Employers Can Revolutionize American Healthcare and Accelerate Economic Growth by Embracing Price Transparency

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National healthcare costs continue to spiral out of control. In 2020, the United States spent $4.1 trillion, 19.7 percent of gross domestic product (GDP), on healthcare (CMS 2020). According to the Kaiser Family Foundation (2021), the average annual family premium cost for employer-sponsored health insurance was $22,221 in 2021, a 47 percent increase (28 percent in real terms) over the last ten years. Over the same period, the average general annual deductible increased 92 percent (Kaiser Family Foundation 2021). A RAND study

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finds that average U.S. hospital prices are 247 percent of the rate Medicare pays (Whaley et al. 2020). Average prices exceed 400 percent of the Medicare rate at some hospital systems across the country. Recent Johns Hopkins University research published by Axios finds that hospitals mark up their prices by an average of seven times their cost of care (McGhee and Chase 2021).

Healthcare costs now make up roughly one-third of total employee compensation for employees in the bottom half of the wage scale (Samuelson 2018). The percentage of small businesses with fewer than twenty-five employees that offer healthcare coverage fell by nearly one-third from 2008 to 2017 (Frostin 2018).

In November 2019 and October 2020, U.S. Health and Human Services (HHS) finalized new price transparency rules for hospitals and then for health insurers, respectively. These rules require hospitals and insurers to post their actual transaction prices, including discounted cash rates, secret negotiated rates, and cost sharing. These transaction prices allow employers and patients to shop for the highest quality care and coverage at the lowest possible prices for the roughly 90 percent of healthcare spending that excludes emergency care (Jacobson 2013). The hospital rule took effect on January 1, 2021, and the insurance rule is currently scheduled to be implemented in July 2022. The hospital rule has been marred by widespread noncompliance. PatientRightsAdvocate.org (2022b) released a report in February 2022 that finds that just 14.3 percent of hospitals are complying with the mandate a year after its implementation.

Independent of federal health policy, employers can immediately begin reducing their healthcare costs by using their market clout to pursue price-transparent contracts with providers. Before the COVID-19 pandemic, American employers provided healthcare coverage to around 181 million Americans (Lytle 2019). Most individuals receiving employer-sponsored coverage are part of self-insured (a.k.a. self-funded) health plans, in which employers assume direct financial responsibility for paying claims and have control over benefit design without paying premiums to a traditional insurance carrier to access its network. Given their market power and exposure to rising healthcare costs, employers are well positioned to take advantage of price transparency. They can do so by transitioning from the status quo of ever-rising healthcare costs, price opacity, and countless expensive middle players to a price-transparent model.

Real Prices Are Needed to Reverse Healthcare Cost Trends

Runaway healthcare costs are a function of healthcare consumers' lack of pricing information prior to receiving medical care. How are consumers expected to spend wisely when prices are unknown? This bizarre pricing dynamic holds patients captive and prevents consumer discretion, facilitating high prices, widespread price discrepancies, administrative bloat, waste, overtreatment, and overbilling.

A study published in the *Journal of the American Medical Association* (Shrank, Rogstad, and Parekh 2019) finds that administrative waste accounts for roughly

25 percent of U.S. annual healthcare spending. Researchers examined seventy-one estimates of the cost of healthcare waste in the following six domains: failure of care delivery, failure of care coordination, overtreatment or low-value care, pricing failure, fraud and abuse, and administrative complexity. They estimate that total annual costs of waste in these domains equals up to $935 billion. They conclude, "Implementation of effective measures to eliminate waste represents an opportunity to reduce the continued increases in U.S. health care expenditures." Addressing pervasive waste through price transparency and competition can save nearly $1 trillion annually that can, instead, benefit employees in the form of higher wages and earnings. Research from Johns Hopkins University (Lyu et al. 2017) estimates that 15 to 30 percent of total American medical care is associated with overtreatment. When price transparency ushers in consumer knowledge of standards of care, outcomes, and quality, comparison shopping will significantly shrink this wasteful spending.

