CVS Health's Signify Acquisition Could Increase Congressional, CMS Scrutiny of Risk Adjustment, Diagnosis Codes Collected through HRAs

Executive Summary and Outline

On September 5, 2022, CVS Health announced an agreement to acquire Signify Health, which is a large in-home health risk assessment vendor for Medicare Advantage (MA) plans, as well as a value-based care company working with ACOs (and previously working with BPCI-A participants). The transaction could receive regulatory scrutiny, given the more aggressive tone from the FTC and DOJ over the last few years, but as a vertical merger the probability of a successful challenge from regulators is low. However, the impact on Congressional and CMS views on in-home HRAs and potential risk adjustment reform or Medicare trust fund solvency fixes will be important to monitor through the remainder of the year and into 2023 and 2024.

I. In-Home HRAs

In-home HRAs, after a long period of quiet, have seen increased attention over the last year, both in their importance to MA plans as well as potential regulatory concerns. The Office of the Inspector General (OIG) released reports in September of 2020 and 2021 critical of in-home HRAs, particularly when a diagnosis code is collected in a health risk assessment but is not treated or even observed in subsequent doctor's visits. For example, if an individual diagnosed with hypertension at an in-home HRA does not return to see any doctors for the remainder of the year, they would still receive that risk adjustment coefficient for the following year.

The September 2021 report focused on the 2016 plan year, and highlighted UnitedHealth (the report did not specify but the market share made it clear which company was the focus) as the primary beneficiary of this practice. Given how the industry has grown and succeeded since 2016, it is likely that UNH is no longer head and shoulders above its major MA competitors in using HRAs in this way.

From a CMS and Congressional perspective, CVS Health's acquisition may make that probability appear more certain, and increase scrutiny on diagnosis codes only collected via HRA.

For Congress, any MA cuts such as an HRA reform that would only count HRA-collected diagnosis codes that are backed up in a subsequent doctor's visit are likely to result from a need for payfors, such as Medicare trust fund solvency efforts.

The urgency of that has been reduced with the current projection of 2028 insolvency (rather than 2026), but Democrats are likely to push for these types of payfors in any deficit reduction or Medicare solvency negotiations, and several House Republicans cracked the door to possible consideration in a hearing earlier in 2022.

From a CMS perspective, the Biden administration did not propose even a small MA coding intensity adjustment for 2023, but did publish an extensive list of the proposals for risk adjustment reform submitted in the comments in the Final Notice for 2023.

We believe that the administration has the authority to make these sorts of HRA changes, though it has not sought to even propose any reforms in the last 8 years after beneficiary advocates made their case around the value of HRAs.

However, given that the administration has the authority to make changes, there is risk around MA rulemaking, such as the 2024 MA rule that arrived at OMB last week. A rule that reflects the positive elements of HRAs, particularly in-home HRAs, while focusing on asking plans to provide the follow-up and care coordination services that HRAs are often highlighted by plans as facilitating, would be more difficult to oppose than previous efforts that blamed HRAs for increasing risk scores in MA.

For MA plans and HRA vendors, the best-case midterm election scenario is likely Republicans taking at least the House, as that will reduce the likelihood of MA or HRA hearings and allow Republicans to more effectively pressure CMS in the case of any proposed changes to HRAs.

Republican control of Congress would also likely help advance the idea that rather than a loophole CVS is trying to exploit, in-home HRAs are a key part of MA that helps bring health care into the home with greater frequency and effectiveness, which could reduce the possibility of reform even in the case of Medicare solvency discussions.

II. Value-Based Care

CVS Health has lagged competitors like Humana and UnitedHealth in pursuing value-based care and risk-bearing provider relationships in Medicare Advantage and Signify could be part of a strategy to catch up in that area, especially as CMS has indicated it may start using value-based care arrangements as a positive star rating factor.

If this is a move to increase work with risk-bearing providers, this is a positive for those entities, as it would allow for more opportunities to work with large MA plans, as well as a positive for CVS, as these arrangements have been successful for Humana and UNH.

Both CVS and Signify are likely to focus on the value-based care piece of the transaction, both because it is a significant opportunity for CVS, but also because of the regulatory and legislative concerns around the HRA business, which is at least as important a factor in the acquisition, in our view.

About the Author

Joseph Mercer is a Managing Director at Marwood Group and a former Program Analyst at CMS's Center for Consumer Information and Insurance Oversight. He has substantial expertise covering government health insurance programs with a focus on ACA exchanges and Medicare Advantage. Mr. Mercer holds a JD from Washington & Lee University School of Law and a BA in Economics from the College of William and Mary.

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