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Fixing Maine's Broken Hospitals: A Case Study



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Takeaways

Patients shouldn't have to travel across state lines to receive quality and affordable health care. But that's exactly what's happening in Maine due to ballooning hospital prices. A leading cause of the high prices in Maine comes from consolidation, where one hospital system has acquired enough other providers to dominate the market. MaineHealth, the state's largest

hospital system, owns a quarter of Maine hospitals and 145 clinics. This consolidation gives it leverage to demand higher prices from insurance plans and employers.

To ensure Maine's residents can afford access to health care, this brief proposes three solutions for the Maine State Legislature and Congress to create a more transparent and lower cost hospital system. We propose state and federal lawmakers:

1. Require transparent pricing and billing for hospitals.
2. Prohibit hospital tactics that hurt health care competition.
3. Limit add-on facility fees tacked onto patient bills.

Hospital prices throughout the country are out of control. Patients with private insurance are being ripped off, paying well over double of what Medicare pays for the same services.¹

In Maine, hospital prices are even higher. They exceed the national average by nearly 25%.² That puts Maine as one of the highest cost states in the nation for hospital services. Because of health care's significant cost burden on employers, some Maine businesses have been sending their employees to Boston to obtain lower-cost care.

The high cost of care is a major hurdle for patients to seek out medical treatments. Nearly 40% of Americans avoid seeing a doctor due to cost concerns despite needing treatment.³ What causes prices to rise uncontrollably, leaving patients subject to thousands of dollars in medical bills? Look no further than consolidation, where dominant hospital systems control markets and set prices as high as they'd like.

This report is part of a series called Fixing America's Broken Hospitals, which seeks to explore and modernize a foundation of our health care system. A raft of structural issues, including lack of competition, misaligned incentives, and outdated safety net policies, have led to unsustainable practices. The result is too many instances of hospitals charging unchecked prices, using questionable billing and aggressive debt collection practices, abusing public programs, and failing to identify and serve community needs. Our work will shed light on issues facing hospitals and advance proposals so they can have a financially and socially sustainable future.

The Problem: Consolidation increases prices.

At the epicenter of Maine's high prices is the consolidation by MaineHealth, the largest health system in the state. MaineHealth, a tax-exempt "not-for-profit" hospital system, owns a quarter of the state's hospitals and 145 clinics.

MaineHealth is the largest hospital system in the state, with two-thirds of Portland and Southern Maine's hospital patients going through their doors. Additionally, MaineHealth is the state's largest employer, with about 22,000 employees. It is especially dominant in Portland, Maine's largest city, ranking as the 21st most consolidated metro center out of 183. ⁴ The system's flagship hospital, Maine Medical Center, is the largest hospital in the state.

Nationwide, the costs for hospital services for those with private coverage, either through the Affordable Care Act or the workplace, averages at 224% of what Medicare pays. Patients in Maine pay much more. Maine hospitals charge 275% of what Medicare pays on average, closer to three times more. ⁵

When one system dominates within a state and geographic area, patients and employers experience higher costs. Both Maine and federal law require patients' insurance plans to have what is known as "network adequacy," meaning that insurers must include an adequate number of doctors and hospitals in its network. The thought behind this is to create competition among providers by limiting choices for covered patients. But consolidated hospital systems prevent

that competition because insurers often have no choice but to include that hospital chain in its network—no matter how expensive it is.

