



Health Care Consolidation

Harms & Remedies

October 25, 2023

TEXAS ²⁰₃₆

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 [@CharlesTXPolicy](https://twitter.com/CharlesTXPolicy)



Data tells us Texas faces significant challenges, requiring state policy action now and into the future so that Texas is the best place to live and work.



Assessing Texas' performance against competitors

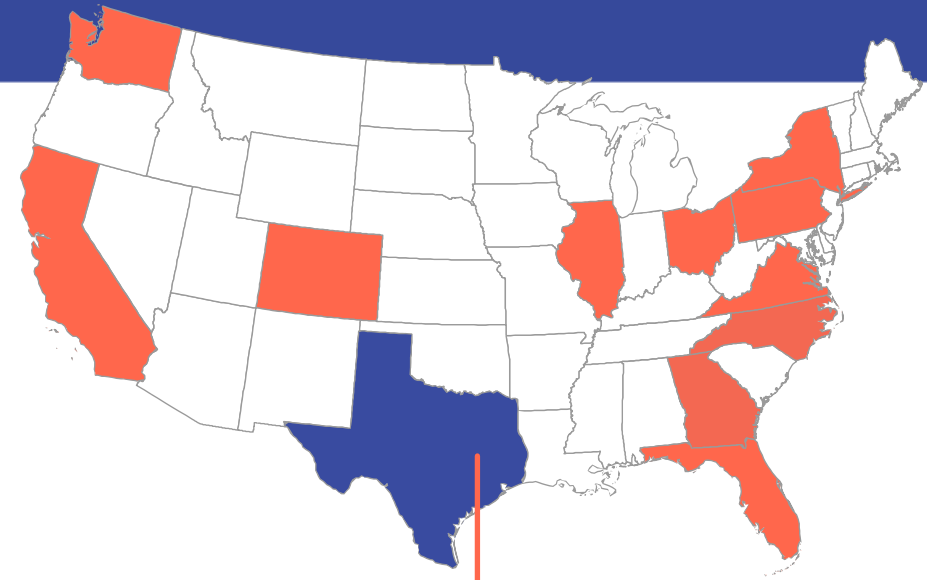
Peer states identified based on index including **15 factors** across 3 domains

Competing
for Business

Competing
for Talent

Similar
Size

Together, Texas and its peers account for **58% of the total U.S. population** and **62% of total U.S. GDP**



California
Colorado
Florida
Georgia

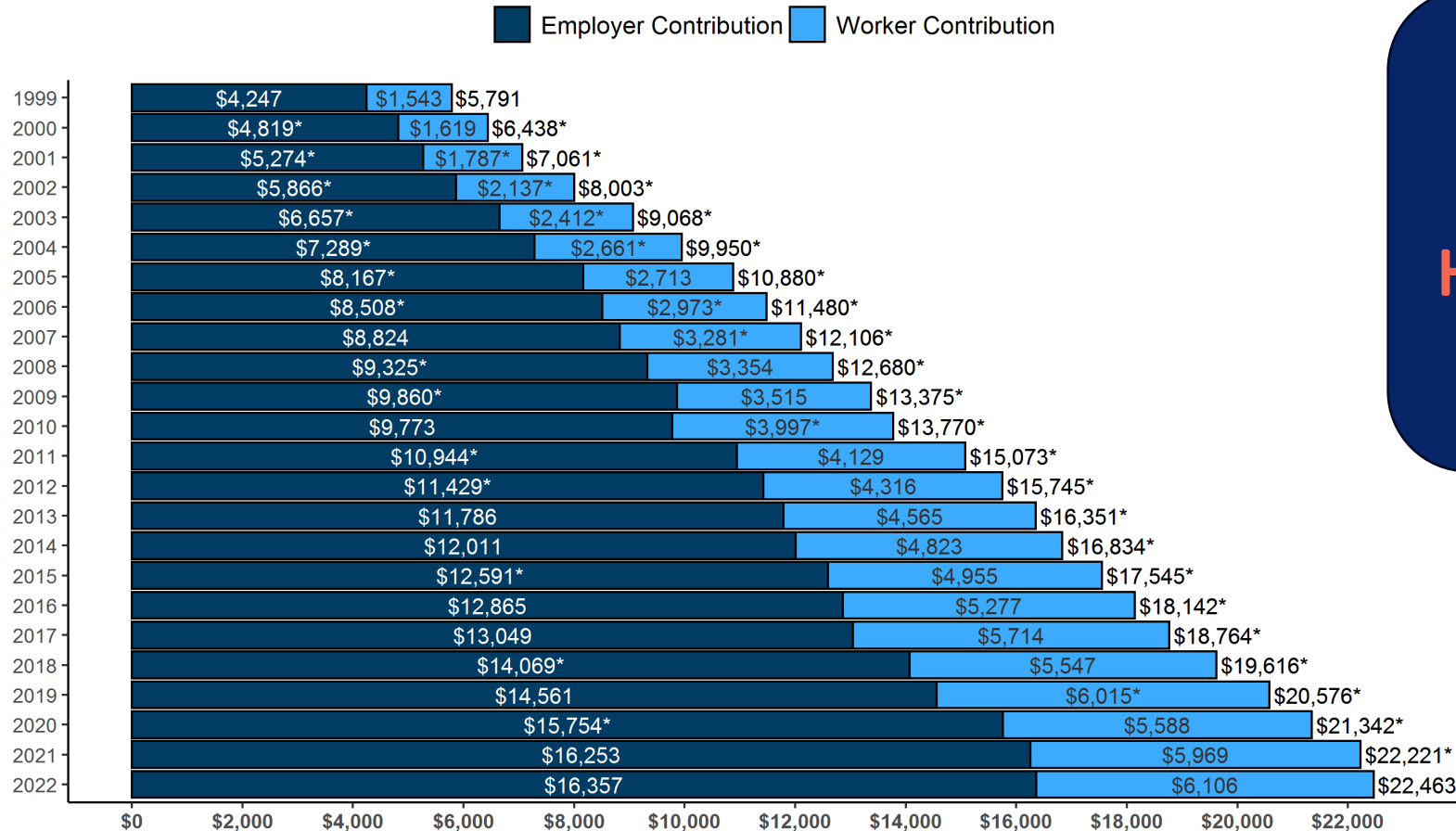
Illinois
New York
North Carolina
Ohio

Pennsylvania
Virginia
Washington

The Prices are Too Damn High

Average Family Premium: \$22,463...

Average Annual Worker and Employer Contributions to Premiums and Total Premiums for Family Coverage, 1999-2022



Nearly 1/3 of the
2022 Median
Household Income
of \$74,580

Audience Poll Question

If you have received next year's premium increase, how much will it be (% increase)?

ANSWERS

... And Likely to Increase

Employers Anticipate 7% Rise in Health Care Costs for 2024

Health Insurance Premiums Are Set to Surge in 2024



By Kathryn Mayer
August 17, 2023

US employers to see biggest healthcare cost jump in a decade in 2024

By Leroy Leo and Khushi Mandowara

September 21, 2023 11:07 AM CDT · Updated a month ago



By: Adam Hardy | Editor: Julia Glum
Published: Sep 12, 2023 | 5 min read

Expected Medical Plan Cost
Increase (2023-2024) (n=169)

