Health Care Division Overview

January 10, 2019

OFFICE OF ATTORNEY GENERAL
MAURA HEALEY
ONE ASHBURTON PLACE
BOSTON, MA 02108

Who We Are

- The Health Care Division is part of the Health Care and Fair Competition Bureau (HCFC) of the Office of Massachusetts Attorney General Maura Healey
  - HCFC is comprised of: Antitrust Division, False Claims Division, Health Care Division, Medicaid Fraud Division, and Non-Profit Organizations/Public Charities Division
- The Division is comprised of Assistant Attorneys General, Legal Analysts, Mediators, Paralegals, and a Program Manager.

Examples of What We Do

I. Law enforcement investigations – e.g.:
   A. Investigating fraud & abuse in the pharmaceutical & medical device industries
   B. Monitoring health insurance practices
   C. Investigating care delivery & data security practices

II. Regulatory monitoring/policy development – e.g.:
   A. Monitoring health care reform/market trends
   B. Promoting health care transparency
   C. Overseeing Community Benefits program

III. Consumer engagement/mediation – e.g.:
   A. Mediating hundreds of health care complaints annually
   B. Education regarding health care coverage and billing rights

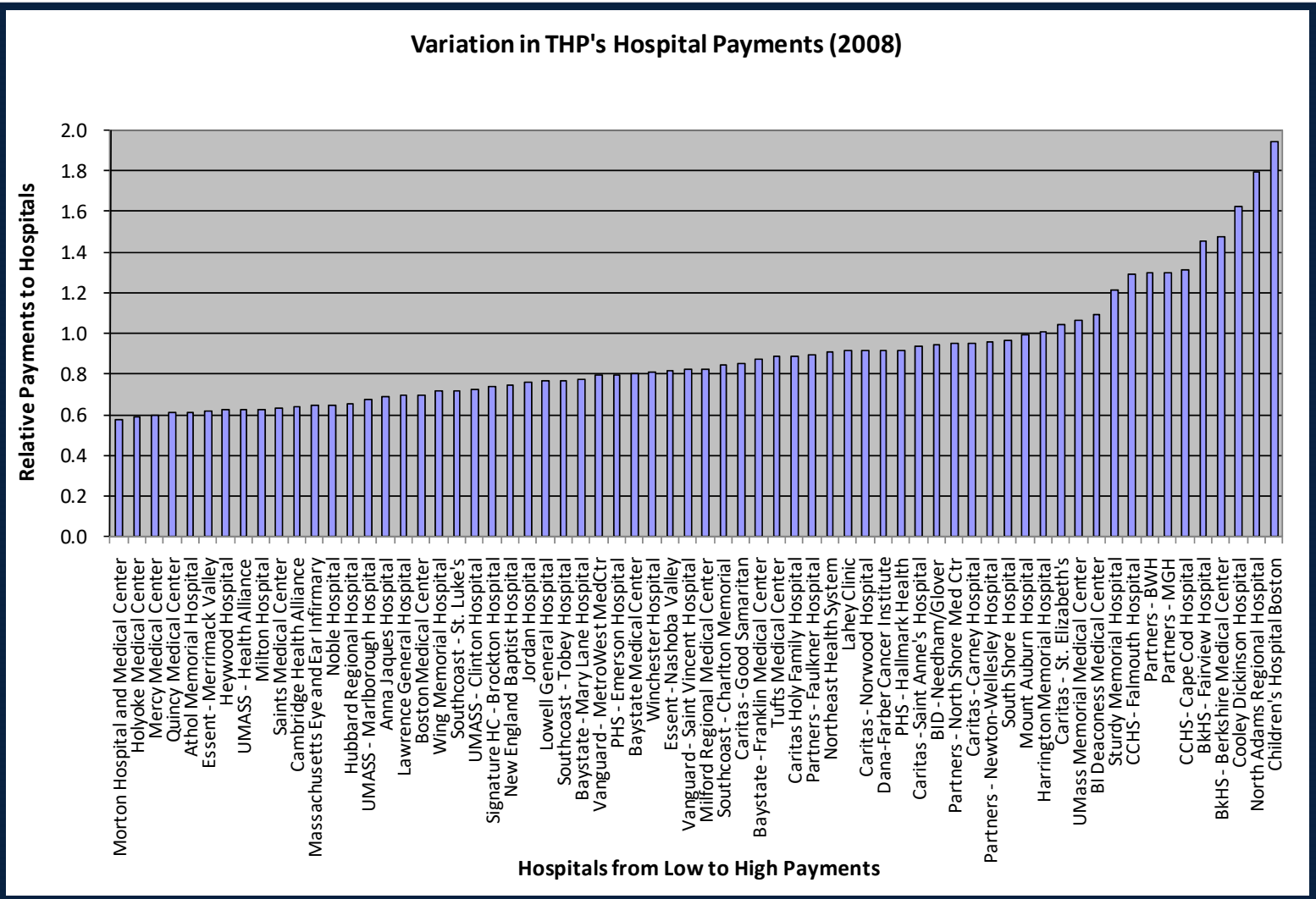
Progression of Health Care Reform in Massachusetts

YEAR	MASSACHUSETTS HEALTH CARE REFORMS	
1990s	Insurance Market Reforms • Guaranteed Issue • Modified Community Rating • Pre-Existing Condition Limitations	
2006	Expansion of Insurance Coverage	
	• Individual Mandate • Employer Responsibility	• Medicaid Expansion • Insurance Exchange
2008	Chapter 305 – Cost Containment Legislation I • **AG Authority to Examine Cost Trends**	
2010	Chapter 288 – Cost Containment Legislation II • Transparency • Tiered/Limited Network Products • Reform of Unfair Contracting Practices	
2012	Chapter 224 – Cost Containment Legislation III • Oversight of Payment Reform & Provider Registration • Benchmark Health Spending to Gross State Product • Price Transparency for Consumers	

