4sight Health Roundup Podcast

Can the Government Make Healthcare Markets More Competitive?

[Burda]
Welcome to the 4sight Health Roundup podcast, 4sight Health podcast series for healthcare revolutionaries, outcomes matter customers, count and value rules. Hello again, everyone. This is Dave Burda, news editor at 4sight Health. It is Thursday, December 14th. It's sunny and 40 degrees here outside of Chicago. Should be blowing snow, not cutting grass this weekend. Thank you. Global warming. And thank you Biden administration for cracking down on corporate greed and healthcare. That's a mix of sarcasm, skepticism, and hyperbole to talk about the government's latest healthcare regulatory interventions are Dave Johnson, founder and CEO of 4sight Health, and Julie Murchinson, partner at Transformation Capital. Hi Dave. Hi, Julie. How are you guys doing this morning, Dave?

[Johnson]
Sarcasm, skepticism and hyperbole. No wonder you're an award-winning journalist, Dave. Anyway, I'm doing great, and I'm looking forward to discussing how the corporate Grinch is stealing healthcare.

[Burda]
<Laugh>. Thanks Dave. Julie, how are you?

[Murchinson]
Well, I'm still trying to fit it all in and keeping WeWork alive, that's for sure. <Laugh>. but it is definitely starting to feel like the holidays, but I just wish those retailers wouldn't start, you know, at Labor Day, it kind of ruins the whole excitement of the season. <Laugh>.

[Burda]
Yeah. It is a four month runup, that's for sure. Thanks. now before we talk about what the administration did last week, let's talk about your signs of global warming. Dave, what's the biggest change in your world that tells you climate change is real?

[Johnson]
It's fricking December in Chicago, Dave, and I'm still running in shorts. Enough said

[Burda]
<Laugh>. I couldn't agree more. Thanks. Julie, how about you? What do you see in your environment that says our climate is changing?

[Murchinson]
Well, it, you know, it has been sunny in Seattle in December, so that's weird. But last week my mom texted me wondering if I was okay with all the rain in Seattle, and I thought to myself, yeah, they have been calling it an atmospheric river, but it's just rain <laugh>. So [00:19:00] think it's the media. That's what's happening.

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[Burda]
For me, it's the snow. We used to get a few really heavy snowfalls a season that would shut down roads and public transportation. Now if we get two snowfalls a season, they're usually less than two or three inches each. So why bother shoveling? I guess the good news is there are fewer Chicago heart attacks. Now, that was a holiday tradition.

[Murchinson]
<Laugh> terrible.

[Burda]
Okay. Let's talk about this New regulatory intervention announced last week by the White House. The Biden administration wants to lower healthcare costs by promoting market competition. I'm a big believer in market competition. Here's how the administration wants to do it. First, it wants to give federal agencies what it calls march in rights for drugs developed by companies that use taxpayer money to develop the drugs. If an agency like NIH decides that a company is charging so much for a taxpayer funded drug that most patients don't have access to it, the agency can march in, take ownership the drug and license it to someone else who presumably would charge less for the drug and make it accessible to more people. The Commerce Department published a framework on how this would go down in the federal register. The public comment period on the framework ends February 6th. So you drug industry lobbyists better get cracking. Second, the administration announced four actions to stop anti-competitive mergers and anti-competitive practices by dominant corporations in healthcare markets. Close quote. Action one, create a cross-government public inquiry into corporate greed in healthcare. Action two, identify anti-competitive roll-ups that evade antitrust review. Action three, increase ownership transparency. And action four, increase Medicare advantage transparency. That's a lot of action. Dave, you're a man of action and a market guy. So I'm gonna ask you about the second part of the administration's plan. What do you think of the four actions? Will they work and what would you do to make healthcare markets more competitive?

[Johnson]
Well, at 4sight Health, we like anything with the number four in it. Dave, you know that I do.

[Burda]
I do <laugh>.

[Johnson]
But reading the White House press release, it's easy to see that we're in election season. It's time to demonize big pharma and trickle down economics, and they do that with majesty, I guess. So even though I'm a markets guy, I recognize the need for appropriate and effective