Median

7.0%

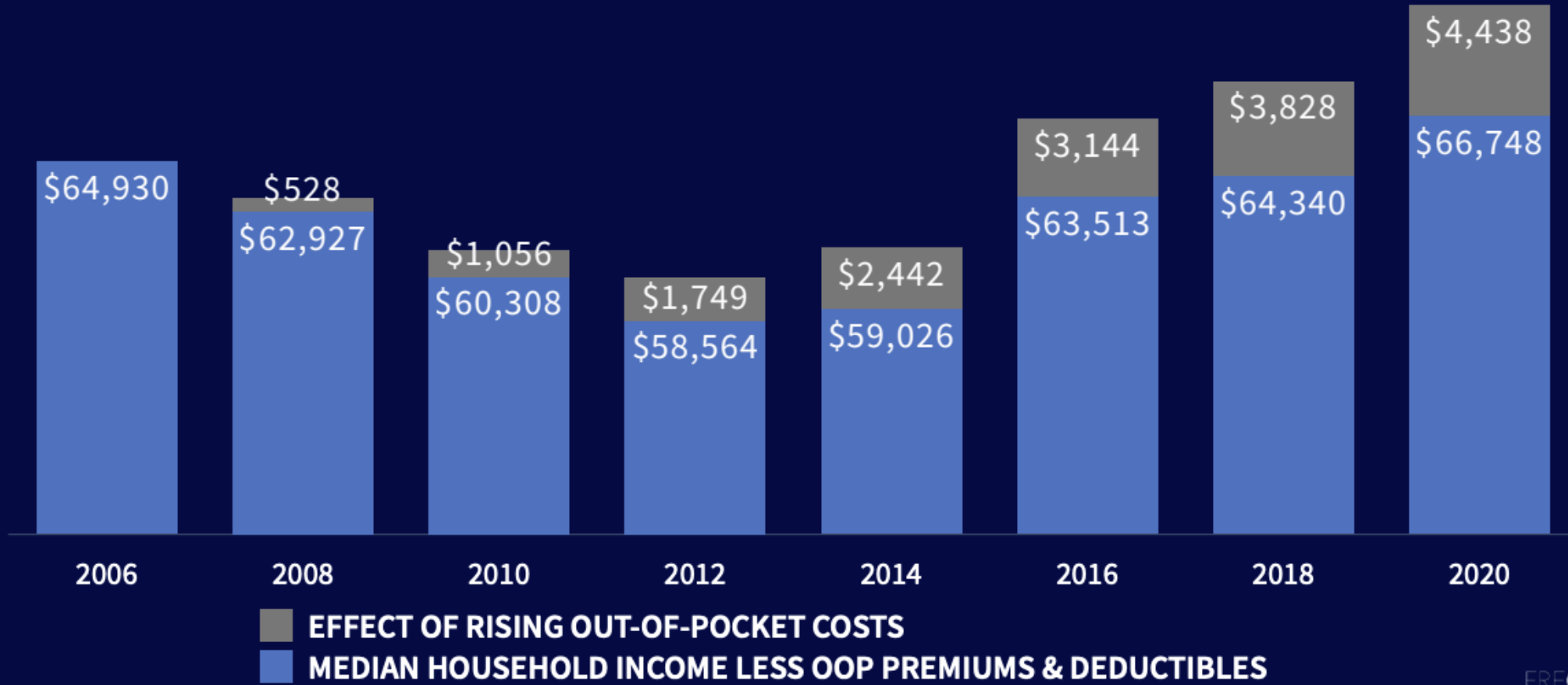
◆ WSJ NEWS EXCLUSIVE

Health-Insurance Costs Are Taking Biggest Jumps in Years

Employers and workers are expected to see an increase of about 6.5% or higher in health-plan costs next year

HEALTH CARE IS ERODING U.S. LIVING STANDARDS

U.S. median household income, 2006–2020 (2021 dollars)



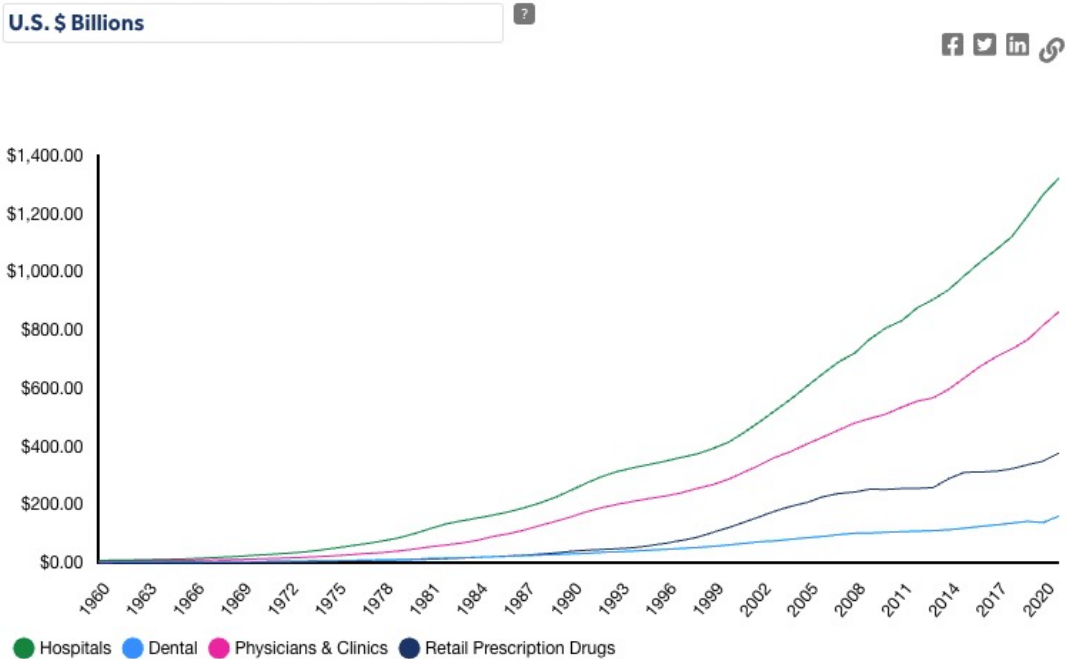
FREOPP.org

Expenditures, Revenues & Cost Pressure

Health Expenditures by Service

HEALTH EXPENDITURES 1960 - 2021

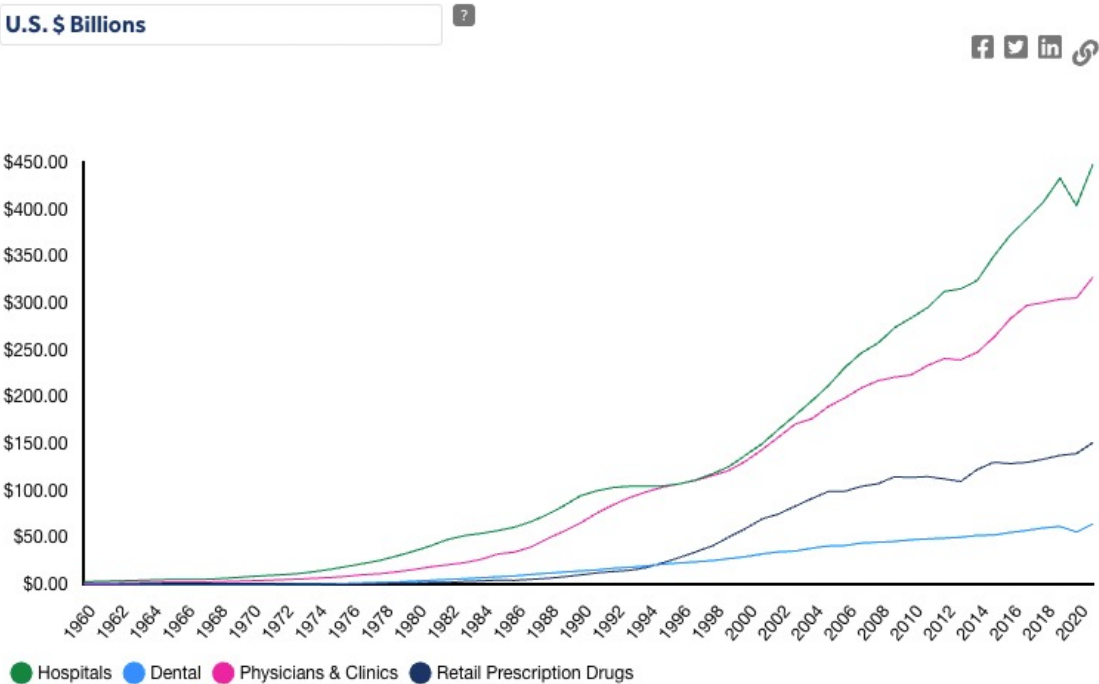
On Hospitals, Dental, Physicians & Clinics, Retail Prescription Drugs by All Sources



All Funds

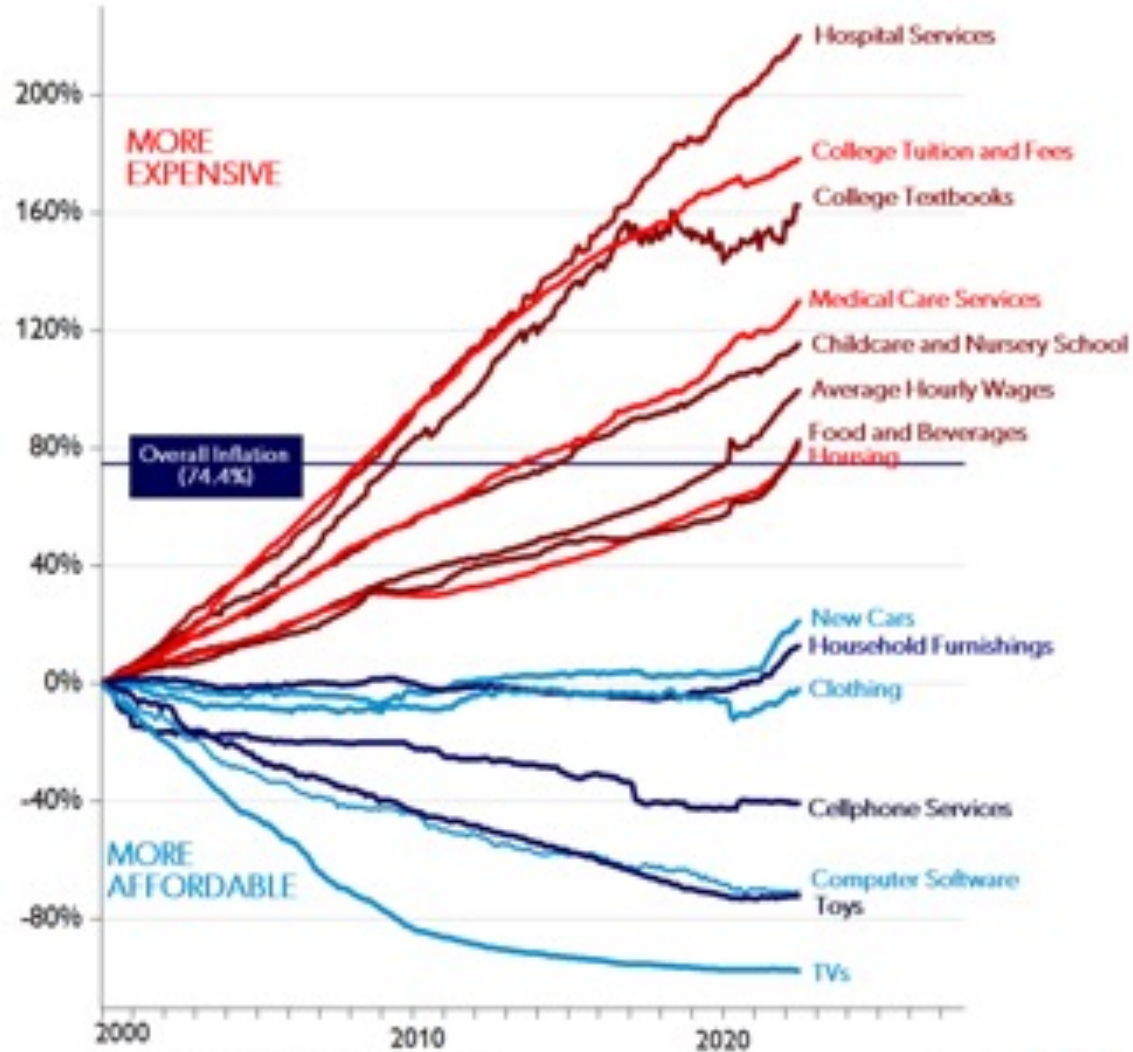
HEALTH EXPENDITURES 1960 - 2021

On Hospitals, Dental, Physicians & Clinics, Retail Prescription Drugs by Private Health Insurance