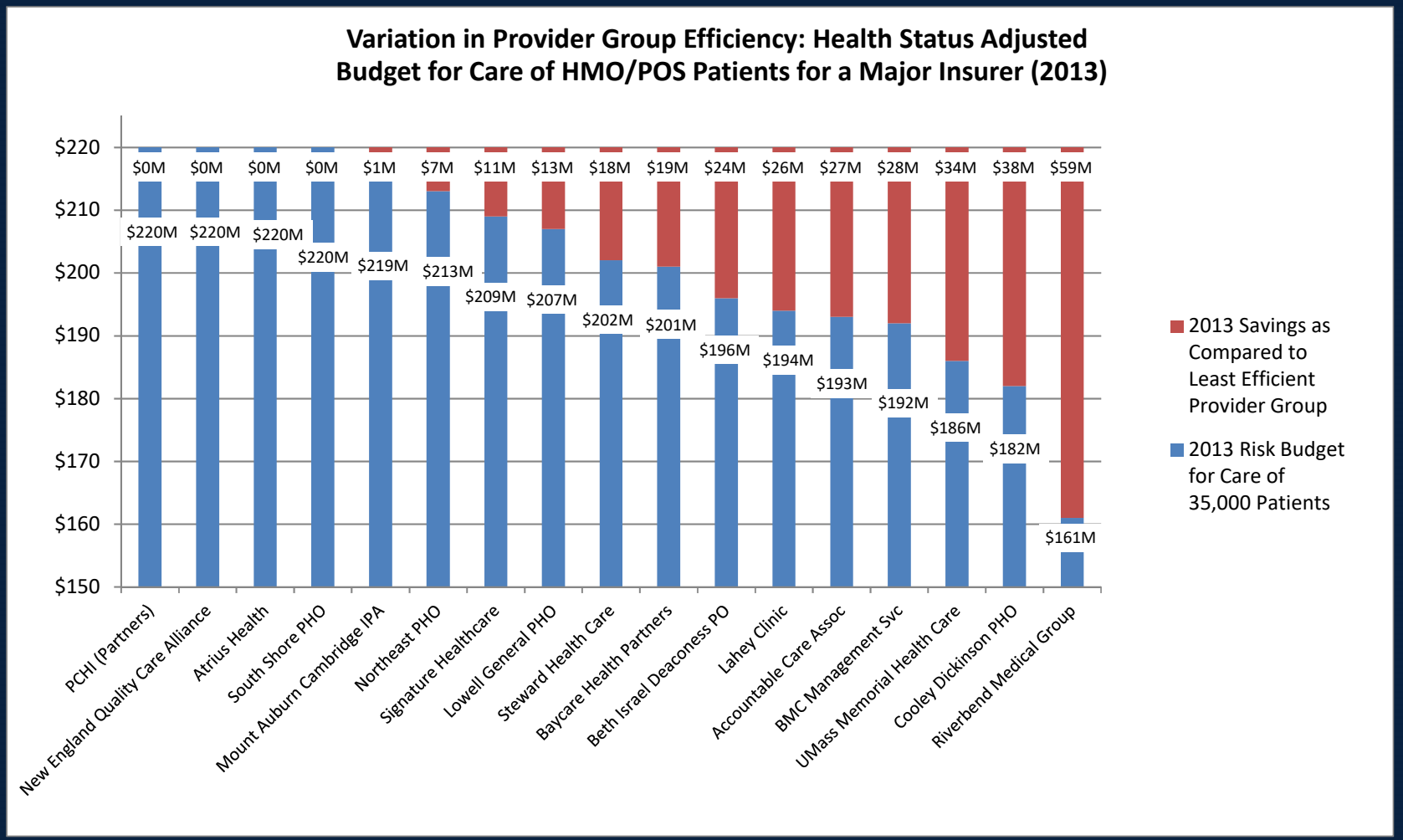
AGO Cost Trends Examinations

- Authority to conduct examinations:
  - G.L. c. 12, § 11N to monitor trends in the health care market.
  - G.L. c. 12C, § 17 to issue subpoenas for documents, interrogatory responses, and testimony under oath related to health care costs and cost trends.
- Findings and reports issued since 2010.
  - March 16, 2010
  - June 22, 2011
  - April 24, 2013
  - June 30, 2015
  - Sept. 18, 2015
  - Oct. 7, 2016
  - Oct. 13, 2016
  - Oct. 11, 2018

AGO Reports Identified Wide Variation in Commercial Prices Not Explained by Differences in Quality, Complexity, or Other Common Measures of Value

