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Certificate of Need: Within the Broader Context of Georgia's Health System

Introduction

On January 16, 2007, the Health and Human Services Committees and the Appropriations Health Subcommittees of both the Georgia House and Senate, with support from the Georgia Health Policy Center, sponsored a session to help legislators understand Certificate of Need (CON) within a range of health care system issues. The session, attended by more than 91 Georgia legislators, provided a forum for discussing issues surrounding Georgia's CON program within the broader context of health and health care.

Multiple factors impact health in Georgia, including the broader health system, public financing, regulation, the public health system, and the economic health of communities. These financial and regulatory pressures present dilemmas for health planners and policymakers.

This policy brief addresses the issues related to CON within the broader context of Georgia's health system, highlights key issues from the research and stakeholders' views, and provides insight into questions Georgia legislators are asking about CON.

What is CON?

CON is a health planning process intended to control health care price inflation, improve quality, and maintain access to health care services. It is required of health care facilities before building, expanding, or reducing capacity, and it is required of new health care services before they are established.

Background

Health care delivery and planning is complicated by the high number of uninsured Georgians – currently twenty-one percent (1.7 million) of the population. Health care providers increase their charges to patients who have insurance to offset the losses from those without insurance - otherwise known as cost shifting.

In addition to high numbers of uninsured, Georgians have relatively poor health status. More Georgians suffer from chronic conditions such as heart disease and diabetes than residents of other states, and those without insurance often delay care until disease has progressed and is more expensive to treat.

The health care system is also challenged by workforce shortages – especially in rural counties. Some providers believe that without tight regulation, health care infrastructure might be allowed to expand beyond providers' abilities to hire sufficient staff to provide quality care.

Health care consumerism has been offered as a way to reduce the uninsured, improve health status, and increase quality of care. The belief is that with good price and quality information, consumers will shop for the best value, which will, in turn, drive lower prices and higher quality. Consumerism calls for a less regulated, more competitive market.

Affects of CON

Studies of states that eliminated CON produced results that argue both for and against greater regulation. CON programs succeed in reducing competition, thus raising prices to non-public payers. There is no evidence CON programs reduce the overall cost of care – the sum of resources used to provide the care.

Research in Georgia shows little impact of CON on quality and access to health care. Similar to national peer reviewed studies, Georgia research finds that CON is associated with higher prices. This effect is lessened in rural areas, as rural markets are already less competitive.

There are two main perspectives as to how CON affects health and health care delivery: support for a market approach and support for greater regulatory. Underlying the perspectives is how CON changes will affect the financial viability of health care operations.

Examining CON from the perspective of those who prefer a market based approach, eliminating Certificate of Need increases competition, expands access, and improves quality. Some providers report that CON makes delivering quality care more difficult because hospital care is less efficient than delivering the same care in an outpatient setting. They believe a market free of CON regulation fosters a competitive climate that enables higher quality, cost-effective patient care.

Examining CON from the perspective of those who seek stronger regulation, CON is intended to increase access and quality, and the program should be maintained. Some hospital administrators report the Indigent Care Trust Fund does not begin to cover their losses from Medicare, Medicaid, and the indigent. Long-term care providers find that CON supports higher occupancy rates which, in turn, support sufficient patient volume to manage low public reimbursements. Those who seek a stronger regulatory approach believe CON, when properly administered, holds down over-utilization of health care, promotes quality, and protects safety net hospitals.

Implications

Georgia research shows that CON regulations lack the muscle needed to increase quality or access to care. Absent other regulatory or financing changes – which many agree must also occur - repeal of CON will decrease private health care costs while reducing access to care for some publicly insured patients, especially rural patients.

The State Commission on the Efficacy of the CON Program met in 2005-2006 and reached unanimous agreement on 39 of 65 recommendations – particularly around how the program operates. The recommendations are intended to align licensure with the CON process, require better data reporting, and strengthen enforcement, among others. The issue underlying the areas of controversy where the Commission could not reach unanimous agreement – mainly around regulating hospitals, abolishing the exemption for surgery centers, and maintaining regulation for PET scanners - is the cost shifting required to finance care for the underinsured and trauma patients. The challenge is not only how to improve the CON system but how to address the underlying problem of how the health care industry is funded.

Regardless of perspective, both the competition and regulation approaches require key components to support lower prices, higher quality, and better access. A competitive market requires transparent quality and price information for all purchasers, a sufficient number of competitors, and equitable funding for the uninsured across all payers. A highly regulated market also requires transparent quality and price information

for all purchasers, quality assurance mechanisms built into regulatory requirements, and direct funding for the uninsured so that cost shifting to private payers is eliminated

Legislators' Perspectives

As evidenced by the questions they raised when presented with this information, Georgia legislators have begun to understand CON regulation within the broader context of health care. Their concerns fall into three broad categories:

1. How the CON program can be designed to be more responsive to a rapidly evolving industry.
2. How the state's uninsured problem and low public reimbursements foster cost shifting, and what can be done at the state level to mitigate these influences.
3. How a system can be designed that might differentiate between the needs of highly competitive urban markets and less competitive rural markets.

Based on their comments, legislators are better equipped to grapple with the challenges ahead in debating CON regulation. The opportunity to hear from a variety of perspectives and ask questions of presenters benefited their overall understanding.

Conclusion

As legislators evaluate proposals regarding the Certificate of Need program, they might ask the following questions so that the concerns they have expressed will be addressed in the context of the broader health care system:

1. Does the proposal demand that the Certificate of Need program be more responsive to a rapidly evolving industry?
2. How does the proposal work with other state policies and programs to reduce cost shifting to private payers?
3. Does the proposal account for differences between urban and rural health care markets?

Dr. William Custer and Dr. Patricia Ketsche provided research support to the Commission on the Efficacy of the CON program. The Georgia Health Policy Center maintains a partnership with the Institute of Health Administration at the Robinson College of Business, Georgia State University to inform policy recommendations about CON regulation.

Glenn M. Landers and Rachel Ferencik contributed to this brief.

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