Private Health Insurance

Price Changes: January 2000 to June 2022
Selected US Consumer Goods and Services, Wages



Source: Bureau of Labor Statistics

Carpe Diem **AEI**

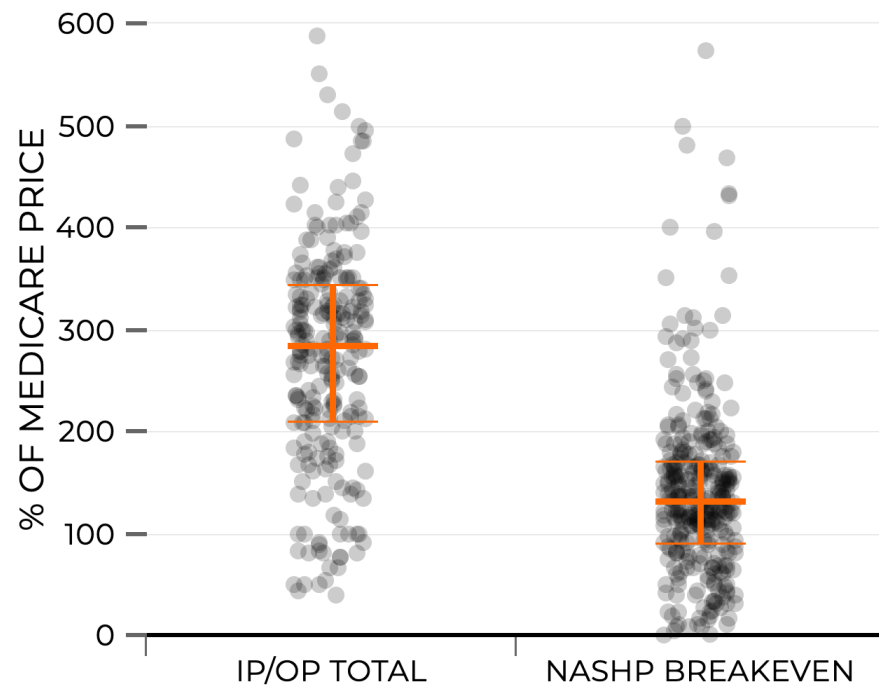
Hospital Prices are Increasing Exceptionally Quickly

Market Background: Why Are Prices High?

Cost Shifting?

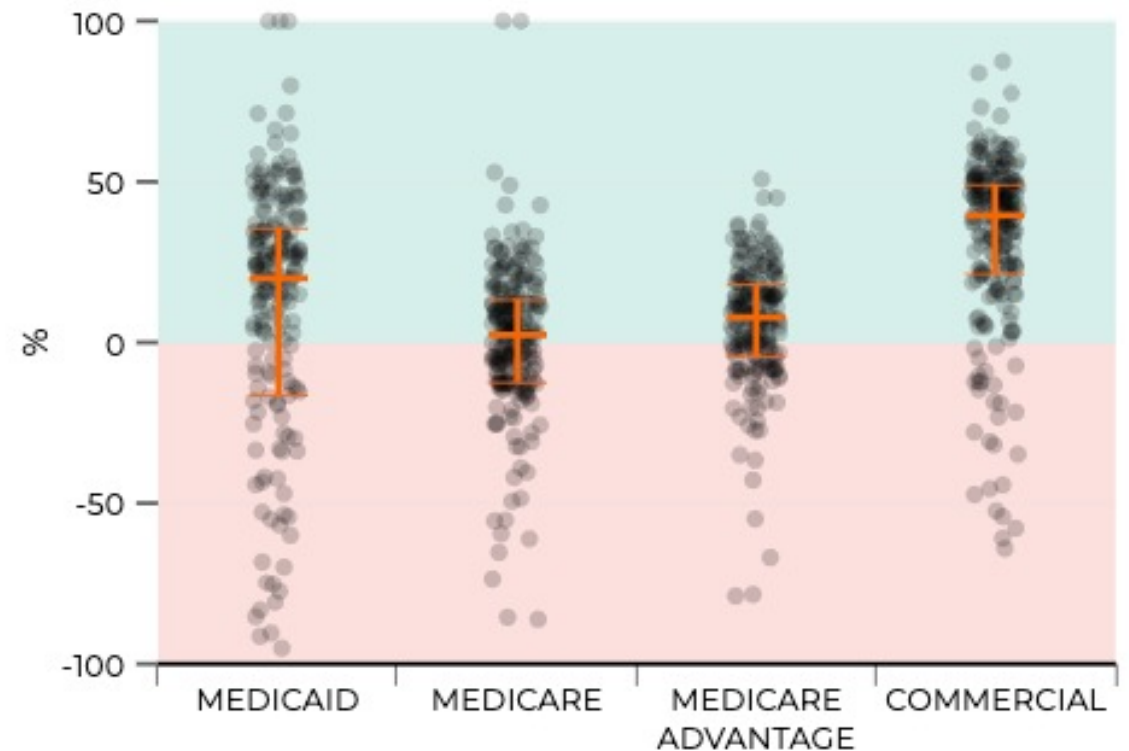
Commercial vs. Breakeven

COMMERCIAL & BREAKEVEN
RAND 2018-2020, NASHP 2019



Operating Profit by Payer Type

OPERATING PROFIT MARGIN



Audience Poll Questions

1) For St. Louis area hospitals (Missouri only), what is the median hospital receiving from commercial payers, as a % of Medicare?

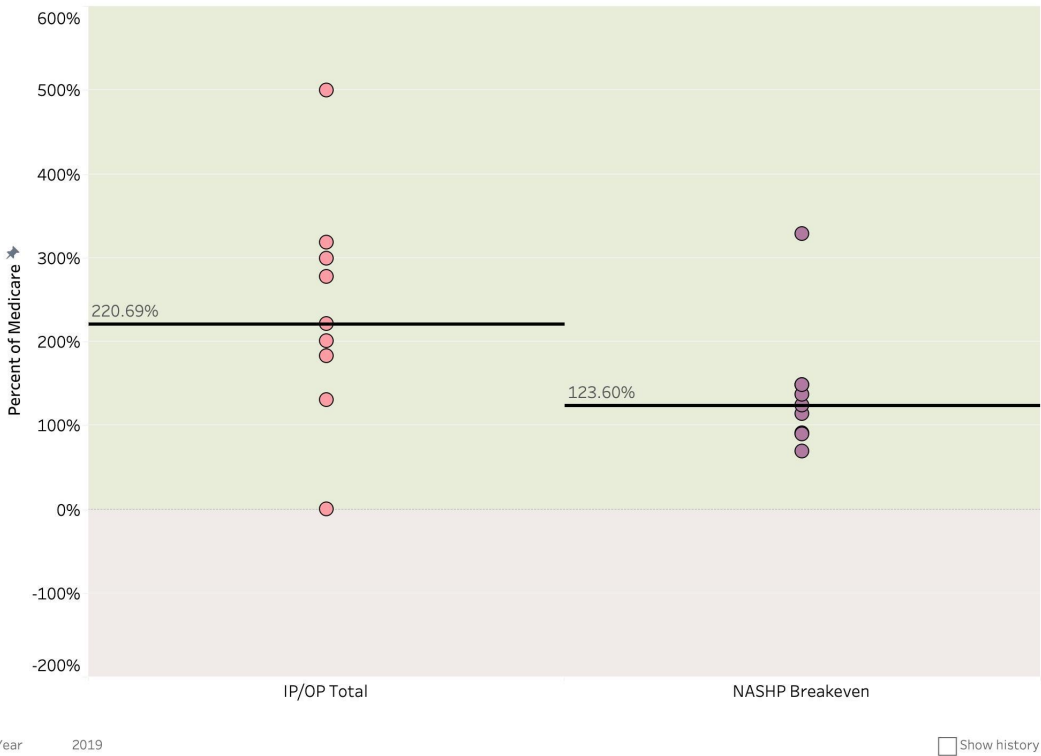
2) For St. Louis area hospitals (Missouri only), what is the median hospital's profit margin (%) on commercial payers?