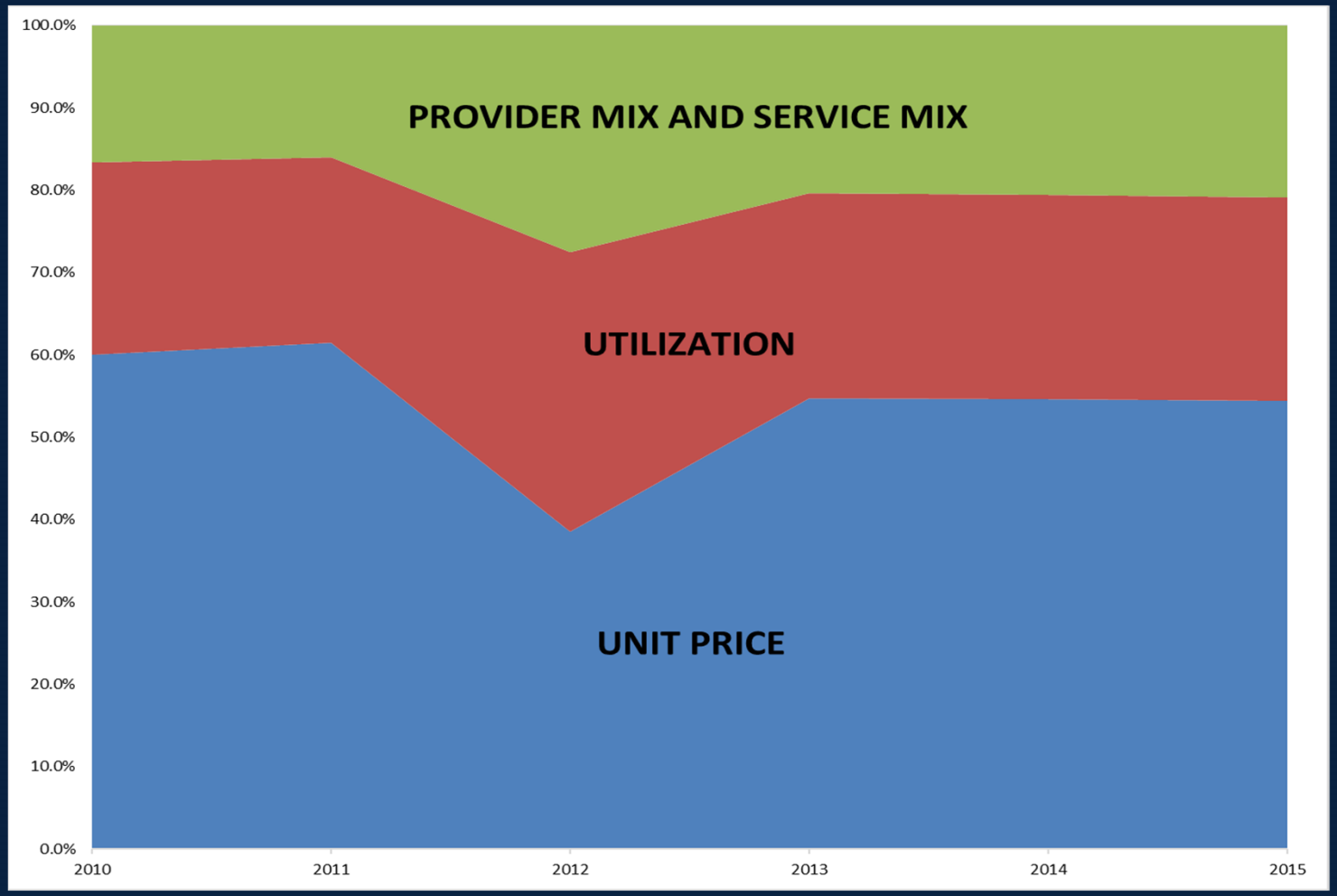


Global Payment Arrangements Reflect Historic Payment Differentials and Result in Widely Different Dollars Available to Care for Similar Patient Populations



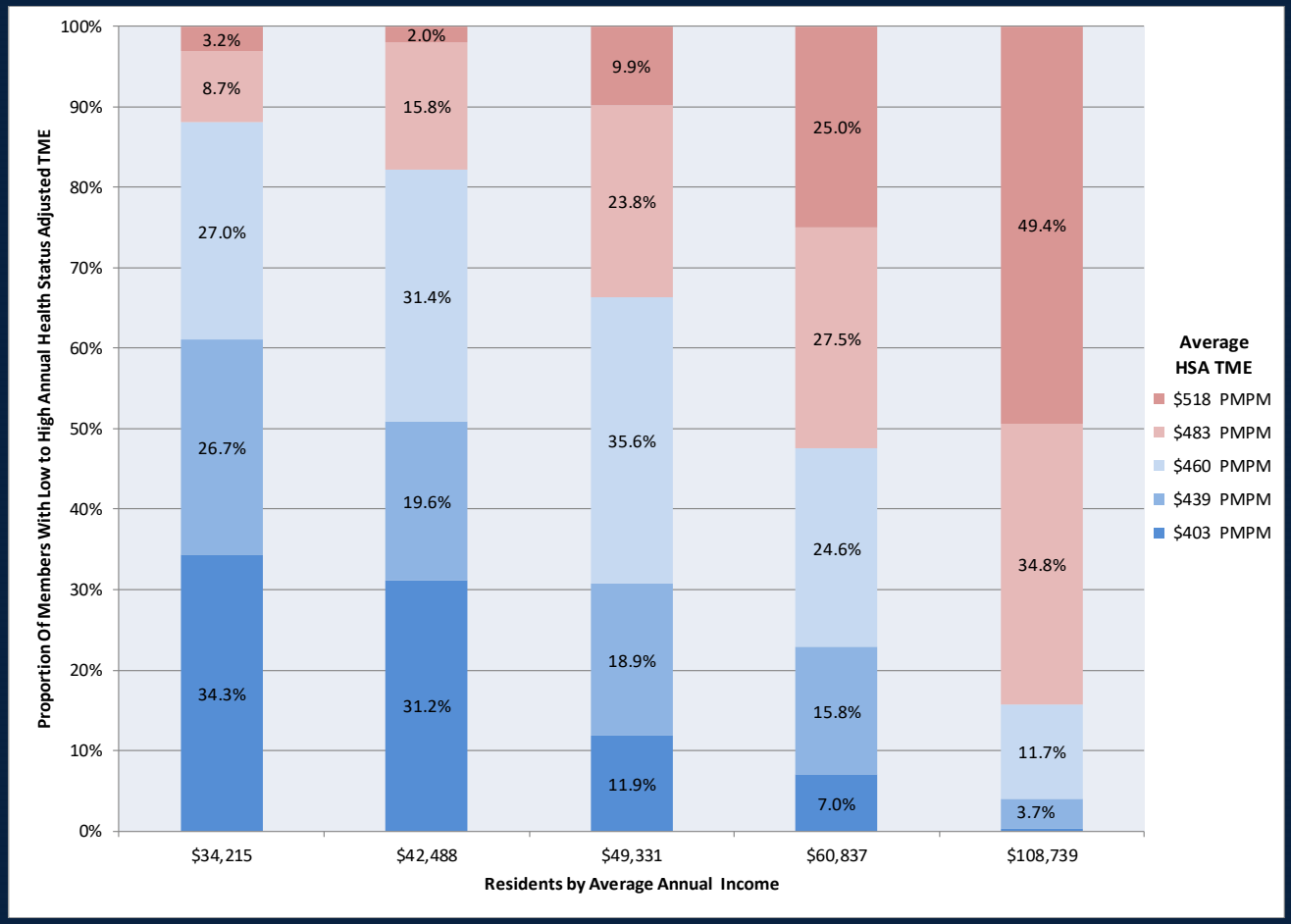
Provider Prices Are the Biggest Driver of Rising Health Care Costs