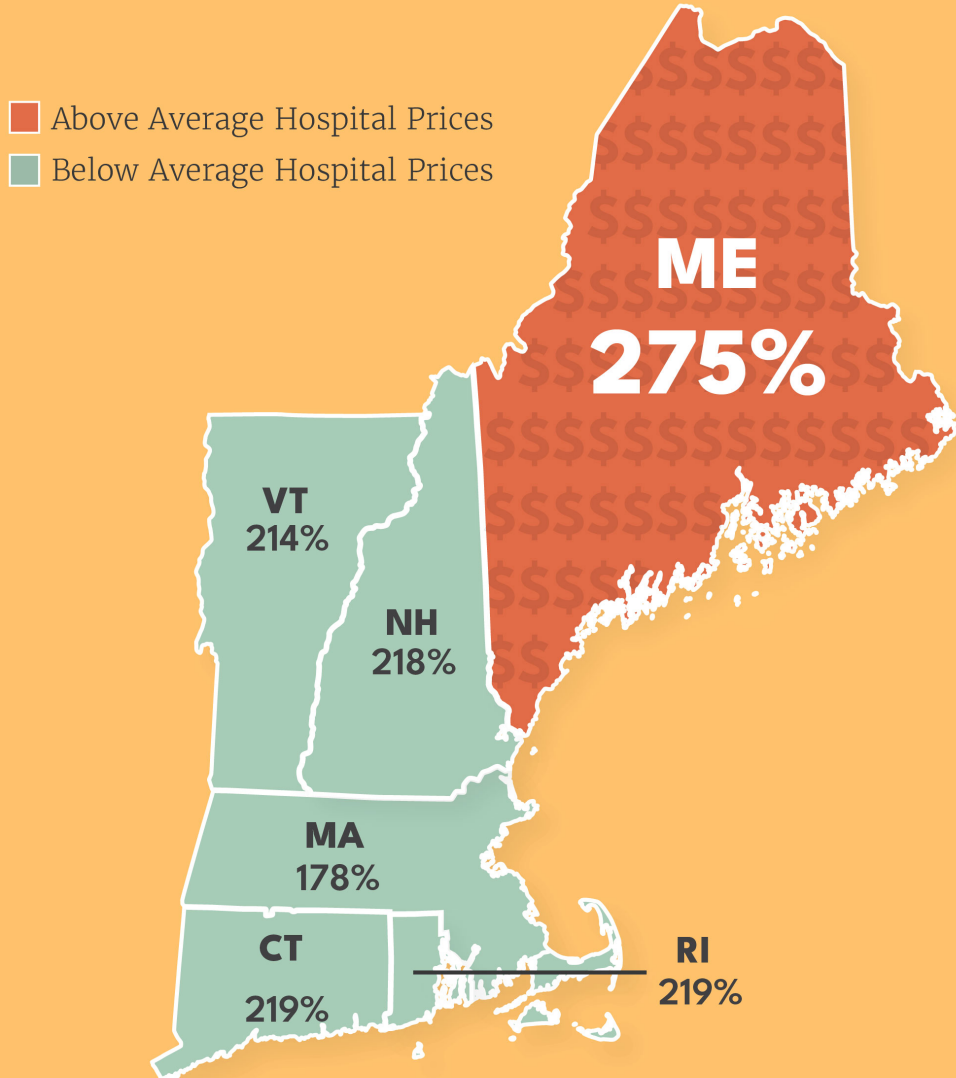
As a result, hospital systems with dominant market share are able to dictate negotiations, including both price and how insurers construct their networks. Ideally, insurers can steer their patients towards the most efficient and lowest-cost centers of care, hoping for lower readmission rates and aligning cost of care with the value it provides for patients. These incentives may include lower patient cost-sharing for lower priced care. However, large hospital systems can prevent health plans from including these incentives in their contracts, including *all-or-nothing*, *anti-tiering*, *anti-steering*, and *most-favored nation* clauses.⁶ These tactics are defined by the following:

- *All-or-nothing contracting* requires a health plan to contract with all providers in that system or forgo contracting with any of them.
- *Anti-tiering clauses* require insurers to place all providers from a health system into the most preferred tier of providers even if they do not meet the requirements for that tier (usually related to lower costs and higher quality).
- *Anti-steering clauses* prohibit insurers from using cost-sharing incentives, such as reduced out-of-pocket costs, to direct enrollees to providers who offer higher value care.
- *Most-favored-nation clauses* locks in a hospital's prices with a health insurer, and it agrees to not offer lower prices to any other health insurer.

Patients are not the only victims of Maine's high hospital prices. Employers are also squeezed as higher prices increase the premiums that employers and their workers pay for coverage. In areas with little competition throughout the nation, workers lose nearly \$500 a year in wages due to higher premiums.⁷ This is especially daunting considering that Maine ranks as the lowest-income state in New England, compared to Connecticut, Massachusetts, New Hampshire, Rhode Island, and Vermont.⁸

Maine has the Highest Hospital Prices in New England

National Average: 224% of Medicare Prices



Source: Whaley, Christopher M., et al. "Prices Paid to Hospitals by Private Health Plans: Findings from Round 4 of an Employer-Led Transparency Initiative." RAND Corporation, 2022. https://www.rand.org/pubs/research_reports/RRA1144-1.html. Accessed 29 Nov. 2023.



The high prices employers pay for their employees' care is what's driving some to send their employees to Boston for care, which has more competition and

lower prices. For example, surgery for a hip replacement costs \$44,850 on average in Maine compared to \$16,150 in Boston.⁹

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In addition to higher premiums and lost wages, Maine's residents have some of the highest deductibles in the country, which are the amounts patients are responsible for before coverage begins. In 2022, the average deductible in Maine for those with employer-provided coverage was the highest in the country at \$2,771 for individuals and the fifth highest for families at \$4,451.¹⁰ Employers often increase deductibles when they have no other way to control costs.

Consolidation and subsequent rising prices are not the only way MaineHealth's hospitals are ripping off patients. The hospital system is also making business decisions that do nothing to lower prices – from their use of tax exemptions, COVID relief money, and failure to be compliant with federal transparency rules.

MaineHealth is a “not-for-profit” hospital system, meaning that it is exempt from all local, state, and federal taxes. Nationwide, tax-exempt hospitals were off the hook for \$28 billion in taxes.¹¹ As a condition of these tax benefits, nonprofit hospitals are required to provide community benefits, although these requirements are very broad. However, nonprofit hospitals provide less in charity care compared to their for-profit counterparts.¹² In the case of MaineHealth, the tax-exempt system ranks in the bottom quarter of all the nation's hospitals in charity care provided.¹³

As a percent of their expenses, MaineHealth provides just 1% of their total costs towards charitable cases. This is despite Maine having laws on the books requiring all hospitals to provide charity care to those up to 150% of the federal poverty level (\$21,870 annually for an individual and \$45,000 for a family of four).¹⁴ MaineHealth claims to go beyond the state's laws, providing charity care for those up to 200% of poverty. Despite their enhanced eligibility, patients are not benefiting sufficiently from these policies.