ANSWERS

St. Louis Area Hospitals

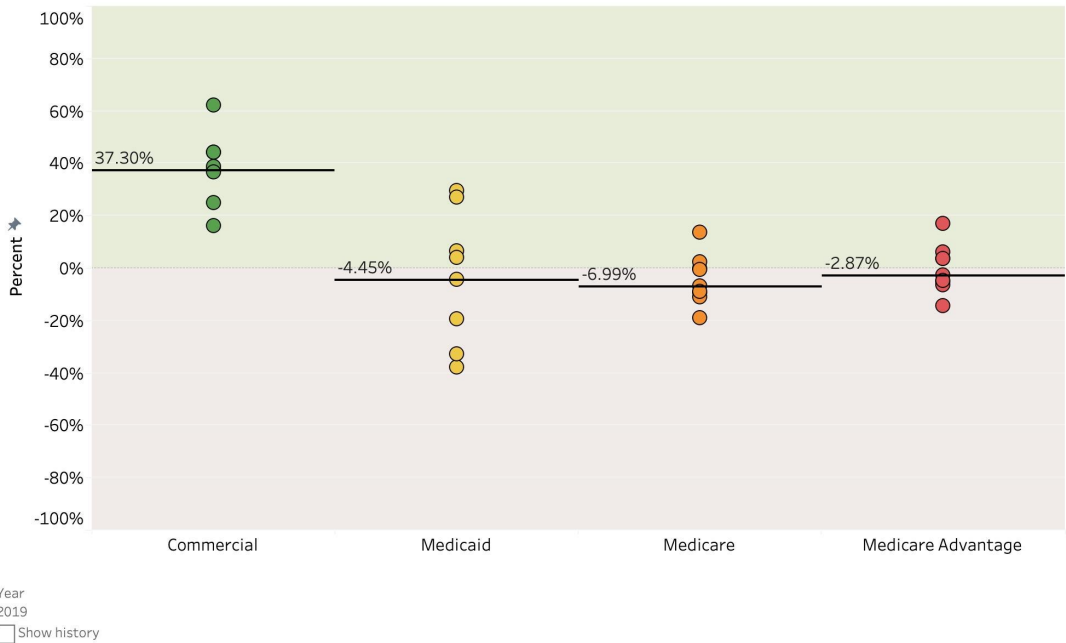
Commercial vs. Breakeven

Commercial and Breakeven vs. RAND 4.0, St. Louis, 2019



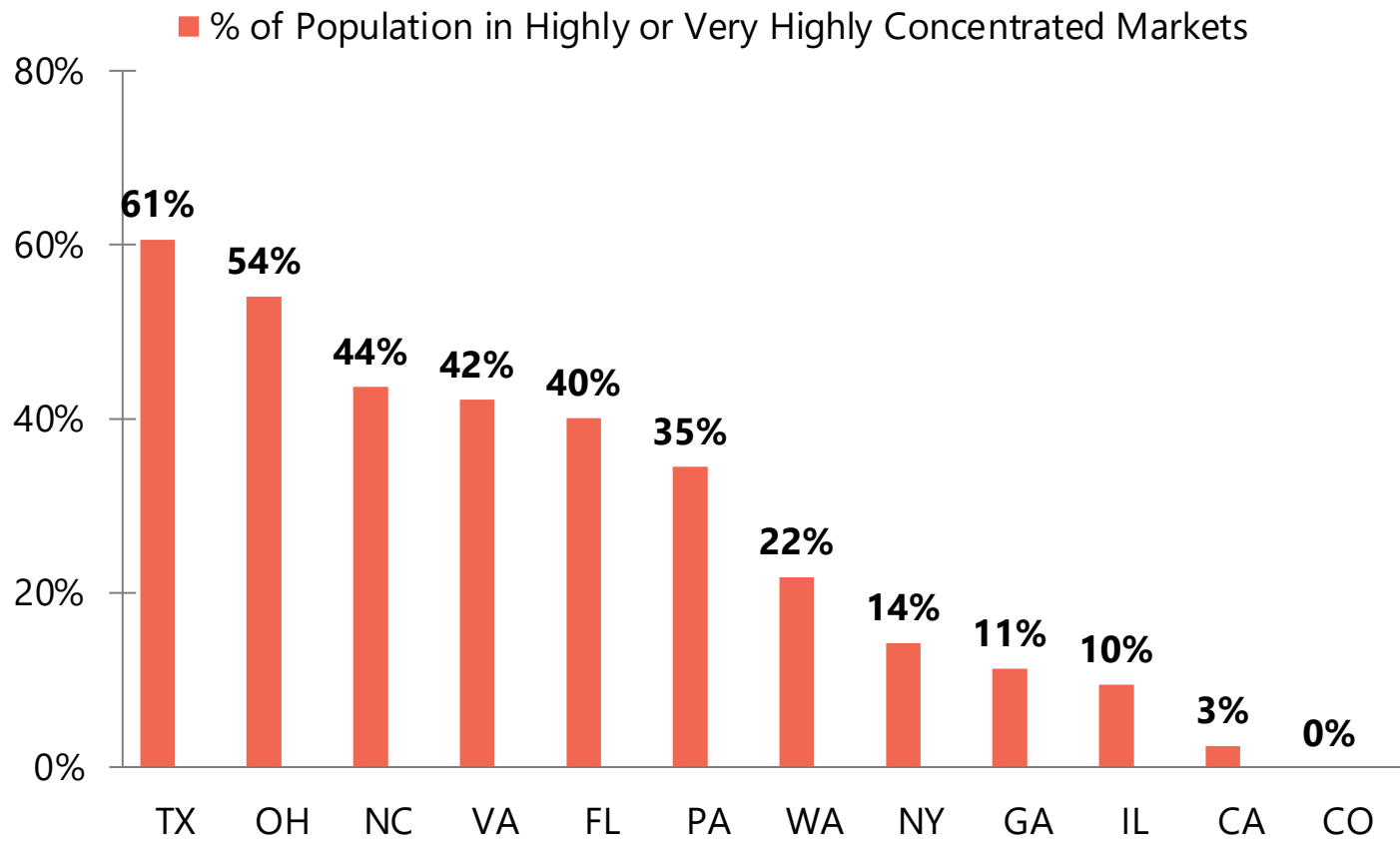
Operating Profit by Payor Type

Operating Profit Margin in St. Louis, 2019



Hospital Market Consolidation

Among peer states, Texas has the highest percentage of its population in Highly or Very Highly Concentrated Markets.



Inpatient Hospital Market Concentration in U.S. Metros, 2021



Concentration Level ⓘ


UNCONCENTRATED


MODERATE

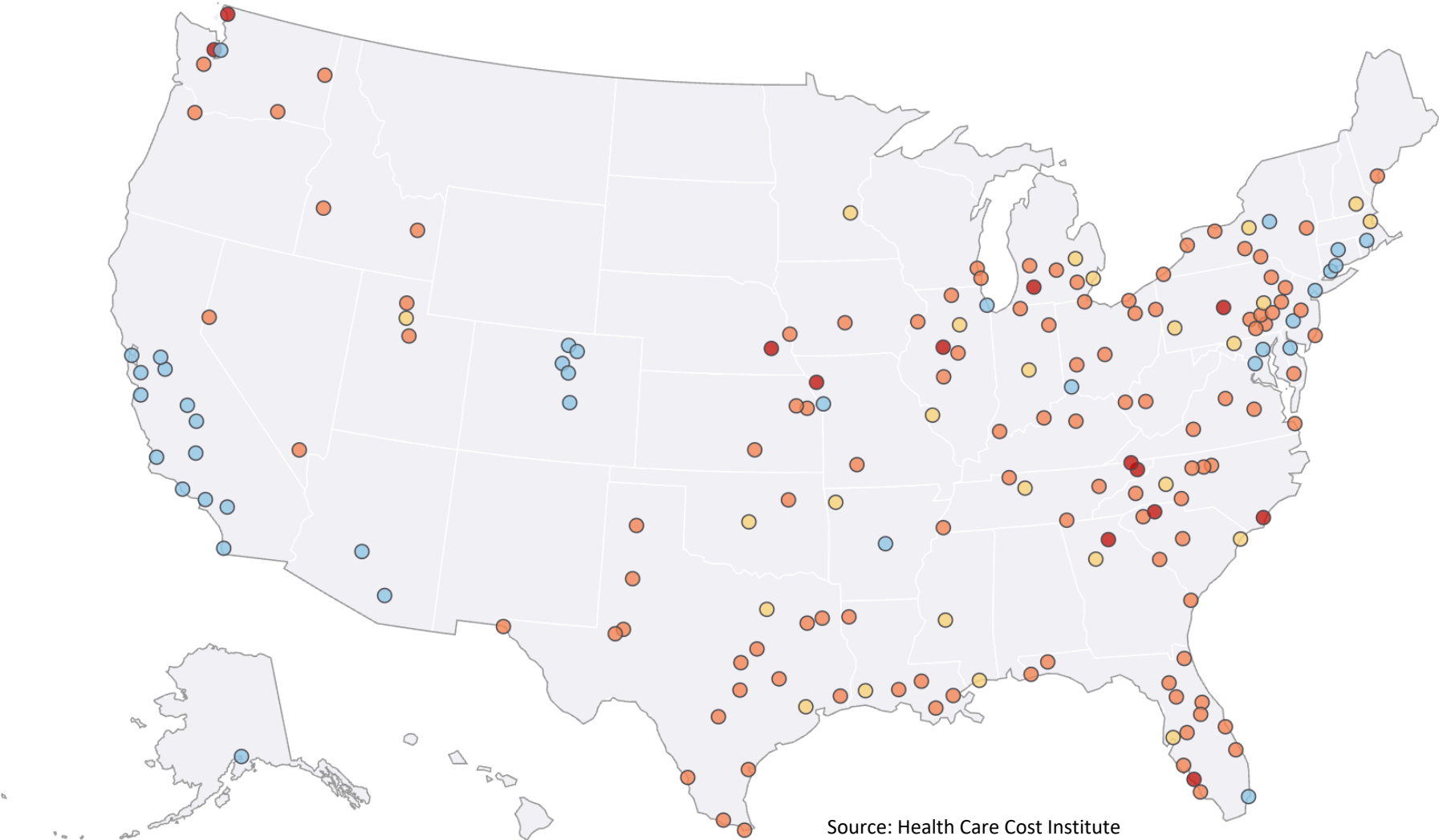
HIGH

VERY HIGH

 Find a metro... 