Proportion of Growth in BCBS's Medical Spending Due to Price, Utilization & Mix (2010-15)

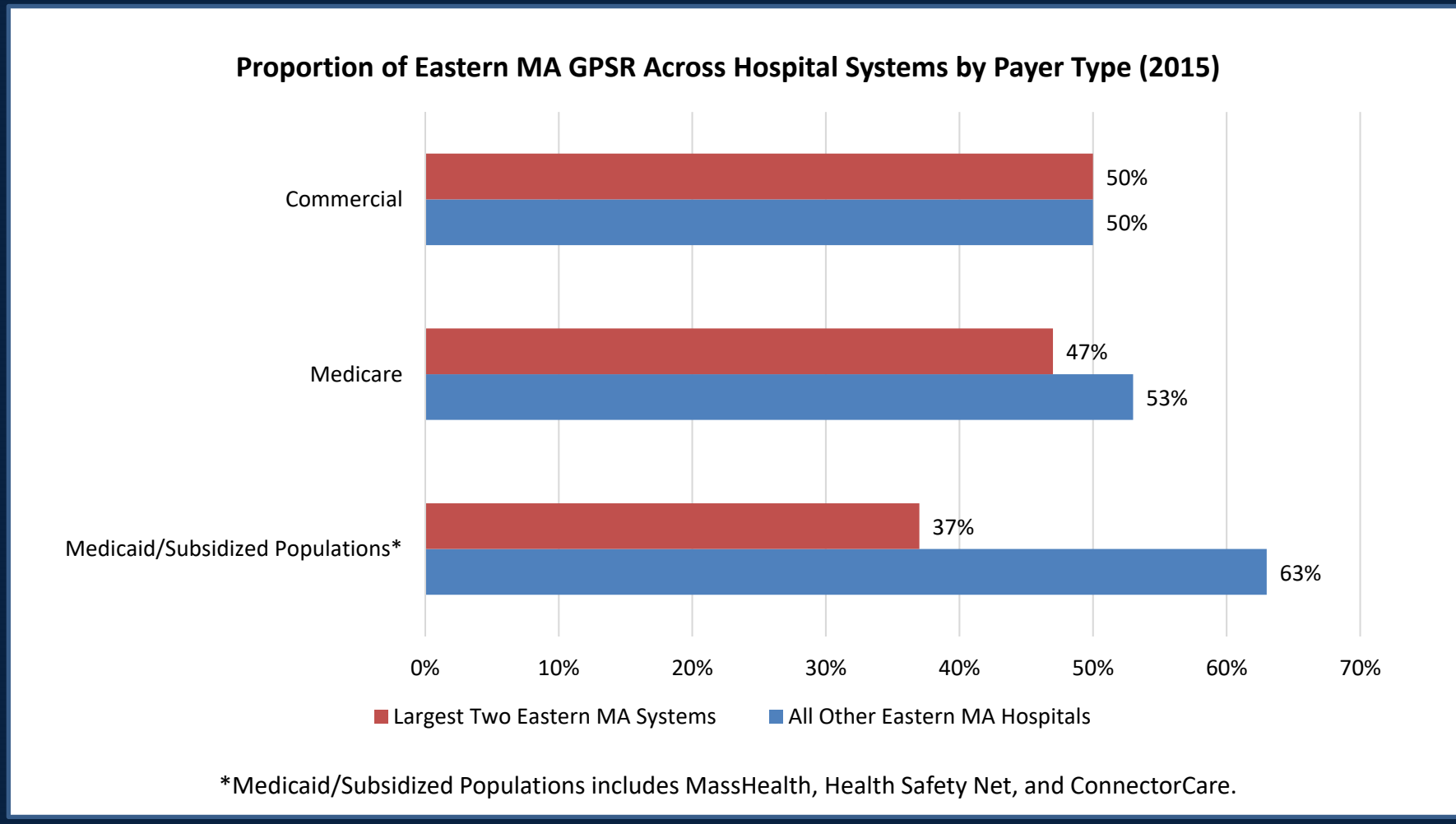


Total Medical Spending Is Higher for the Care of Commercial Patients from Higher Income Communities Relative to Health Burden

Distribution of a Major Massachusetts Payer's Members by Income and Health Risk Adjusted Medical Spending (2014)