System-wide price transparency will have the following three effects: (a) healthcare consumers will be able to identify and shop for the best care at the lowest possible prices for what they truly need, reducing overpriced and unnecessary services; (b) providers and insurers will compete over price to attract these empowered consumers, driving down prices system-wide; this dynamic will reduce the cost of what is needed and increase the efficiency of what is used; (c) upfront price discovery will improve quality of care as providers seek to differentiate themselves to attract consumers, increasing the collective benefits of good healthcare to the population at large. Lower prices plus enhanced medical proficiency will increase the use of beneficial health procedures.

Employers—with their market power—can drive this pricing revolution by demanding transparent prices in their employee-benefit packages. These businesses and their employees can act as "proxy shoppers" who usher in a competitive healthcare market in the same way that the relatively small share of drivers who compare gasoline prices keep pump prices fiercely competitive.

With price transparency, healthcare will resemble other sectors of the economy, including tech and retail, that put downward pressure on prices and spur innovation and improvements in quality. Approximately 90 percent of healthcare spending is nonemergency, and the majority of care is planned well in advance. Competition and transparent markets have reduced prices in some corners of healthcare, where they are evident. The price of Lasik eye surgery has held steady at about $4,000 between 2008 and 2021, while visual outcomes and safety have improved (Refractive Surgery Council 2021). Using the Bureau of Labor Statistics CPI Inflation Calculator, the inflation-adjusted price of Lasik fell by 25 percent over this timeframe.

System-wide price transparency can drive down prices and improve quality, just as in the airline industry after it was deregulated in 1978 and airfares fell by 50 percent in real dollars while quality, safety, and access improved (Thompson 2013). The same potential can apply to healthcare. Just as consumers can easily shop on Expedia

or Google Flights for flights today, employers and all other consumers will be able to compare healthcare prices on their smartphones when tech companies, including MDSave, GoodRX, FireLight Health, Turquoise Health, and Sidecar Health, aggregate real prices into consumer-friendly apps.

Given the power of prices to create efficient markets, it is no surprise that there is a rich economic literature showing that price transparency reduces prices. According Van Horn, Laffer, and Metcalf (2019), cash prices for healthcare procedures are, on average, 39 percent less than insurers' negotiated rates within the same market. Zach Y. Brown (2019) examines how a website in New Hampshire providing price information reduced the cost of medical imaging procedures, finding that consumers who used it saved 36 percent on their imaging costs. He highlights how a large theoretical literature "argues that information friction can impede competition and lead to higher prices" (699).

Economists Christopher Whaley, Timothy Brown, and James Robinson (2019) find that after Safeway introduced price transparency and reference pricing, employees saved 13 percent on imaging tests and 27 percent on lab tests.

Often cash prices are substantially lower even within the same facility. One analysis found that at a hospital in Boulder, Colorado, MRI prices are $600 when paying cash versus $1,100 out of pocket when using insurance (Beck 2016). An acquaintance in Boston paid just $250 cash for an MRI at an imaging center versus an insurance rate of $1,750 with a $210 copay. Pomona Valley Hospital Medical Center near Los Angeles lists a cash price of $450 for a standard, noncontrast brain MRI versus $6,500 for the same treatment for patients covered by Cigna health insurance (Fisher 2022).

Given these substantial savings, it is no surprise that healthcare price transparency is overwhelmingly popular. A bipartisan supermajority of approximately 90 percent of Americans supports it, according to recent polls conducted by SocialSphere (PatientRightsAdvocate.org 2022a), Marist (PatientRightsAdvocate.org 2021b), the McLaughlin Group (2020), and Harvard/Harris (2019).

A transparent and competitive healthcare market will also expose and converge the vast price discrepancies that exist for the same healthcare services in the same facilities or markets. According to a Brookings report, the same commodity healthcare service can differ by nine times within the same market (Nunn, Parsons, and Shambaugh 2020). A recent study by the Health Care Cost Institute examined the prices at Sutter Health, Northern California's largest hospital chain. Prices for some knee X-rays there vary by eight times, from $77 to $616, depending on the hospital and payer. For lower joint replacements, prices differ by $55,000. Even at the same hospital, gastrointestinal biopsies vary by more than five times, from $1,800 to $9,500 (Kennedy et al. 2021).