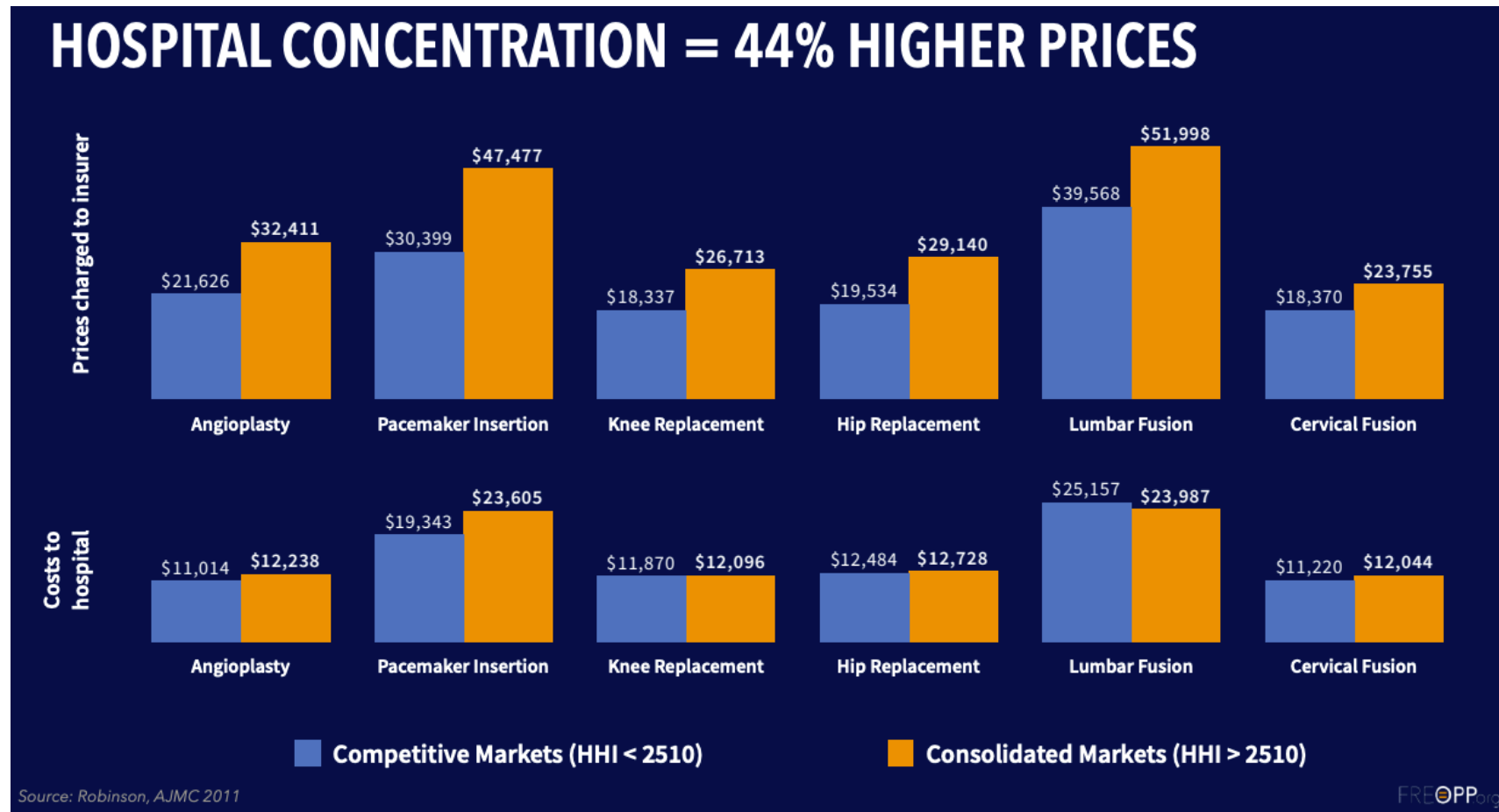
 Click or mouseover a group above to highlight on the map.
Hover over a city below to see more.

Metros Ranked by
Concentration 



Source: Health Care Cost Institute

Consolidation = Higher Prices



Impacts on Quality?

NO EVIDENCE THAT MERGERS INCREASE QUALITY

Author	Geographic Scope	Patients	Type of data analyzed	Quality measure	Effect of increasing concentration on quality
Kessler & McClellan	U.S.	Medicare	Longitudinal	AMI mortality	Decreases
Sari	U.S.	All	Longitudinal	7 HCUP QI categories	Decreases
Kessler & Geppert	U.S.	Medicare	Longitudinal	AMI mortality	Decreases
Hamilton & Ho	California	All	Mergers	Newborn 48 hour discharge rate, AMI, stroke mortality	No effect
Shortell et al.	Multiple states	All	Cross-section	Mortality for 16 conditions / procedures aggregated	No effect
Mukamel et al.	U.S.	Medicare	Cross-section	All cause, AMI, CHF, pneumonia and stroke mortality	No effect
Shen	U.S.	Medicare	Longitudinal	AMI mortality	No effect
Gowrisankaran & Town	L.A. County	All	Cross-section	AMI and pneumonia mortality	Decreases for HMO pts.; increases for Medicare pts.
Mutter & Wong	U.S.	All	Cross-section	38 HCUP QI measures	Varied by procedure
Mukamel et al.	California	All	Cross-section	All cause, AMI, CHF, pneumonia and stroke mortality	Increases
Volpp et al.	New Jersey & New York	Under-65	Longitudinal	Cardiac catheterization rate, revascularization rate, AMI mortality	Increases

Source: Vogt and Town, 2006

FREOPP.org

Toward a Solution: Price Transparency & Variation

Can Transparency Make a Difference?

Youngest Generations Most Engaged About Their Healthcare Costs

Generations*	All	Gen Z	Millennials	Gen X	Baby Boomers
Percent of Patients Conducting Some Form of Research on Healthcare Costs	75%	85%	84%	73%	65%
Percent of Patients That Said Having Clear Information on Out-of-Pocket Costs Would Impact their Decision to Use a Healthcare Provider	49%	65%	60%	44%	34%

*Gen Z (born 1995 or after); Millennials (1980-1994); Gen X (1965-1979); Baby Boomers (1946-1964).

<https://newsroom.transunion.com/news-reports-about-a-weakening-economy--impacting-how-some-patients-seek-medical-treatment/>