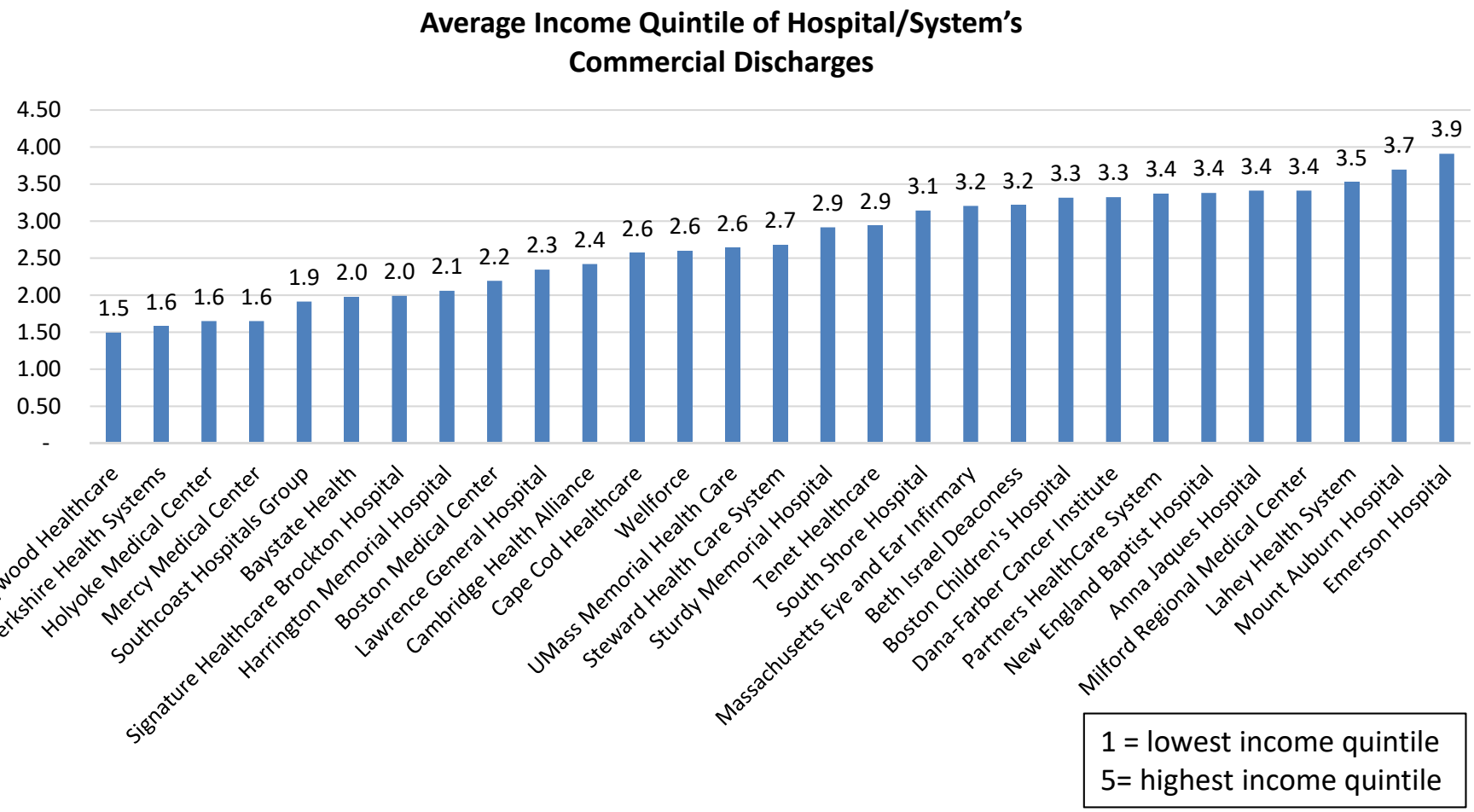


Largest Provider Systems Tend to Have Higher Commercial Mix Than Government Mix



*Medicaid/Subsidized Populations includes MassHealth, Health Safety Net, and ConnectorCare.

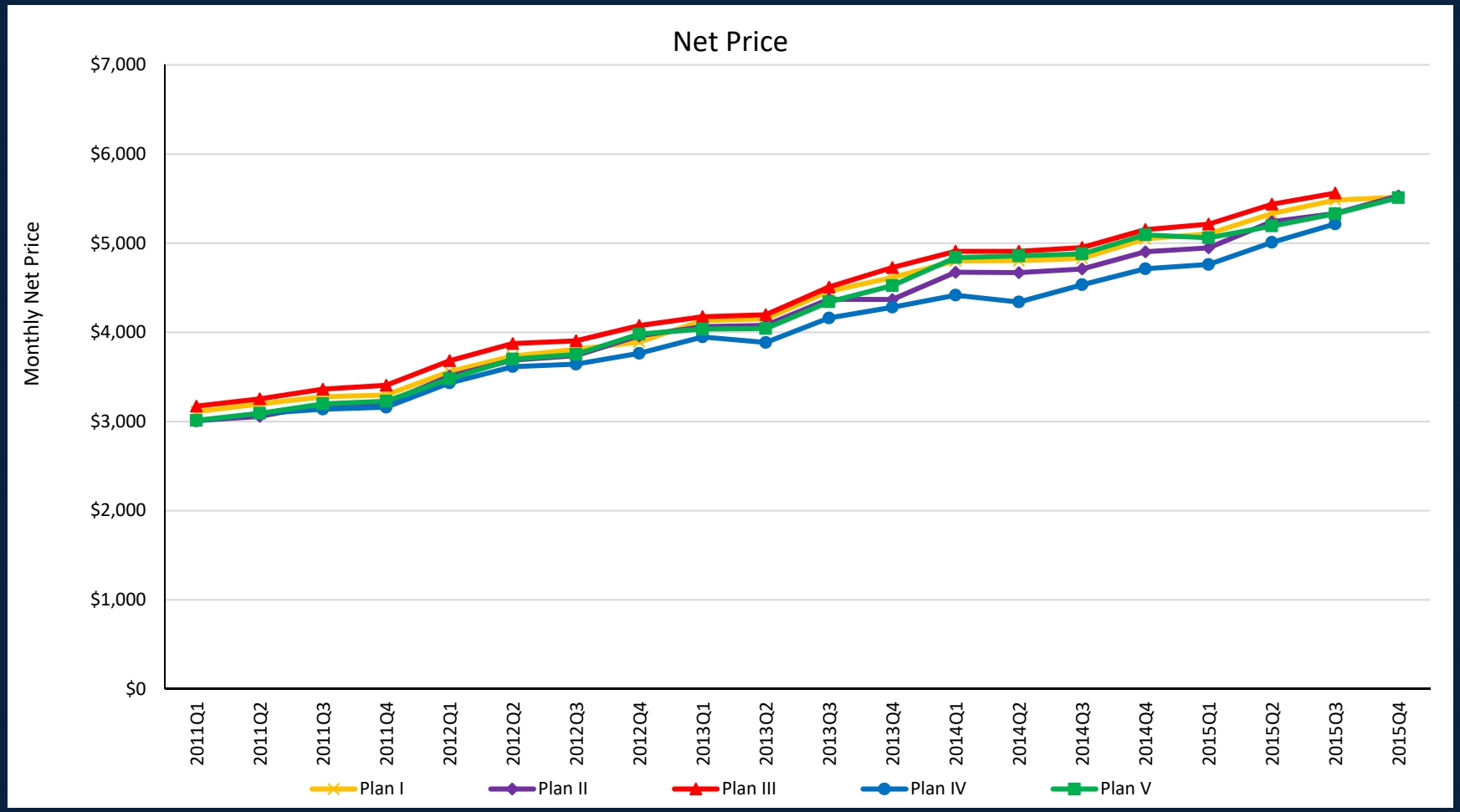
Even Among Commercial Discharges, Hospitals Serve Different Proportions of Low-Income Patients