On top of its tax-exempt status, MaineHealth received significant federal funding for COVID relief. The federal government dispersed \$102 million to MaineHealth in 2021. Just two months after receiving \$43.4 million from the American Rescue Plan, along with \$25 million from the state health department, MaineHealth invested in commercial real estate, including a strip mall and a deli shop for future expansions.¹⁵

A lack of transparency plays a role in rising hospital prices as well—in Maine and across the country. Maine does not have any laws requiring hospitals make their prices public, leaving patients in the dark. The federal government has rules on the books requiring hospitals to make their prices public, but only a third of hospitals are compliant due to a lack of enforcement.¹⁶ As of last year, only two in Maine were found to be in total compliance, neither of which are part of the MaineHealth system.¹⁷

MaineHealth's ownership of 145 clinics further contributes to the problem of consolidation driving up prices. Medicare pays hospital-owned clinics more for outpatient care compared to independent physician offices. This has led to more hospitals taking over physician practices and labelling them as hospital outpatient departments in order to mark up the price. Medicare's high prices for outpatient care spill over into the private sector, with hospital-owned clinics charging more than physician practices for the same service, despite no difference in quality or cost of providing the care. This trend is no different in Maine, where patients are left with high costs and hospitals including "facility fees" onto their bills, just for getting care at a hospital-owned location. Facility fees are add-on fees hospitals bill to patients for receiving care at a hospital-owned facility or from a hospital-employed physician.¹⁸

The Solution: More competition, lower prices.

The Maine legislature and Congress can each take action to enact meaningful reforms to increase health care competition and lower prices for patients. These

solutions would not only lower prices for patients but produce savings for employers that would spur wage growth and investment in the economy. While just a start at making a more affordable health care system, Maine and Congress should take three steps:

First, require transparent pricing and billing for hospitals. Both the Maine legislature and Congress can codify and strengthen hospital price transparency rules, giving patients access to hospitals' prices. For example, Maine's Legislative Document (LD) 953, a bill in the state legislature, would codify federal transparency regulations in state law and create monetary penalties for violations.¹⁹ In Congress, the Lower Costs, More Transparency Act would do the same at the federal level.²⁰ Lawmakers should also enact transparent billing requirements, allowing patients' health plans to know whether outpatient services are taking place within a hospital, or an off-site clinic. This would give payers leverage to lower costs. In Congress, the Lower Costs, More Transparency Act includes this measure. At the state level, LD 1553 would enact similar billing requirements for hospitals.²¹

Second, prohibit hospital tactics that hurt health care competition. Contracting provisions such as all-or-nothing, anti-tiering, anti-steering, and most-favored nation clauses restrict health plans from taking action to lower prices and reward higher-value care. Because consolidated health systems can use those tactics to force insurers to include high-priced providers in their networks, state and federal lawmakers should step in and ban them to give health plans leverage to lower costs. In Maine, LD 1708 would do just that, along with the Health Competition for Better Care Act in Congress.²² The Senate Health, Education, Labor, and Pensions Committee also passed legislation with similar language included.²³ Several states, including Texas and California have taken action and banned these practices.²⁴

Third, limit add-on facility fees tacked onto patient bills. Hospitals are tacking on thousands of dollars in facility fees, inflating prices up to six times the cost of care at a physician practice. This year, the Maine legislature created a task force

to study the use of facility fees and make recommendations for how to address them. Several states have led the way, placing limits on how facility fees may be used.²⁵ Maine and the federal government should place limits of their own, including preventing off-site hospital clinics from charging facility fees and limiting on-site hospitals from charging facility fees for primary care, telehealth, and low-complexity service. At the federal level, Senate HELP Committee Chairman Bernie Sanders' (I-VT) Primary Care and Health Workforce Expansion Act would enact these limits, in addition to capping hospital chargers for outpatient care at the median price of what is charged in a physician's office. Seven other states also have some limits on facility fees.²⁶

While these are steps towards lowering hospital prices in Maine, they are not the only options. Policies at the federal level could go farther to lower prices nationwide. These include putting site-neutral payment reform in Medicare, requiring adequate charity care for nonprofit hospitals, investing in antitrust enforcement, and providing patients with the benefits of the 340B Drug Pricing Program.²⁷

Conclusion

Patients shouldn't have to travel across state lines to receive quality and affordable health care. Enacting policies that would bring transparency to hospital prices and lower prices that would create a better health care system for the patients it's meant to serve. Maine isn't the only state with high hospital prices. Hospital markets across the country are facing growing levels of consolidation amongst its hospitals and clinics, leaving patients with little choice and diminishing quality.

TOPICS

HEALTH CARE COSTS 95

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