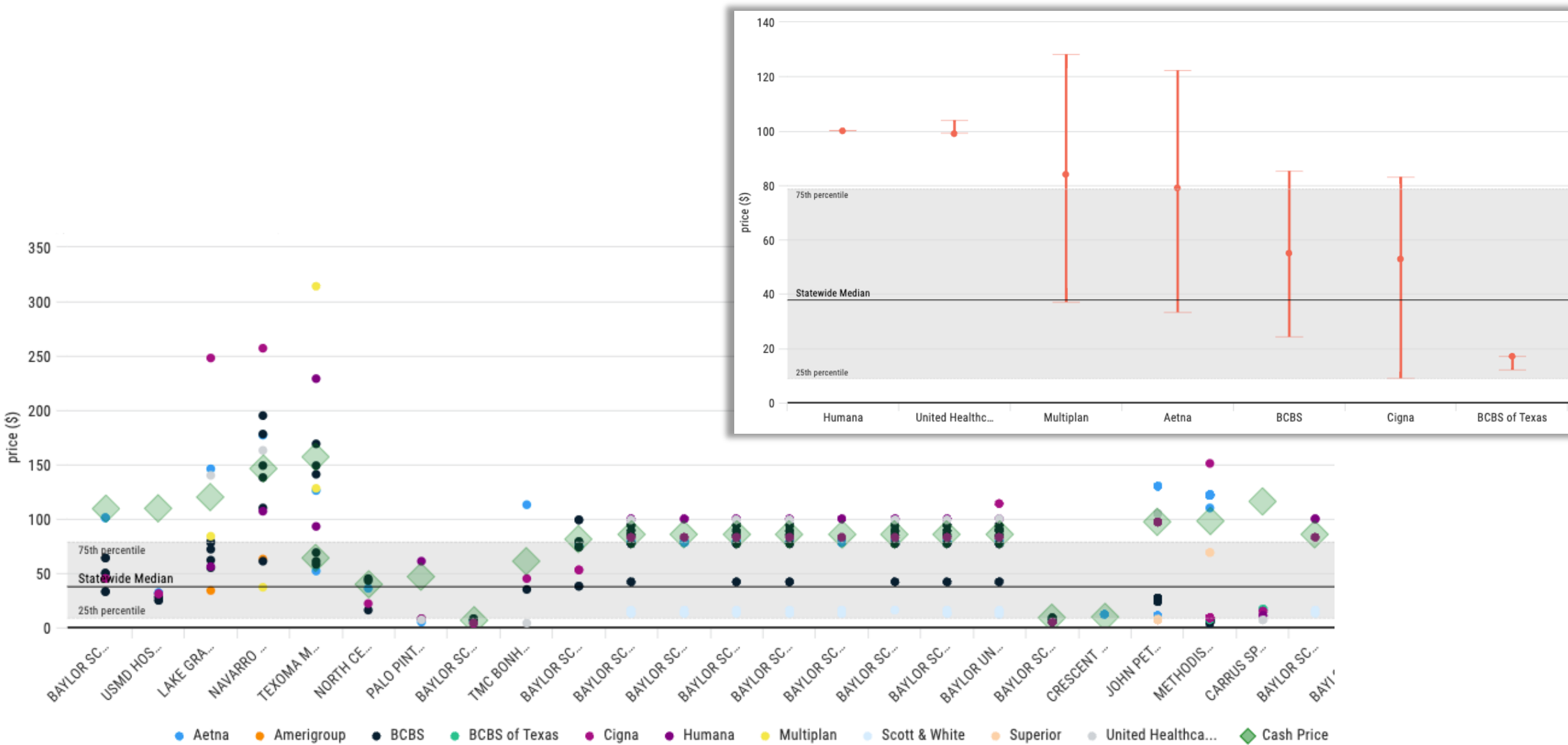


Health Care Price Transparency

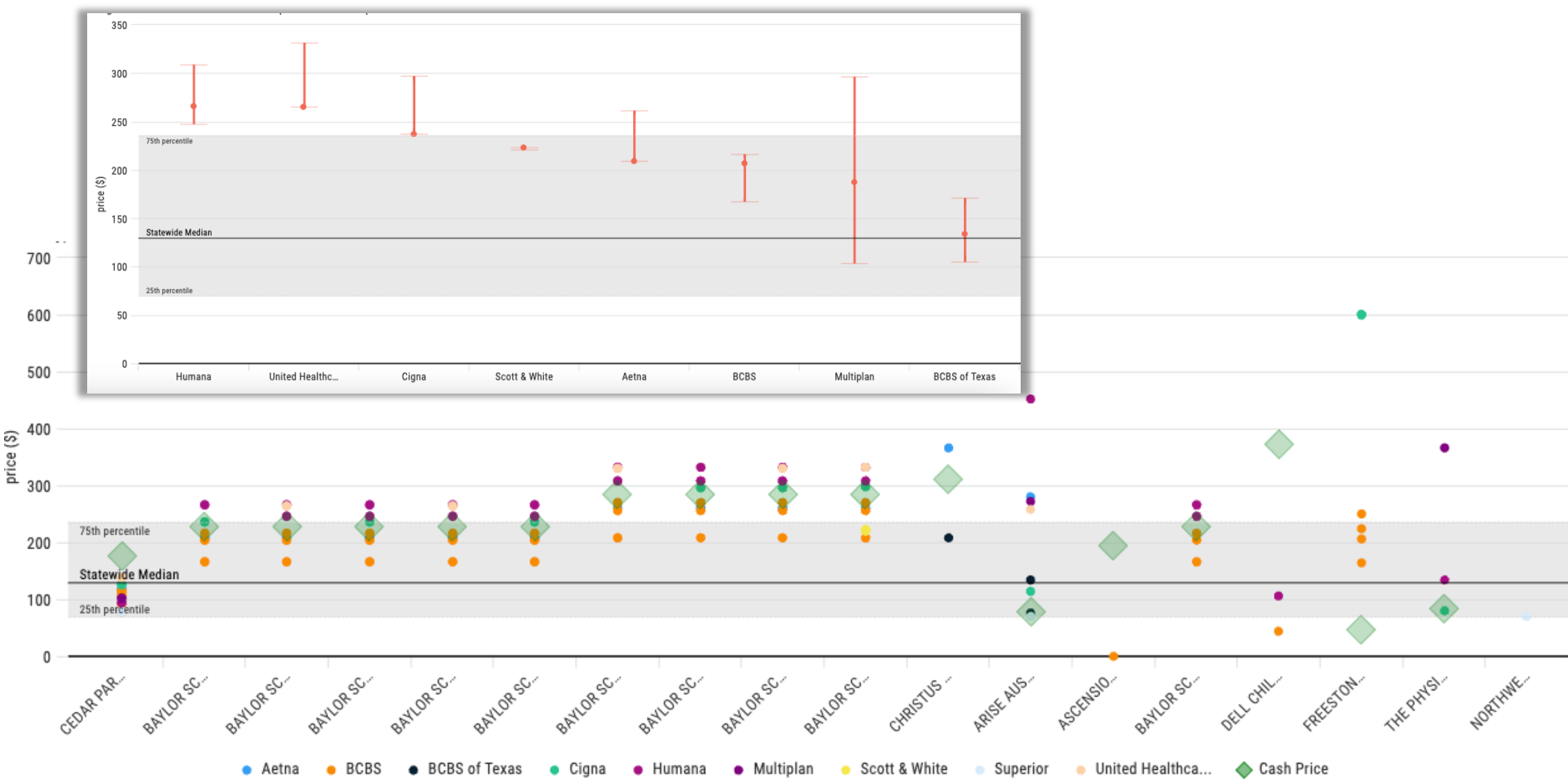
Timeline

Hospital Price Transparency		
1/1/21	Federal Price Transparency Rules Took Effect	Federal
7/19/21	CMS Proposed Increased Penalties for Non-Compliance	Federal
9/1/21	Texas Law (SB 1137) Took Effect	Texas
1/1/22	CMS Rules with Increased Penalty for Non-Compliance Take Effect	Federal
2/26/23	Texas Rules Clarifying the Enhanced Penalties in Texas Statute	Texas
Insurer Price Transparency		
1/1/22	Federal Rules & Texas Law (HB 2090) for Machine-Readable Files Take Effect	Federal & Texas
7/1/22	Federal Rules for Machine-Readable Files delayed enforcement date	Federal
1/1/23	Federal Rules for Consumer Comparison Tool for 500 Services Take Effect	Federal
1/1/24	Federal Rules and Texas Law for All Services Takes Effect	Federal & Texas

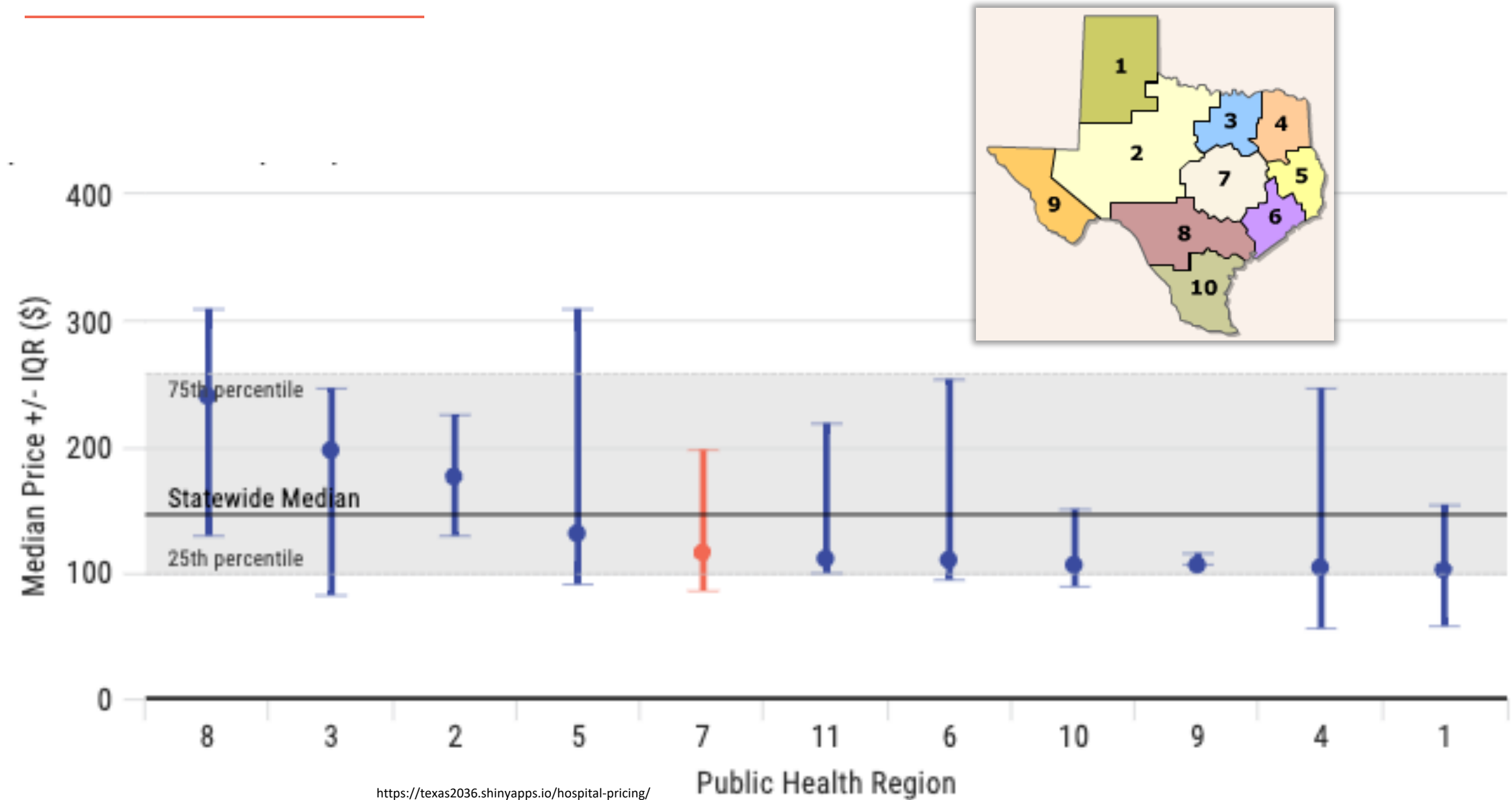
Price Variation – CBC: North Texas



Price Variation – ER Visit Central TX



Regional Price Variation – Office Visit



Beyond Transparency: Next Steps

What Should Employers Do?