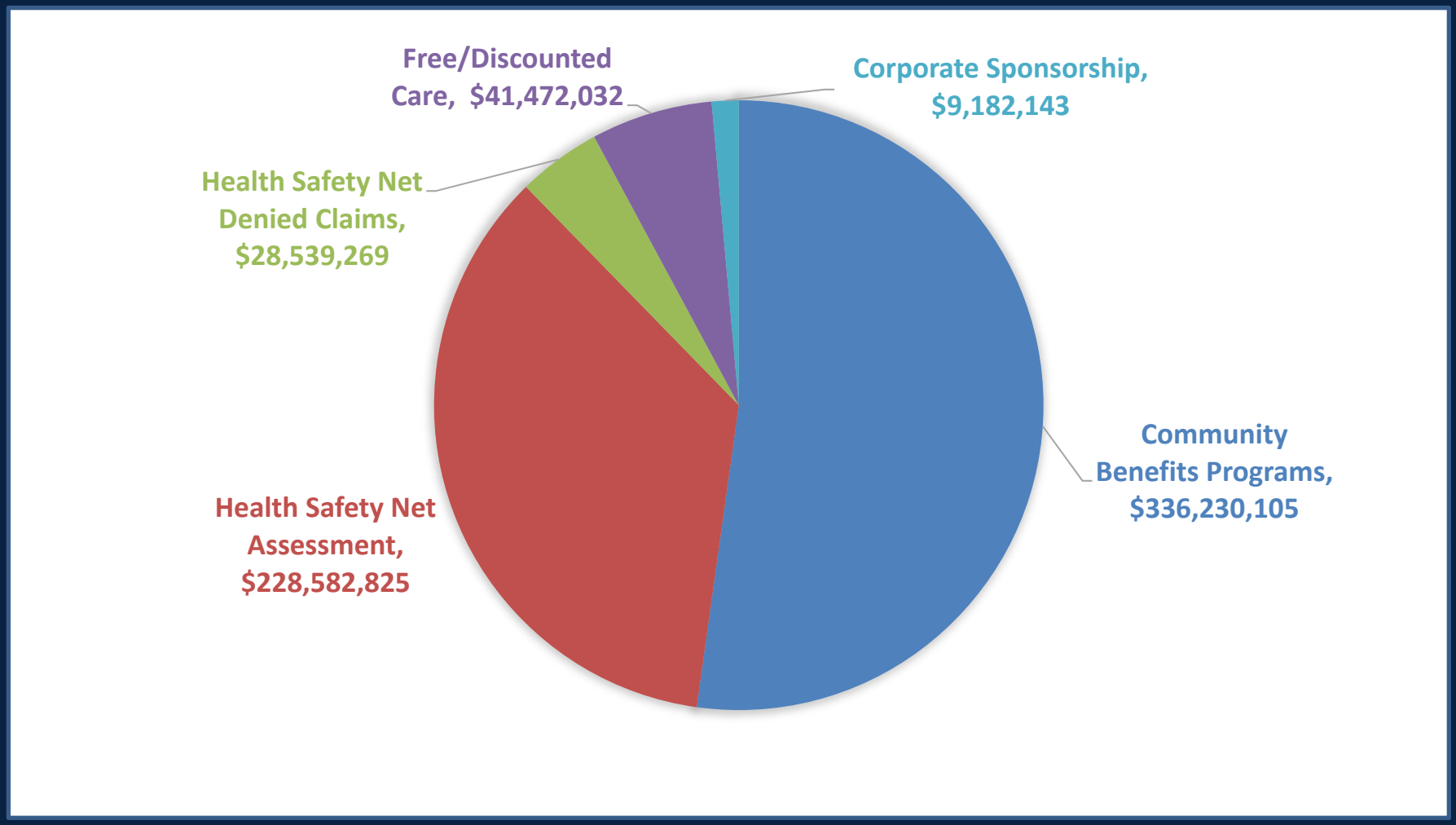
Annual Increase in Commercial Drug Spending Net of Rebates (PMPM) 2013-15

Annual Pharmaceutical Spending Trend (Per Member Per Month) 2013-2015				
	2013-2014 Trend		2014-2015 Trend	
Plan	**Pre-Rebate**	**Net-Rebate**	**Pre-Rebate**	**Net-Rebate**
Plan 1	14.3%	12.9%	6.5%	4.5%
Plan 2	11.0%	11.7%	14.6%	15.3%
Plan 3	10.2%	9.0%	11.4%	9.3%
Plan 4	21.1%	19.9%	7.7%	3.3%
Plan 5	13.4%	13.1%	10.4%	8.4%
Average	14.6%	13.7%	8.2%	6.1%
Reporting Entity	**Pre-Rebate**	**Net-Rebate**	**Pre-Rebate**	**Net-Rebate**
HPC (’13-’14) CHIA (’14-’15)	12.5%	N/A	8.5%	N/A
IMS	13.1%	N/A	12.2%	8.5%

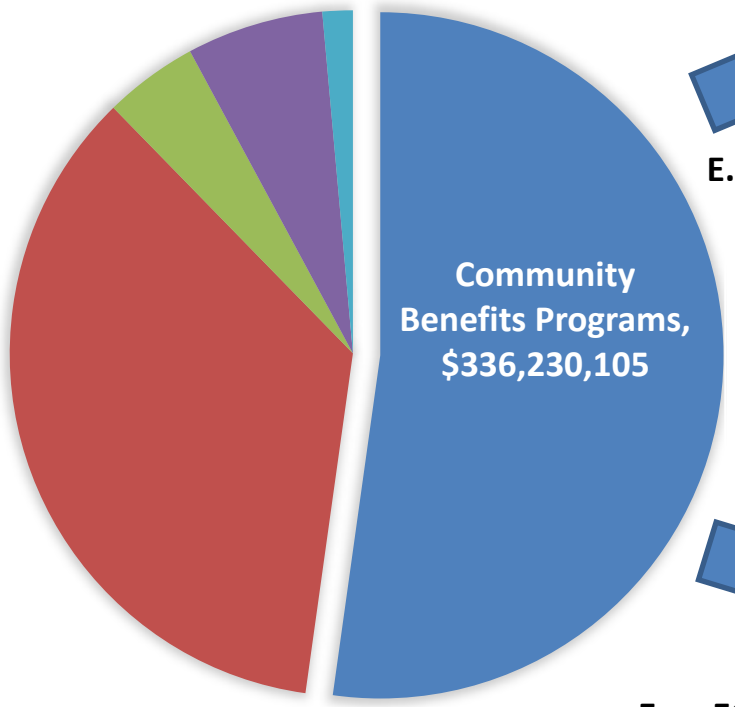
Steady, Substantial Price Increases and Minimal Differences in Prices for Multiple Sclerosis Drugs Across Health Plans