governmental regulation to protect the public safety and create level field competition. You really can't have effective markets without effective government regulation. That's definitional. Overall, obviously, the Biden administration believes there's market failure in healthcare, and that's hard to deny. And it's taking these four administrative measures somewhat heavy handed to address that market failure. Let's, let's look at 'em quickly, individually cross government public inquiry into corporate greed. I don't know what the Biden administration expects to find, but they will find a lot of evidence of corporate greed. The tricky thing is, you know, we're human beings. You can't eliminate greed. The real art is channeling that greed to create value for customers. And I'm not sure that this initiative will do very much for that. Second one, the anti-competitive roll-ups I'm okay with, with this. I'm glad that the Justice Department is making PE accountable as well as their portfolio companies for the strategy that seeks to optimize market concentration and the ability to you know, exercise monopoly pricing. Increasing ownership transparency. <Laugh>, I don't think, as I've said before, consumers give a rip about ownership. What they want are better products and services at lower prices. I think, honestly, the liberal wing of the Democratic party doesn't really trust markets to work for American consumers. So their knee jerk reaction is to trust government more and trust our government to exercise regulation on behalf of the American people. And as we know, that's a dangerous game. And often a recipe for economic disaster. MA transparency a little more interesting. Obviously, data and pricing and outcomes, transparency is a good thing. And this private administration of government funded health insurance, like what happens in Medicare Advantage, I think will continue to be a fault line within the healthcare industry. But nothing will help more than making the markets work more effectively in and of themselves. So you ask what I would do, I can think of a few things, not surprisingly. First off, I'd tax nonprofit payers and providers. Let's stop the fiction that they're mission driven their businesses. First, they can remain nonprofit and to the extent they have profits dedicate them to mission related activities. But let's tax 'em the way we tax everybody else. And this is probably the most important one, which is just make the markets work better. You know, at least 80% of what occurs in healthcare is, is largely a commodity. We know what to do when a patient presents. When you've got commodity services, there should be commodity pricing to accompany it. I think the best way to make this happen is to go back to Obamacare and romneycare and create really robust exchanges. Shift as much volume as we can into these exchanges. MA employer sponsored plans Medicaid managed care, and let the market develop to support those plans. The more competition we have in the purchasing of healthcare insurance the better the products will be and so on. We may need to supplement that with government funded reinsurance like Obamacare did in the early days. On the payment side, you know, I've said it a million times, you know, we're not gonna change the way we deliver care until we change the way we pay for it. So risk-based contracting full risk bundles for episodic care, capitation for population health. And then the last thing is be prepared for the consequences. If we actually start to force this industry to operate like a normal market, there're gonna be a lot of losers. So we need to think very carefully about how to adapt the marketplace to generate better

outcomes at lower costs without disrupting the healthcare delivery system too much. And that's gonna require some real thought and some real art in terms of execution.

[Burda]
Yeah, fascinating dynamics there, Dave. Thank you Julie, any questions for Dave?

[Murchinson]
You know, they kind of have me at number one launching across government, public inquiry, and the corporate greed in healthcare. Big. I wanna love this, but I also see it throwing off an incredible amount of noise. And public inquiries are what the government's, you know, good at. But what do you think will come of this, and what do you think of HHS appointing a chief competition officer?

[Johnson]
<laugh>, it reminds me of the old Monty Python skit. “Nobody expects the Spanish Inquisition!” <Laugh>Yeah. I, I don't know. I mean, having the government having a chief competition officer; it's almost like having a fashion designer figure out what the best athletic equipment is. It's just not really set up to do that. On the other hand, if the government wants to point out abuses and can sort of harness itself keep itself in check as it tries to regulate the market, maybe that could be a good thing. But it sure has the feeling of potentially turning into a witch hunt and spending a whole lot of resources demonizing market participants, I guess I, I've always just believed we should fix the market itself rather than try to regulate the errors out of existence. If the market is largely working, then our regulatory burden is less. And I think you're right, Julie. This could be, this could become a distraction and it could lead to a lot of noise <laugh> that isn't terribly productive.

[Burda]
Julie, let me ask you about the first part of the administration's plan on agency March in Rights. The plan also would apply to taxpayer funded inventions, not just drugs. What do you think of the plan? Will it work or will it chill Innovation in the market?

[Murchinson]
Well first, these merchant rights are not new. They started in 1980 when the NIH allowed academic institutions to patent inventions made under their other federal grant funding and granted them exclusive licenses. And, you know, the, the law has always been there that the government can march back in basically. And honestly, I mean, I to say it kind of makes sense to me, but it seems a little bit like hitting the easy button for this issue in a way that actually could be very expensive to, to affect. And I did some research on like how big an issue this is. And when you look at how many drugs have been publicly funded, there's an April statistic from this year. The NIH said that their funding contributed to 354 of 356 drugs. So that's basically 99% of those drugs approved from 2010 to 2019, totaling about $187 billion. And that translates to just