The *Wall Street Journal* reports that the price of a C-section at one Sutter Health hospital varies by as much as ten times, from $6,241 to $60,584. At another Sutter location, the price for a complex cardiac procedure varies from $89,752 to

$515,697 (Mathews, McGinty, and Evans 2021). When one of our sons returned home from Barcelona in 2020 with COVID-19 symptoms, he went to a Nashville hospital to get tested. He never saw a doctor, nor did he receive a coronavirus test. He saw four nurses and was sent home. His bill, which arrived weeks later, was over $15,000. Several weeks later he could have received a COVID-19 test for around $150 at a competitive, independent lab nearby—one hundred times less than he was charged at the hospital (while receiving an actual test result).

Imagine if the price of gas varied by pump between $2 and $12 a gallon, and drivers didn't know what they owed until after they filled up and drove off. That thought exercise is all too real for American healthcare consumers. Healthcare price opacity leaves consumers with no arbitrage opportunity, which is necessary for a functioning market to converge prices. Employers can fix this broken market by demanding real prices for their employees. When they do, consumers won't tolerate paying ten times more than their neighbor for the same care.

Will Price Transparency Result in Tacit Collusion among Providers and Insurers?

Healthcare price transparency opponents, including the hospital industry, often argue that revealing secret prices may result in tacit collusion among healthcare providers, leading to increased—not decreased—healthcare costs. In a 2015 letter to Minnesota legislators, the Federal Trade Commission argued that price "disclosure may chill competition by facilitating or increasing the likelihood of unlawful collusion" (Lao, Feinstein, and Lafontaine 2015).

Mercatus Center economist Robert Graboyes (2021) argues: "Under the right circumstances, transparency facilitates tacit collusion by relieving competitors of fear of undercutting one another. Without transparency, Company A might fear that Company B is charging $1,000 for some service, leading A to offer the service for $950. If a government website shows that B charges $1,400, then A has no need to go much below $1,400, if at all."

How would the company in this thought experiment "fear" that Company B is charging $1,000 for a particular service when prices are opaque? Price obfuscation makes consumers powerless and gives full power to providers to overcharge and avoid competition. In contrast, price transparency gives consumers the power to shop with their feet based on price and quality, as in any other market economy. The most likely reason the company in the thought experiment above would charge $950 for a service is if it knew via price transparency that its competitor was charging $1,000—not out of some intuitive "fear" that its competitor was charging this amount in a veiled market. Clear prices, not opacity, encourage companies to compete on price.

In a price-transparent market, lowering prices can often increase marginal profits by increasing the quantity demanded. Opaque prices, by contrast, leave suppliers

and consumers in the dark about how to price and shop, respectively, causing pricing inefficiencies and inflating prices. If consumers are unable to tell price differences, companies are incentivized to charge more. In contrast, prices in other price-transparent sectors of the economy—including airlines, shipping, auto insurance, and so on—fall, rather than rise.

To bolster their weak tacit-collusion argument, price transparency opponents often cite a study of an oligopoly of two Danish concrete suppliers, whose prices supposedly rose due to their collusion after the Danish government required them to disclose their negotiated prices (Albæk, Møllgaard, and Overgaard 1997). The Washington, D.C., district court that considered the hospital industry's appeal of the price transparency rule that took effect at the beginning of 2021 specifically considered and rejected reliance on this Danish study.[1] With over six thousand hospitals and many tens of thousands of other points of healthcare, plus access to telemedicine and the ability to shop online, price transparency can unleash a broad, competitive market that operates beyond just local markets, providing consumers with a wide array of shopping options. The market for Danish concrete of just two suppliers is not like the one for American healthcare.

Healthcare Price Transparency Has Enormous Economic Implications

By leading this price transparency revolution, employers can generate large savings for their companies as well as benefit their employees. Employers can have higher net earnings to spend on expansion, hiring, and wage increases. Employees can receive a greater share of their overall compensation in wages. As Warren Buffett correctly notes, healthcare costs have become a "tapeworm" on the U.S. economy, reducing U.S. economic competitiveness and driving employers abroad, where healthcare costs are less of a burden. Under the status quo, in which business earnings are bled out by inflated healthcare costs, the nation's economic recovery from the coronavirus pandemic will be artificially prolonged.