Breakdown of 2016 Hospital Community Benefits Spending



Opportunity for Increased Transparency into Substantial Community Health Investments



E.g., Investment type

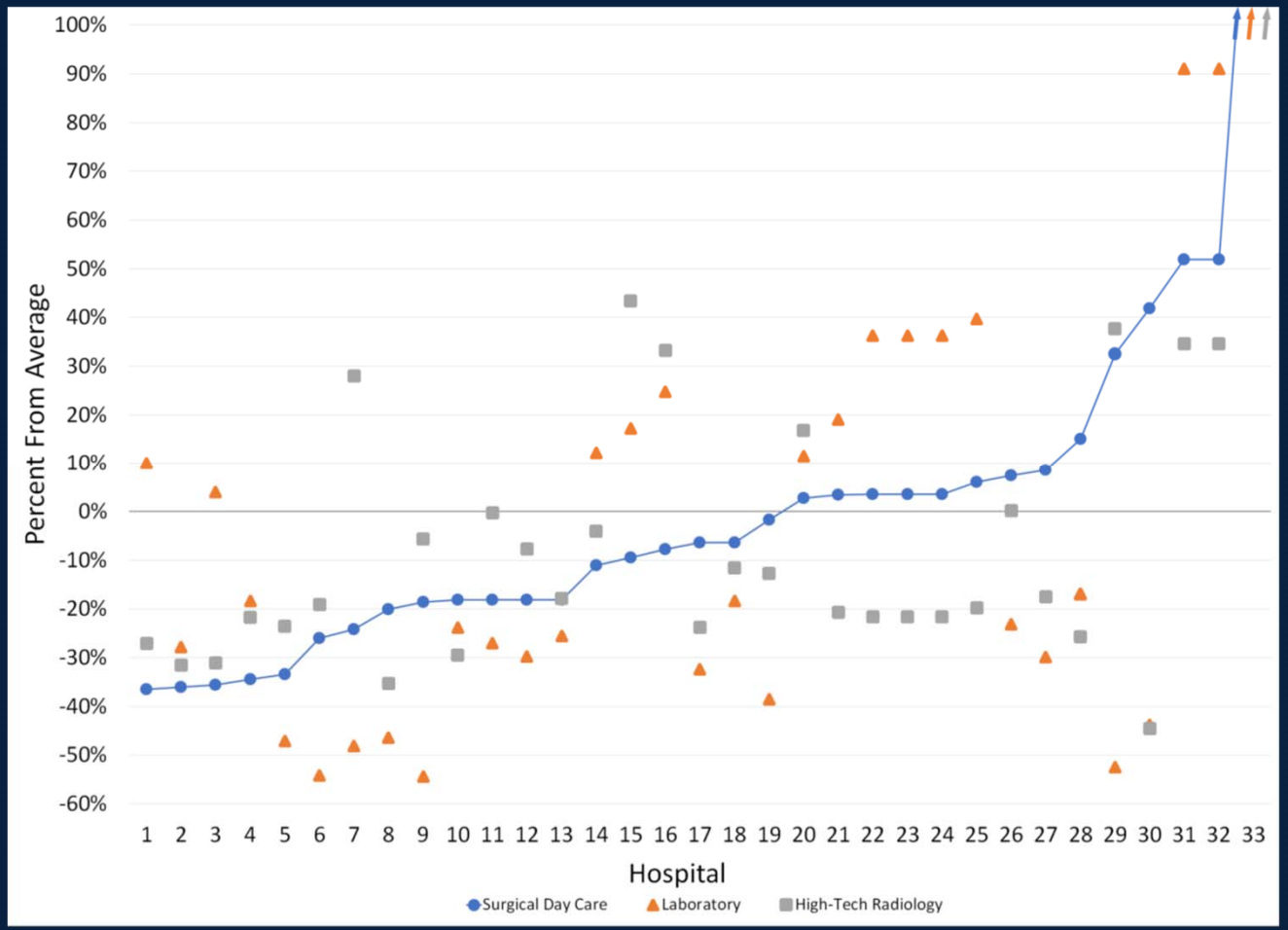
- Community Health Education
- Direct Clinical Services
- Access/Coverage Supports
- Investments in Social Determinants
- Grants/Donations