over $50 million per drug of applied research. And even more, if you look at basic research. So we're not talking about chump change to these pharma companies for the amount of public investment that sits in their, you know, commercialized drugs. And when you read how the NIH structure's thinking about this, it's, you know, everyone's talking about this as an access issue. So when I looked at how they're dealing with this, what they say is, the agency has this power. If it appears that the price is extreme unjustified and exploitive of a health or safety need, which those are big words, extreme unjustified and exploitive. And obviously Covid is a great example. You know, you could have a sudden steep price increase in response to disaster, but they also give themselves a ton of leeway to say that this could also apply to the initial cost of a drug when it's launch is too high. So you know, everyone on this talks about how they wanna balance the ability to incentivize companies to innovate and make sure those innovations serve the American people. Gina Romando, US Secretary of Commerce is all over this with that message. Of course, pharma hates it, right? The Pharma Membership advocacy organization. And to me, it just smells a lot like a shot over the bow. So to your question about its impact on innovation, you know, if you assume that all drugs will be marketed at a price that's extreme unjustified and exploitive of a health or safety need, then you know, it will force pharma to rethink some of those business models. But not all drugs are priced that way. And remember, this is about public funding. So could pharma or other life science companies, I guess we're talking about devices and other similar consumer specific health innovations, could those companies fund development and entirely with private resources? You know, that's a tough one. Given the stat I shared earlier, university research and NIH are so tightly linked to drug development, it'd be a lot to uncouple. And I guess you could do it with the right strategy from the beginning, but that's not really how pharma it works today. So again, I think this is a shot over the bow at high price drugs and the comments that they receive on this will really be something.

[Burda]
Yeah. Yeah. Let's see if there's any action behind the threat. Thanks, Julie. Dave, any questions for Julie?

[Johnson]
Well, first off, Julie, I love the original res research you've done here for the roundup. The data on drug pricing, something I've never heard before specifically, so kudos on that. And maybe because of that, because of the extent to which the government is really the principle driver of innovation in drugs and devices, it's never really made sense to me that the FDA doesn't regulate prices when it grants patent protection to drug and device manufacturers. By not doing this, they're essentially giving these manufacturers the right to price their products at whatever the market will bear. Hence, the need for this march in regulation and this mechanism, the march in mechanism strikes me, as you were kind of alluding to as a convoluted and probably inefficient way of exercising price control on patented products. Is there a better way, and if so, what is it?

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[Murchinson]
<Laugh>, you'd have to pay me a lot of money for that <laugh>, just,

[Johnson]
I'm not happy to, I get happy to do that

[Murchinson]
So yes, there is a better way and why we don't actually have some sort of quid pro quo for public funding and what the public gets for that from a successful drug in a more material way. And for populations that we, where we're really concerned about access, if that's really what the headline is here, then there are ways to create access driven mechanisms as part of an investment, right? That's <laugh> private investors do this kind of thing all the time. So this, this is hitting some sort of weird regulatory oversight easy button that requires a lot of you know, retrospective analysis to really figure out what happened as opposed to proactive, you know, strategy.

[Burda]
Yeah, it's, it's complicated. I'm not sure what to think about all of this. You know, as a taxpayer, I want my money used for the public good, not for private interests, but as a market guy, I am not sure I want the government all over my business plan. So we'll see how it all turns out. Great discussion. And now let's talk about other big news that happened this past week. Julie, anything else that we should know about?

[Murchinson]
You know, you guys might have heard a little bit about the ransomware attacks that were happening around Thanksgiving for health systems, and I just run a stat that they're impacting more than 88 million people in the first 10 months of 2023 ransomware attacks. So seems like cybersecurity is up.

[Burda]
Yeah, I think we'll be revisiting this topic early next year. That, that's great, Julie. Thank you. Dave, what other news caught your attention?

[Johnson]
Well, I think it was Aristotle when he was laying out the rules of rhetoric who said that when you've got logic and facts on your side, make a logical fact-based argument; when you've got logic, but no facts, make a logical theoretical argument. And when you've got no logic or no facts, call your opponent names. Anyway, that's essentially what I've run into in the last week. The governor of Minnesota, Tim Waltz, has convened a task force to study the future of academic health at the University of Minnesota. And without my knowing it, a piece I wrote last

spring, academic Medicine where privilege compounds organizational dysfunction, was part of the background reading for task force members. That article commentary must have hit a nerve with the university because their number two administrator, Myron Franz, who's the SVP for administration and finance, wrote a very lengthy response that has become part of the public record for the task force. And rather than deal with the substance of my article, my commentary in a respectful way he basically called me ignorant and narrow-minded. And so I decided to respond. And that exchange is up on our website for anyone who is interested. But I will just tell you, it's never smart to poke a sleeping wolverine.

[Burda]
Shaking things up in Minnesota. Good for you, Dave. That's great. Thanks Dave. And thanks, Julie. That is all the time we have for today. If you'd like to learn more about the topics we discussed on today's show, please visit our website at 4sighthealth.com. And don't forget to tell a friend about the 4sight Health Roundup podcast, and don't miss next week's show when we talk about the biggest healthcare stories of 2023. Subscribe now and don't miss another segment of the best 20 minutes in healthcare. Thanks for listening. I'm Dave Burda for 4sight Health.