



May 19, 2021

The Honorable Amy Klobuchar, Chair
Subcommittee on Competition Policy,
Antitrust, and Consumer Rights
Senate Judiciary Committee
United States Senate
Washington, DC 20510

The Honorable Mike Lee, Ranking Member
Subcommittee on Competition Policy,
Antitrust, and Consumer Rights
Senate Judiciary Committee
United States Senate
Washington, DC 20510

Dear Chair Klobuchar and Ranking Member Lee:

Thank you for your leadership to address hospital consolidation and its impact on increasing health care prices via the Senate Judiciary Subcommittee on Competition Policy, Antitrust, and Consumer Rights hearing - *Antitrust Applied: Hospital Consolidation Concerns and Solutions*. We greatly appreciate your interest in addressing anticompetitive practices in the health care sector.

Consumers First is an alliance that brings together the interests of consumers, children, employers, labor unions, and primary care clinicians working to change the fundamental economic incentives and design of the health care system. Our work is to ensure the system truly delivers the health and high-value care that all families across the nation deserve. America's families, workers and employers cannot continue to bear the burden of rising health care costs.

As the committee well knows, the U.S. faces a health care cost crisis with national expenditures on health care rising at a staggering rate and health care costs increasing faster than workers' wages and inflation, making it more difficult for people to access and afford health care.^{1,2} At the same time, our nation has the lowest life expectancy, the highest infant mortality and among the highest maternal mortality rates compared with other industrialized nations.^{3,4} And there continue to be millions of people who live with the burden of poor health, who cannot access the right care at the right time, who receive low-quality care,⁵ and who disproportionately face systemic inequities, including communities of color, people with low incomes, people with disabilities, and people living in distressed neighborhoods.⁶

¹ Alliance for Health Policy, "Chapter 6 – Delivery System Reform," in *Sourcebook*, August 31, 2017, <http://www.allhealthpolicy.org/sourcebook/delivery-system-reform/>.

²Centers for Medicare & Medicaid Services, "National Health Expenditure Projections 2018-2027: Forecast Summary," n.d., <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/Downloads/ForecastSummary.pdf>.

³ Irene Papanicolas, Liana R. Woskie, and Ashish K. Jha, "Health Care Spending in the United States and Other High-Income Countries," *JAMA* 319, no. 10 (2018): 1024–1039, <https://jamanetwork.com/journals/jama/article-abstract/2674671>.

⁴ Maternal Mortality and Maternity Care in the United States Compared to 10 Other Developed Countries. CommonwealthFund, 2020, Available at: <https://www.commonwealthfund.org/publications/issue-briefs/2020/nov/maternal-mortality-maternity-care-us-compared-10-countries>

⁵ Institute of Medicine, *Best Care at Lower Cost: The Path to Continuously Learning Health Care in America* (Washington, DC: The National Academies Press, 2013), <https://www.nap.edu/catalog/13444/best-care-at-lower-cost-the-path-to-continuously-learning>.

⁶ Kenan Fikri and John Lettieri, The 2017 Distressed Communities Index (Washington, DC: Economic Innovation Group, 2017), <https://eig.org/wp-content/uploads/2017/09/2017-Distressed-Communities-Index.pdf>.

Data confirms this growing health care cost and quality crisis in the U.S.:

- Sixty percent of the U.S. population has at least one chronic condition,⁷ which results in lower quality of life, health complications and increased health care spending.⁸
- From 2019 to 2020, average family health insurance premiums increased 4%, but workers' wages only increased 3.4%, and inflation increased 2.1%.⁹
- The total cost of an employer-sponsored health insurance plan for one family grew from \$5,791 in 1999¹⁰ to \$21,342 in 2020.¹¹
- Fully 44% of people in the U.S. report that they did not see a doctor when they needed to because of high health care costs, and one-third of people report that the cost of medical care interferes with their ability to secure basic needs like food and stable housing.¹²

High and increasing health care prices are making health care unaffordable for many American families, workers, and employers. This is made all the more challenging by the fact that health care prices and costs vary significantly among providers, and the differences are unrelated to the quality of care or health outcomes.¹³ Paying more does not mean consumers are getting better care. For example, list prices for COVID-19 diagnostic tests — the price charged to uninsured individuals and employer plans for out-of-network treatment — ranged from \$20 to \$850 per test at major hospitals across the U.S.¹⁴ This large variation in prices does not account for the quality of the test. In fact, the quality of the test is entirely unrelated to the prices charged. This is not a new phenomenon. It is well established that hospital prices for services billed to private plans range from 150% to more than 400% of Medicare rates.¹⁵

We simply cannot afford to continue at this rate.