1

Get Your Data!

- Employers own their data and have a right to access it
- Gag clauses are illegal
- Employers have a fiduciary duty to evaluate the data
- Compare your claims to publicly available price contracts

2

Tiered Networks

- Group providers into tiers
- Preferential cost-sharing options for highest-value providers
- Broader Reach, Less “Hands On”
- Less Effective After Deductible / MOOP

3

Steering

- Shared Savings Incentives
- Centers of Excellence
- Targeted Interventions & Incentives, More “Hands On”
- Can Still Work After Patient Hits Deductible / MOOP

Audience Poll Questions

1) Have you tried gaining access to your own claims data for benefit design or audit purposes?

2) If yes, were you able to gain access?

ANSWERS

Audience Poll Questions

1) Have you tried or asked about implementing a tiered network, or steering patients to high-value care?

2) If yes, were you able to implement the design?

ANSWERS

Policy Options

Policy Options

Further Transparency

- Codify and Enforce Existing Federal Transparency Rules
- Require Meaningful, Timely, and Accurate Price Estimates
- Enable Quality Transparency
- Establish & Utilize All-Payer Claims Databases
- Require Transparency of Ownership & Control

Prohibit Anti-Competitive Contracting

- All or Nothing
- All Products
- Vertical Tying
- Gag
- Most-Favored Nation
- Anti-Tiering
- Anti-Steering

Enhanced Anti-Trust Oversight

- Prohibit COPAs
- Empower Review of “Roll-up” Acquisitions
- Funding State Oversight & Enforcement Agencies

Policy Options

Government Rate-Setting

- Direct Rate Setting
 - Price Setting
 - Global Budgets
- Indirect
 - Insurance Premium Review Process
 - Network Adequacy Review

Deconsolidation

- Forced Breakups
- Incentivized Breakups
 - Threaten direct rate-setting in non-competitive markets

Increase Supply

- Repeal CON Laws
- Scope of Practice

Texas' Story: Anti-Competitive Contracting

HB 711 restores competition to Texas' health care markets by prohibiting contracts that include:

- **Anti-steering clauses** that restrict employers and health plans from encouraging enrollees to obtain services at a competitor or from offering incentives to use specific providers
- **Anti-tiering clauses** that require employers and health plans to place all physicians, hospitals, and other facilities associated with a hospital system in the most favorable tier of providers
- **Gag clauses** that prohibit any party from disclosing relevant price or quality information to the government, enrollees, treating providers, plan sponsors, and potential enrollees and plan sponsors
- **Most favored nation clauses** that prevent providers from offering prices below those contracted with a particular carrier

HB 711 also imposes **a fiduciary duty on health benefit plans**: If they encourage enrollees to obtain a service from a particular provider, including offering incentives to encourage specific providers, introducing or modifying a tiered network plan, or assigning providers into tiers, they must do it for the primary benefit of the enrollees, not themselves.

Our Approach & Messaging

HEALTHY MARKETS FOR HEALTHY TEXANS

TX 20
36



INFORMED

Markets require **transparency**.

Increase access to data on price and quality for health care

Research Transparency: Improving the APCD

(HB 3414 by [Oliveron](#))

(SB 2045 by [Hancock](#))

Require providers to provide meaningful price estimates
(HB 3218 by [Klick](#))



COMPETITIVE

Markets require **options**.

Options for coverage and care that all compete **on a level playing field** to meet Texans' health care needs.

Fee Neutrality

(HB 1692 by [Frank](#))

(SB 1275 by [Hancock](#))

Consumer Choice Benefit Plans

(HB 1001 by [Capriglione](#))

(SB 605 by [Springer](#))



ENGAGED

Markets require **aligned incentives**.

Reward those who choose high-quality, low-cost options.

Smart Shopper Protections

(HB 2002 by [Oliveron](#))

Empowering Employers to Design Smart Networks

(HB 711 by [Frank](#))

Support **Healthy Markets** in Texas

HB 711 by Rep. James Frank and Sen. Lois Kolkhorst



Texas employers and families are struggling to pay rising hospital and health care costs.



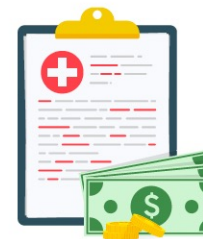
Texas has a highly-concentrated health care market.

A majority of Texas' population (61%) lives in "highly" or "very highly concentrated" hospital market concentration, as compared to 3% in California and 10% in Illinois.

Texans are concerned about the cost of health care.

In a recent Texas Association of Business poll, Texans shared that health care cost increases were a greater concern than inflation.

On average, employer-sponsored health insurance now costs \$22,000 per covered family, which is about one-third of the median wage of a Texas household.



MAKE SELECTIONS TO FILTER HOSPITAL VIEW

FILTER BY GEOGRAPHY AND YEAR

Select type of geography

Texas Senate

Filter geography

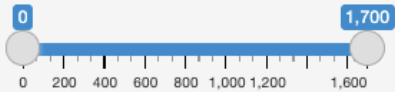
Miles, Borris L. (District 13)

Select a year

2021

FILTER BY HOSPITAL ATTRIBUTES

Filter for hospital size



Filter by hospital system

All

Check to include critical access and public hospitals

☐

FILTER TO SELECT HOSPITAL(S)

