the federal government stirs the debate over a government-run health plan.



A new study shows that John Muir Health in Walnut Creek, Calif., was the most costly system in the nation. Private insurers pay its hospitals four times what Medicare



Whaley, Christopher M. and Brian Briscoe and Rose Kerber and Brenna O'Neill and Aaron Kofner, "Nationwide Evaluation of Health Care Prices Paid by Private Health Plans: Findings from Round 3 of an Employer-Led Transparency Initiative", RAND Corporation, Santa Monica, CA, 2020. Doi: 10.7249/RR4394. Accessed online 4/7/21 at https://www.rand.org/pubs/research_reports/RR4394.html

What Is Needed

- More assertive purchasing strategies by employers should be pursued, but . . .
- If we're going to rely on competitive market forces to keep prices reasonable, **government must step in** to make sure that markets are working the way they should.
 - *Oversight of M&A* to ensure that transactions will result in public benefit
 - Examples: California SB 977, Oregon HB 2362
 - *Prohibitions on anti-competitive practices* by hospitals and other providers that are used to gain market power
 - Examples: Senate HELP Committee's Lower Health Costs Act, Washington state HB 1160
 - *State commissions to monitor, analyze and set targets* for health spending
 - Examples: Massachusetts Health Policy Commission, California Office of Health Care Affordability (proposed AB 1130)

A Final Thought

“The challenges of rising health care costs and market power will still be with us after Covid-19 has passed, and further consolidation will make costs even harder to restrain.”

Michael L. Barnett, MD, MS, Ateev Mehrotra, MD, MPH & Bruce E. Landon, MD, MBA, MSc, “Covid-19 and the Upcoming Financial Crisis in Health Care”, NEJM Catalyst, April 29, 2020. <https://catalyst.nejm.org/doi/full/10.1056/CAT.20.0153>