For decades, lawmakers, academics, policymakers, and advocates have worked to uncover the root causes of high and variable health care prices among hospitals and across cities. A 2010 landmark report by the then-Attorney General of Massachusetts Martha Coakley, correlated the underlying driver of high and variable prices in Massachusetts to market power and leverage over the negotiations among insurers, hospitals, and physician groups.¹⁶ A similar report by the New York State Health Foundation found a correlation between increased market share and

⁷ Christine Buttorff, Teague Ruder, and Melissa Bauman, *Multiple Chronic Conditions in the United States* (Santa Monica, CA: RAND Corporation, 2017), https://www.rand.org/content/dam/rand/pubs/tools/TL200/TL221/RAND_TL221.pdf

⁸ Christine Buttorff, Teague Ruder, and Melissa Bauman, *Multiple Chronic Conditions in the United States* (Santa Monica, CA: RAND Corporation, 2017), https://www.rand.org/content/dam/rand/pubs/tools/TL200/TL221/RAND_TL221.pdf

⁹ Gary Claxton et al., *Employer Health Benefits: 2020 Annual Survey* (San Francisco, CA: Kaiser Family Foundation, October 2020), <https://www.kff.org/report-section/ehbs-2020-summary-of-findings/>.

¹⁰ Josh Bivens, "The Unfinished Business of Health Reform: Reining in Market Power to Restrain Costs without Sacrificing Quality or Access," *Economic Policy Institute*, October 10, 2018, <https://www.epi.org/publication/health-care>

¹¹ Claxton et al., *Employer Health Bene*

¹² NORC at the University of Chicago, "Americans' Views on Healthcare Costs, Coverage and Policy," n.d.,

<http://www.norc.org/PDFs/WHI%20Healthcare%20Costs%20Coverage%20and%20Policy/WHI%20Healthcare%20Costs%20Coverage%20and%20Policy%20Topli>

¹³ Christopher M. Whaley et al., *Nationwide Evaluation of Health Care Prices Paid by Private Health Plans: Findings from Round 3 of an Employer-Led Transparency Initiative* (Santa Monica, CA: RAND Corporation, 2020), https://www.rand.org/pubs/research_reports/RR4394.htm

¹⁴ Nisha Kurani et al., "COVID-19 Test Prices and Payment Policy," *Peterson-KFF Health System Tracker*, March 10, 2021."

<https://www.healthsystemtracker.org/brief/covid-19-test-prices-and-payment-poli>

¹⁵ Chapin White and Christopher M. Whaley, *Prices Paid to Hospitals by Health Plans Are High Relative to Medicare and Vary Widely: Findings from an Employer-Led Transparency Initiative* (Santa Monica, CA: RAND Corporation, 2019),

https://www.rand.org/pubs/research_reports/RR3033.html.

¹⁶ *Office of Attorney General Martha Coakley. (March 1, 2010). Examination of Health Care Cost Trends and Cost Drivers. Retrieved from https://www.mass.gov/files/documents/2016/08/vn/2010-hcctd-full.pdf.*

high prices.¹⁷ The dynamics of the Massachusetts and New York health care markets described in those reports are seen in health care markets across the nation.¹⁸ Importantly, these studies also show that, in many instances, higher prices were not correlated in any way to the quality of care that the institutions provided.^{19, 20}

Consolidation of health care markets in the late 1990s, and again over the last decade, led to the highly concentrated market power that is so pervasive today. Fully 90 percent of metropolitan statistical areas have highly concentrated hospital markets, 65 percent of those areas have highly concentrated specialist physician markets, and 57 percent have highly concentrated insurer markets.²¹ The magnitude of market consolidation across and within health care markets in the U.S. is a significant health care cost problem. Importantly, health care prices determined in such consolidated markets are not the result of competitive market negotiations. Instead, they are the result of rates negotiated based on relative market power between hospitals and insurers. Consolidation undermines the competitiveness of health care markets, allowing providers, insurers, and other sectors of the health care industry that amass a disproportionate share of market power to set prices, prevent data from flowing and limit provider networks. The result are health care prices that are neither value-driven nor equitable. Addressing the impact of consolidation on health care prices is a fundamental step to control health care costs and create a more fair and equitable system.

America's families, workers and employers cannot continue to bear the burden of rising health care costs. Health care consumer across the nation are calling on Congress to take action. This hearing is a critical step to assure them that price gouging is no longer acceptable and that Congress will take action.

For additional details on America's health care cost crisis and policy solutions that Congress can pass right now to improve the system, please refer to the [Consumers First 2021 Legislative Agenda: Policy Solutions to Drive Value into the U.S. Health Care System in the 117th Congress](#).

Thank you again for taking the time to address an issue that is so critical for so many families, workers and employers. Please contact Jennifer Taylor, Senior Director of Federal Relations (JTaylor@familiesusa.org) with any questions.

Sincerely,

Consumers First Steering Committee

American Benefits Council
American Academy of Family Physicians
American Federation of Teachers
Families USA
Purchaser Business Group on Health

¹⁷ New York State Health Foundation. (December 2016). Why Are Hospital Prices Different? An Examination of New York Hospital Reimbursement. Retrieved from <https://nyshealthfoundation.org/wp-content/uploads/2017/11/an-examination-of-new-york-hospital-reimbursement-dec-2016.pdf>.

¹⁸ L. S. Dafny, op. cit.

¹⁹ [Office of Attorney General Martha Coakley, op cit.](#)

²⁰ New York State Health Foundation, op. cit.

²¹ B. Fulton (2017). Health Care Market Concentration Trends in The United States: Evidence and Policy Responses. Health Affairs (Project Hope), 36(9), 1530-1538. Retrieved from <https://www.ncbi.nlm.nih.gov/pubmed/28874478>.