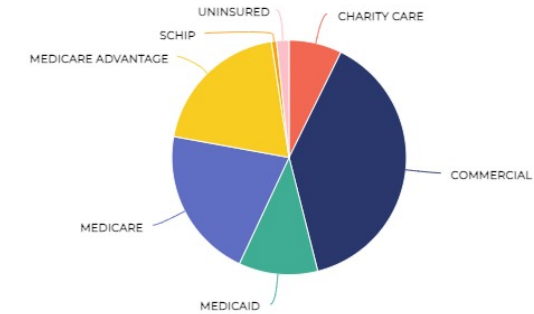
All

> APPLY CHANGES

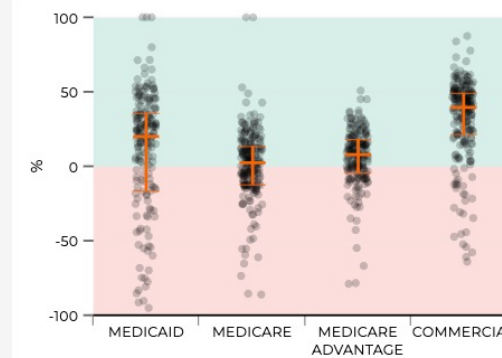
↺ CLEAR SELECTIONS

PAYER MIX

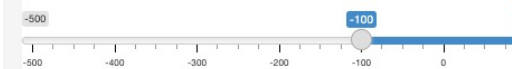
As a percentage of total charges



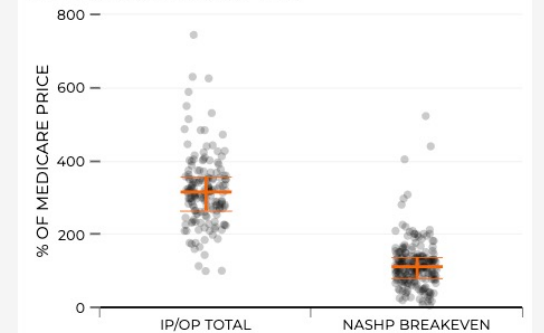
OPERATING PROFIT MARGIN



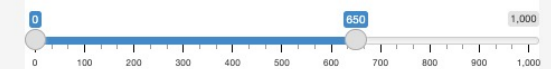
Zoom to range



COMMERCIAL & BREAKEVEN RAND 2018-2020, NASHP 2019

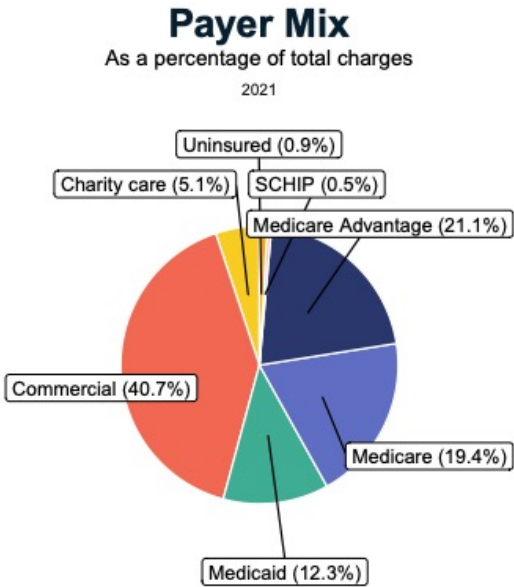


Zoom to range



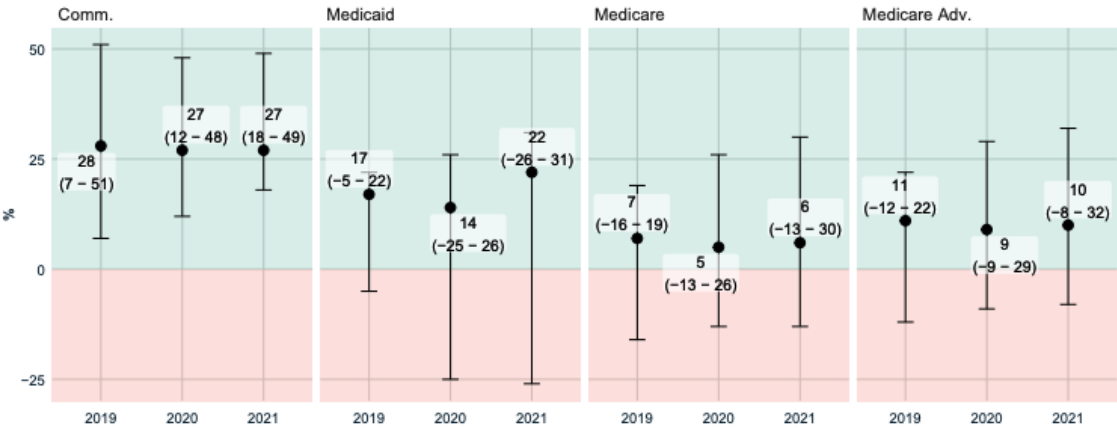
Harnessing the NASHP Cost Tool

Area: Miles, Borris L. (District 13) | Hospital Size: 0 – 1700 beds | Hospital System: All



Payer	2019	2020	2021
Charity care	5.2	5.2	5.1
Commercial	39.6	39.7	40.7
Medicaid	13.0	13.1	12.3
Medicare	23.0	21.5	19.4
Medicare Advantage	17.8	19.0	21.1
SCHIP	0.4	0.4	0.5
Uninsured	1.1	1.1	0.9

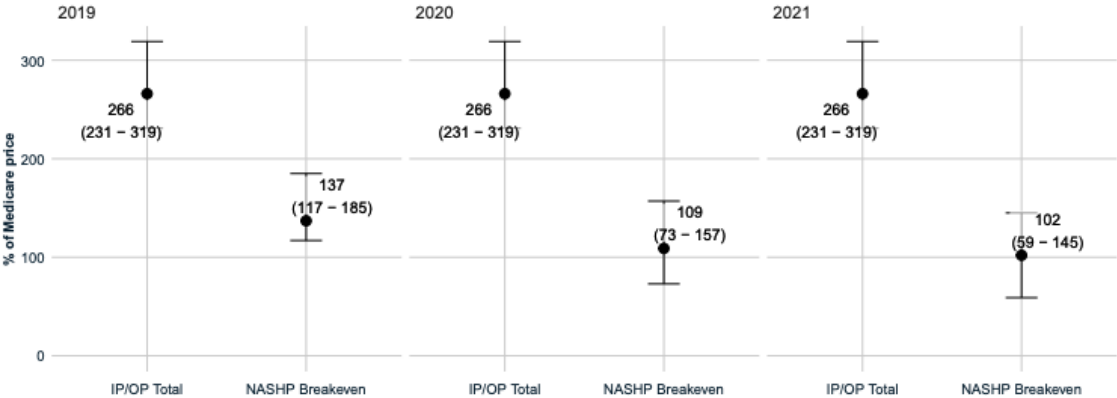
Operating Profit Margin



The point and the top number in the label represent the median value for the selected hospitals. The error bars and numbers in parentheses represent the interquartile range.

Commercial & Breakeven

RAND 2018–2020, NASHP 2019



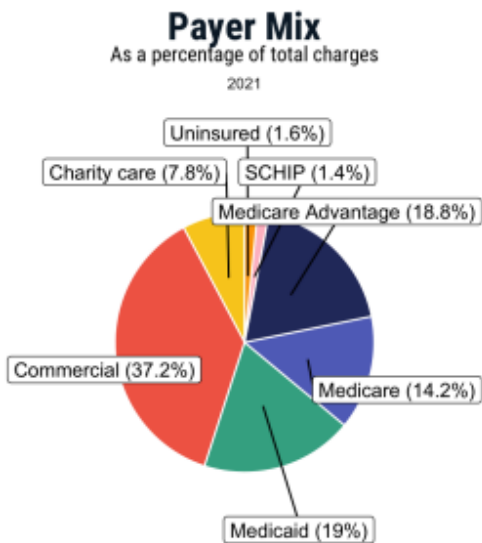
The point and the top number in the label represent the median value for the selected hospitals. The error bars and numbers in parentheses represent the interquartile range.

Individualized Legislative District Reports

MEMORIAL HERMANN TEXAS MEDICAL CNTR (HOUSTON)

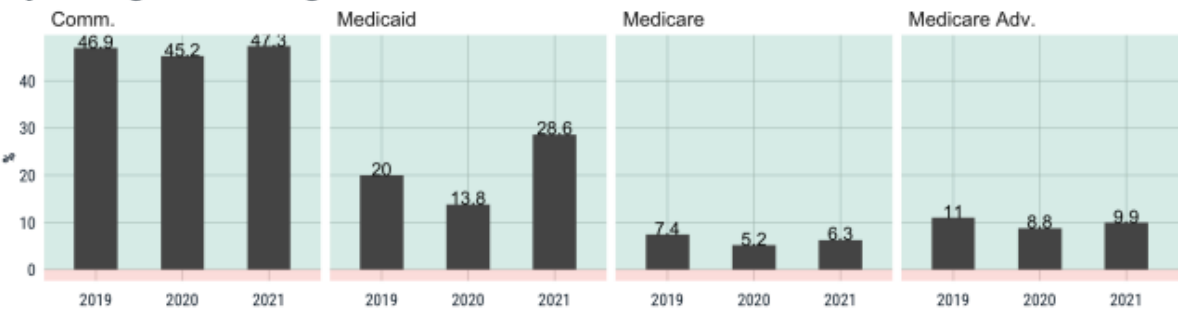
6411 FANNIN HOUSTON, TX 77030

Memorial Hermann Healthcare System | 1067 beds

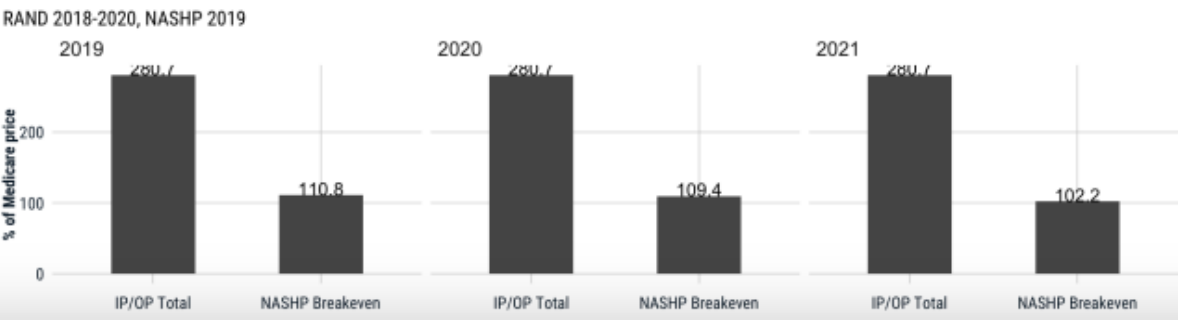


Payer	2019	2020	2021
Charity care	6.7	6.9	7.8
Commercial	36.8	36.2	37.2
Medicaid	19.8	19.8	19.0
Medicare	17.4	15.6	14.2
Medicare Advantage	16.9	18.5	18.8
SCHIP	1.0	1.1	1.4
Uninsured	1.4	1.8	1.6

Operating Profit Margin



Commercial & Breakeven



Individual Hospital Reports



HB 711: A Broad Coalition of Support

Industry Responses & Thoughts



Hospitals

- Strongly Opposed "All or Nothing."
- Unsuccessfully tried to water down anti-steering & anti-tiering
- Asked for delayed effective date
- Association was negotiated to neutral, but individual CEOs called legislative leadership in opposition



Doctors & Providers

- Strongly Opposed All or Nothing
- Lightly asked for inclusion of "all products clauses"
- Disorganized politically on these issues
- Some physician legislators were so angry at hospitals for other bills that they voted yes on this bill out of spite



Insurers

- Were generally supportive
- Played a background role
- Were strongly opposed to imposing a fiduciary duty on PBMs that steer or tier
- Also sought changes to state laws to allow fully-insured products to steer and tier (open to fiduciary duty)



Political Notes

- a. Differing Republican Leadership
- b. House Select Committee & Report
- c. COVID Impact, Data, & Trust
- d. Invested Legislative Champions
- e. Flood the Zone & Other Legislation

Thank You!



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