E.g., EOHHS/DPH Focus Issues

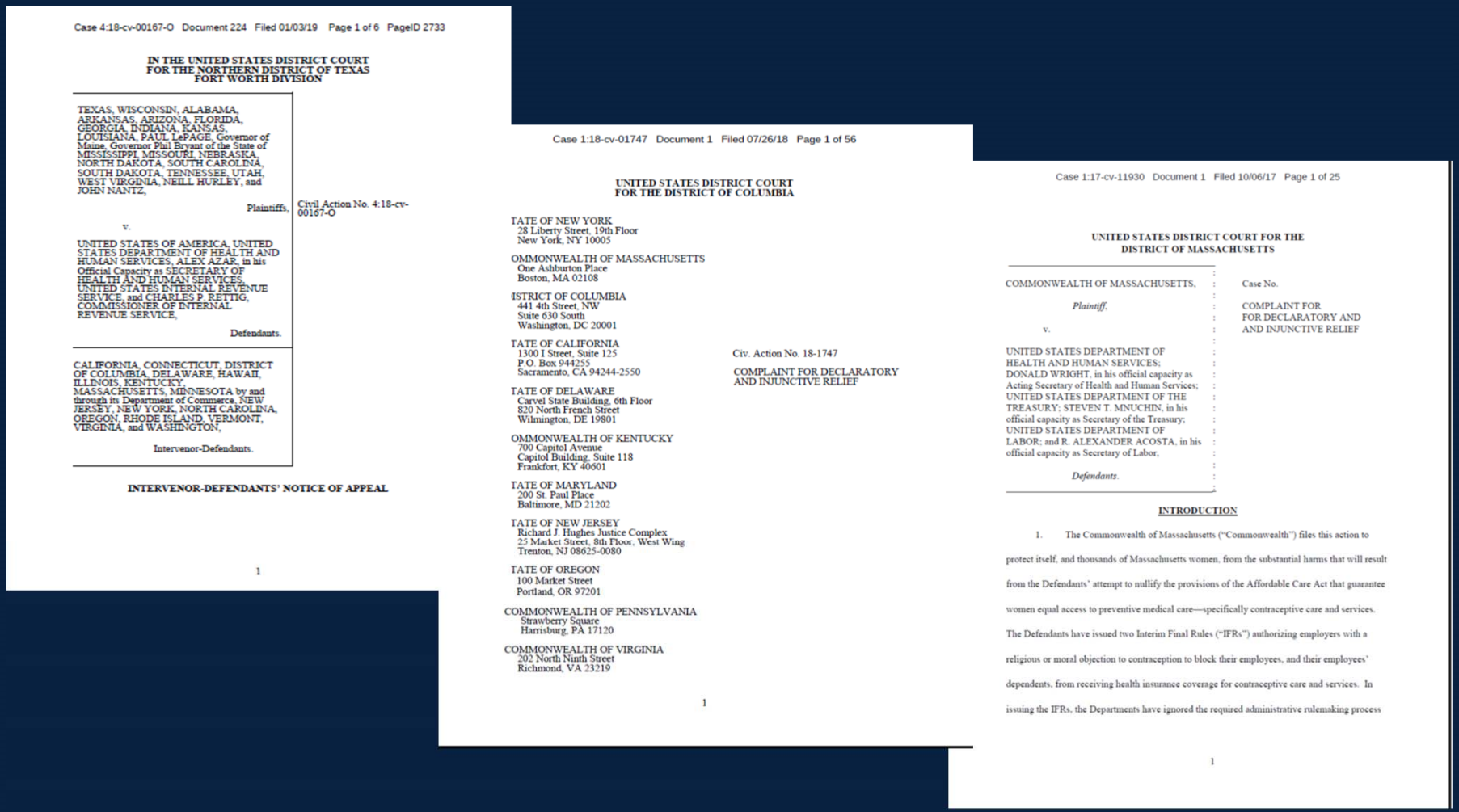
- Substance Use Disorder
- Housing Stability / Homelessness
- Mental Illness / Mental Health
- Chronic Disease
- Other Health Needs Identified by Community

Even Where Service Categories Align, Negotiations Over Fee Schedules Result In Significant Differences in Relative Price Across Services at a Single Hospital

Hospital Rate Multipliers for Three Outpatient Services for One Massachusetts Payer (2018)



Protecting Massachusetts Health Insurance Consumers Through Federal Litigation



Case 4:18-cv-00167-O Document 224 Filed 01/03/19 Page 1 of 6 PageID 2733

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

TEXAS, WISCONSIN, ALABAMA, ARKANSAS, ARIZONA, FLORIDA, GEORGIA, INDIANA, KANSAS, LOUISIANA, PAUL LePAGE, Governor of Maine, Governor Phil Bryant of the State of MISSISSIPPI, MISSOURI, NEBRASKA, NORTH DAKOTA, SOUTH CAROLINA, SOUTH DAKOTA, TENNESSEE, UTAH, WEST VIRGINIA, NEILL HURLEY, and JOHN NANTZ,

Plaintiffs,

v.

UNITED STATES OF AMERICA, UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, ALEX AZAR, in his Official Capacity as SECRETARY OF HEALTH AND HUMAN SERVICES, UNITED STATES INTERNAL REVENUE SERVICE, and CHARLES P. RETTIG, COMMISSIONER OF INTERNAL REVENUE SERVICE,

Defendants.

Civil Action No. 4:18-cv-00167-O

CALIFORNIA, CONNECTICUT, DISTRICT OF COLUMBIA, DELAWARE, HAWAII, ILLINOIS, KENTUCKY, MASSACHUSETTS, MINNESOTA by and through its Department of Commerce, NEW JERSEY, NEW YORK, NORTH CAROLINA, OREGON, RHODE ISLAND, VERMONT, VIRGINIA, and WASHINGTON,

Intervenor-Defendants.

INTERVENOR-DEFENDANTS' NOTICE OF APPEAL

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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New York, NY 10005

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TATE OF OREGON
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COMMONWEALTH OF PENNSYLVANIA
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Harrisburg, PA 17120

COMMONWEALTH OF VIRGINIA
202 North Ninth Street
Richmond, VA 23219

Civ. Action No. 18-1747

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1

Case 1:17-cv-11930 Document 1 Filed 10/06/17 Page 1 of 25

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS

COMMONWEALTH OF MASSACHUSETTS,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES; DONALD WRIGHT, in his official capacity as Acting Secretary of Health and Human Services; UNITED STATES DEPARTMENT OF THE TREASURY; STEVEN T. MNUCHIN, in his official capacity as Secretary of the Treasury; UNITED STATES DEPARTMENT OF LABOR; and R. ALEXANDER ACOSTA, in his official capacity as Secretary of Labor,

Defendants.

Case No.

COMPLAINT FOR FOR DECLARATORY AND AND INJUNCTIVE RELIEF

INTRODUCTION

1. The Commonwealth of Massachusetts ("Commonwealth") files this action to protect itself, and thousands of Massachusetts women, from the substantial harms that will result from the Defendants' attempt to nullify the provisions of the Affordable Care Act that guarantee women equal access to preventive medical care—specifically contraceptive care and services. The Defendants have issued two Interim Final Rules ("IFRs") authorizing employers with a religious or moral objection to contraception to block their employees, and their employees' dependents, from receiving health insurance coverage for contraceptive care and services. In issuing the IFRs, the Departments have ignored the required administrative rulemaking process

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