

THE COST OF REGULATION

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Health care costs have been increasing faster than the average rate of inflation every year, for at least the past ten years. The out-of-pocket expenses we pay at the doctor's office, and the monthly paycheck deductions for insurance, are only the part of the picture that we see. Larger issues in the health care system drive the overall increases. Those often go unnoticed. This is a series of articles that looks at how increased regulations drive up our health care costs.

The Affordable Care Act of 2010 started an explosion in the number of regulations that govern health care. Every player in the market is subject to new rules that took effect in the past six years: patients, doctors, hospitals and the employers who sponsor health insurance plans. All those regulations come with direct costs. Some can be calculated fairly easily.

Let's look the new proposed rule under the Medicare Access & CHIP Reauthorization Act of 2015 (MACRA). You probably never heard of MACRA. It was a little-noticed attempt by Congress to streamline Medicare payments to physicians. In recent years, Congress has spent a great deal of time adjusting those payments. MACRA is meant to create a single rule that will determine those payments through 2026.

Future Medicare payment to doctors will be based on a number of measures that the regulators believe reflect the quality of care. On the surface, you would not expect it to drive costs up. Those factors are quality, resource use, clinical practice improvement, and meaningful use of electronic health records.

The federal agency that regulates health care providers, the Centers for Medicare and Medicaid Services ("CMS"), issued a draft rule in April 2016, describing how these factors will be measured and rewarded. The draft rule covered 962 pages of double-spaced text. It required doctors to report on metrics that range from foot care for diabetic patients to expanded access for patients. There are literally hundreds of elements to be measured and reported. In return for this reporting, doctors may receive incentive payments from Medicare that add up to 9% more than current rates.

Getting better and clearer information is a secondary focus for CMS. The regulators believe that more reporting and better information will improve the quality of care overall. Perhaps, but it comes with a cost, which can be calculated pretty accurately.

The Texas Medical Association analyzed the MACRA rules and the historical costs of compliance with MACRA's predecessor regulations. They concluded that the annual, repeating cost of compliance with the new regulations will exceed \$10,000 per physician per year. Someone, of course, has to pay this cost.

The regulations have laudable goals and are based on years of research by the regulatory agencies. But you, the consumer, are the ultimate source of payment. You bear that cost not

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only when you pay at the practice checkout window, but also through increased taxes or insurance premiums. As the costs continue to increase faster than the average rate of inflation, the question is where the limit lies.