



Policy Brief

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Vertical Mergers Shaping the Health Care Landscape

Market disruptors and the pressure to lower costs in a value-based world are driving an uptick of new mergers in the health care industry. Different combinations are emerging between insurers, Pharmacy Benefit Managers (PBMs) and other players. While it is unclear whether vertical mergers will reduce health care costs, they will likely have a substantial impact on how the industry delivers care. Below are the most significant vertical mergers we're seeing and how they may shape tomorrow's health care landscape.

Cigna and Express Scripts

The Department of Justice recently [approved](#) Cigna's purchase of Express Scripts, a large PBM. The purchase could give Cigna the ability to negotiate better drug prices for patients and lower costs. The integration of pharmacy and medical data may also lead to [better health outcomes](#) for consumers.

CVS and Aetna

CVS' purchase of Aetna could impact prescription and health services provided in CVS walk-in clinics. Aetna may [guide patients](#) to CVS' clinic and pharmacy locations, increasing competition among other retail pharmacies and health clinics. As [noted](#) by Aetna's former CEO, the merger will create a "new front door to the health care system."

Humana and Kindred Home Division

Humana bought a 40% stake in Kindred's home health, hospice and community care division. This will allow Humana to [keep patients out of the hospital](#) by providing care in lower-cost outpatient settings. The population of Americans 65 years and older is [expected to nearly double](#) from 43.1 million in 2012 to 83.7 million in 2050, growing the demand for post-acute care.

Amazon, Berkshire Hathaway and JPMorgan

Amazon, Berkshire Hathaway and JPMorgan's venture has the potential to revolutionize the consumer experience in health care. All three companies have assets targeted to changing consumer behaviors and anticipating needs. This could allow them to offer a range of personalized health care services and lower costs. If Amazon enters the pharmacy market, they will [further increase competition](#) for retail drug stores and pharmacy.



Legislators Explore Restrictions on Balance Billing

Most recently, Congress released [draft legislation](#) to tackle balance billing, which is when providers bill patients for the difference between the amount they charge and the amount paid by the patient's insurance. This issue often happens in health emergencies, when patients cannot avoid being treated by an out-of-network provider. The result are [large surprise bills](#) that place providers on the crossfire between the patient who thought they had full coverage, the insurer and physicians. For a brief summary on balance billing, [click here](#). For details on the draft legislation, read below.

Prohibits balance billing for patients in both insured and self-insured employer health plans.

Although [many states](#) have imposed restrictions on balance billing, these restrictions do not apply to employer-sponsored health plans (61% of U.S. workers). That's because there is a federal law, called [ERISA](#), that precludes states from regulating those plans. The proposed bill would prohibit balance billing for all plans.

Prohibits balance billing only under two different scenarios. Out-of-network providers would *not* be allowed to bill patients beyond the patient's in-network cost-sharing for 1) emergency services provided at an out-of-network facility; 2) non-emergency services delivered by an out-of-network provider at an in-network facility.

Limits health insurance payments to out-of-network providers. Health insurers would pay providers an amount determined by the state in which the service was performed. If a state doesn't have a payment methodology, then the health insurer would pay the provider the greater of: the median in-network amount negotiated by health insurers in the same geographic area *or* 125% of the average allowed amount for that service in the same geographic area. This provision would likely be the mostly debated as there is a lack of consensus on what should be the reimbursement rate for out-of-network providers.

Requires providers to notify patients of their out-of-network status. For patients receiving emergency services at an out-of-network facility, once the patient is stabilized, the facility would be required to notify patients about the potential for higher cost-sharing if they remain at the facility for any non-emergent services.



Supreme Court Nomination Update

When President Trump announced Judge Brett Kavanaugh as his Supreme Court Nominee in July, he was widely considered a shoo-in. At that time, we pondered how his [previous rulings could impact](#) his decisions on health care. Three months later, the nation now questions if Kavanaugh will ever serve on the highest court. After hearing testimony from Dr. Christine Blasey Ford and Judge Kavanaugh, Senate Republicans voted to advance his nomination pending the results of an FBI investigation. Yesterday, the Senate reviewed the results of the FBI investigation and the full Chamber is expected to vote on his nomination today. If Kavanaugh is confirmed, he would immediately take a seat on the Supreme Court.



Update on the Opioid Legislation

For the past few months, AHPA has been monitoring Congressional efforts to pass an opioid legislation. The Senate passed the [compromised bill](#) yesterday with a final vote of 98-1. The bill is now poised to be signed into law by the President. The bill will remove the Institutions for Mental Disease (IMD) exclusion for pregnant and post-partum cases and allow managed care companies to cover treatment in an IMD. From fiscal years 2019 to 2023, it will also allow states to provide substance abuse treatment at an IMD with the federal government funding only up to 30 days of inpatient care annually per beneficiary. The [provision](#) to align 42 CFR Part 2 with the HIPAA Privacy Rule was not included in the bill.



A Look at The Federal Register

Medicare Claims and Medicare Prescription Drug Coverage Determination Appeals Procedures.

CMS seeks comments on a [proposed rule](#) that revises the claims appeals process for Medicare beneficiaries, providers and suppliers under Medicare Part A and Part B or determinations for prescription drug coverage under Part D. **Comments are due December 3rd.**

Revision of the Pre-Claim Review Demonstration for Home Health Services. CMS seeks feedback on [the revision](#) of a previously proposed demonstration for home health agencies. CMS had originally proposed to implement the demonstration in Illinois, Ohio, North Carolina, Florida and Texas with the option to expand to other states. CMS is now proposing to do the demonstration in Illinois first (December 10, 2018) before implementing in the other states. **Comments are due October 29th.**

Medicare Advantage Qualifying Payment Arrangement Incentive (MAQI) Demonstration. CMS seeks comments on [a waiver demonstration](#) that exempts clinicians in Medicare Advantage Organizations from the Merit-Based Incentive Payment System (MIPS) reporting. **Comments are due October 19th.**

AHPA Resources



On September 24th, AHPA hosted a webinar on the final FY 2019 Inpatient Prospective Payment System rule. **To listen, [click here](#).**

OPPS CY 2019 Propose Payment Rule

[Outpatient Prospective Payment System Comment Table](#)

IPPS FY 2019 Final Rule

[Inpatient Prospective Payment System Comment Table](#)

MSSP Proposed Rule

[Medicare Shared Savings Program; Accountable Care Organizations Proposed Rule Outline](#)

IN OTHER NEWS

[Seema Verma Heading to A Health Policy Summit to Discuss Drug Pricing](#) – Brookings Institution

[Administration to Review Alabama’s Bid for Work Requirements in Medicaid](#) – The Hill

[Medicare Eases Readmission Penalties Against Safety-Net Hospitals](#) – Kaiser Health News

[James Comey: The FBI Can Do This](#) – NYT

[The Age That Women Have Babies: How a Gap Divides America](#) – NYT

[Half of 2018’s Democratic Campaign Ads are About Health Care](#) – Vox

[CMS Announces New Streamlined User Experience for Medicare Beneficiaries](#) – CMS