

Policy Options



Excerpted from: Addressing Pricing Power in Health Care Markets: Principles and Policy Options to Strengthen and Shape Markets

In 2013, the Academy convened a diverse study panel of economists, antitrust experts, researchers, and hospital and insurance executives to think systematically about the shift in negotiating power from purchasers to health care providers, particularly dominant hospital systems. Recognizing that no single policy option would be applicable to all local markets — that there is no “silver bullet” to address the lack of price competition — the study panel produced a range of policy options. As a result, the study panel offers these options as a starting point for federal and particularly state policymakers interested in responding to the issue of competition in local health care markets.

Some of the policy options are intended to foster or preserve market conditions that support price competition. These options assume that laws and regulations can help foster competition by imposing rules of conduct and by addressing barriers to competition. Markets need government to set minimal regulations — “rules of the game” — to enforce contracts among parties and to create competition-enhancing institutions. The Academy’s panel generally favors policy options that support competitive market mechanisms. But when markets fail, the study panel recognizes that other types of policy interventions may be appropriate.

These policy options should not be seen as either a packaged set or as competing alternatives. Panel members believed it was important to offer individual options, knowing that some may work better in combination than individually. They also may interact in ways that increase the effectiveness of each, depending on local market characteristics and the political and regulatory environment. Where feasible, policy solutions should be crafted to reflect local health care market conditions. No one policy is likely to be optimal in all markets.

- Policy Option A: Encouraging Market Entry of Competitors
- Policy Option B: Greater Price Transparency
 1. Collecting and Reporting All-Payer Claims Data
 2. Supporting Price-Conscious Consumers
- Policy Option C: Limiting Anticompetitive Health Plan-Provider Contracting Provisions
- Policy Option D: Harmonizing Network-Adequacy Requirements with the Development of Limited-Provider Networks

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- Policy Option E: Active Purchasing by Public Payers
- Policy Option F: Improved Antitrust Enforcement
 1. Scrutiny of Hospitals and Insurers with Market Power and the Foreclosure of Markets to New Entrants
 2. Active Review of Vertical Mergers
 3. Conduct Remedies and Post-Merger Monitoring
- Policy Option G: Additional Public Oversight and Review
- Policy Option H: Regulating Premium Increases through Strengthened Rate Review
- Policy Option I: Limiting Out-of-Network Provider Charges
- Policy Option J: Setting Upper Limits on Permissible, Negotiated Provider Payment Rates
- Policy Option K: Expanding the Use of All-Payer and Private-Payer Rate Setting

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