The United States spends nearly 20 percent of its national GDP on healthcare. The average developed-world nation spends 10 percent (OECD 2020). Bringing U.S. healthcare spending as a share of GDP closer to the developed-world average implies dramatic savings on the $4 trillion the U.S. spends on healthcare each year. Singapore, which follows a price transparent healthcare model with clear incentives and quality care for consumers, spent just over 4 percent of its GDP on healthcare in 2019 (World Bank 2022).

Lower healthcare costs can also reduce burdens on taxpayers and help all levels of government, whose employee and pensioner healthcare obligations eat up

1. Memorandum Opinion: *The American Hospital Association et al. v. Alex M. Azar II, Secretary of Health and Human Services*, United States District Court for the District of Columbia, June 23, 2020, https://kslawemail.com/128/6866/uploads/aha-v-azar-(ddc-june-23-2020).pdf.

an ever-growing share of budgets. Price transparency–induced savings can divert taxpayer funds from public employee and pensioner healthcare burdens toward government services such as education.

Some governments are already succeeding in reducing public employee healthcare costs through price transparency. For instance, Union County, North Carolina, transitioned to a direct primary care price-transparent model in 2015 and has reduced its healthcare spending for affected employees by 38 percent (Restrepo 2016).

After California's largest pension plan, the California Public Employees' Retirement System (CalPERS), moved to a reference-pricing model for its members for some procedures in 2011, associated healthcare prices fell by about 20 percent (Frakt 2016). Economists James C. Robinson, Timothy T. Brown, and Christopher Whaley (2017) found that affected patients increased their use of low-cost health centers by nearly one-third as a result, and higher-cost providers lowered their prices to attract these consumers.

To hasten healthcare price transparency, HHS can robustly enforce its hospital price transparency rule that took effect at the beginning of 2021. Actionable recommendations to boost hospital compliance include raising the hospital penalties for noncompliance; enforcing these penalties in a robust and timely manner; implementing clear standards to unleash actual price information to consumers and technology innovators; and requiring hospitals to notify all patients of actual prices before receiving care. Ultimately, however, employers have the power to demand prices and compare their negotiated rates to generate substantial savings for their employees and businesses.

Ongoing legislative proposals to expand and increase health savings accounts (HSAs) can also encourage greater healthcare price transparency. Triple-tax-advantaged HSAs (i.e., accounts that are funded by pretax earnings, accumulate interest tax-free, and are subject to tax-free withdrawals) can allow ordinary patients to become essentially the equivalent of a self-funded health plan. HSAs allow employees to quickly save enough money to pay for their routine healthcare expenses with cash.

Expanded HSAs, paired with catastrophic insurance through an employer or private insurer, can dramatically lower healthcare and coverage costs by eliminating the countless insurance claims for routine care that are inefficient and inflationary. HSA reform can allow employers to directly fund these accounts and focus only on paying claims related to emergency care. Successful HSA reform would also eliminate confusing restrictions and arbitrary caps on how these accounts can be used.

Innovative Companies Are Already Saving by Following a Price-Transparency Roadmap

One of the biggest barriers facing employers looking to cut their healthcare costs is providers that refuse to disclose their real prices until after treatment. The current reimbursement model doesn't define prices until after the fact. Hospitals' unwillingness to

publish discounted rates and their reliance on an undisclosed rate system of chargemasters, discounts, and after-the-fact negotiations makes it harder for CEOs or CFOs to conduct the cost-benefit analyses necessary to determine potential savings.

Despite this barrier, a growing number of employers are succeeding by partnering with the relatively small number of price-transparent primary care and surgical center providers, such as the Surgery Center of Oklahoma, to generate significant savings for their companies and employees. The Surgery Center, which posts all its prices online (see table 1), provides quality care at prices that are one-sixth to one-half of the opaque hospital systems'. For instance, the Surgery Center charges $15,500 for knee replacement surgery, which can cost as much as $61,500 at a large Dallas hospital.

The Surgery Center of Oklahoma demonstrates how free-market principles can work in healthcare. In the twelve years since it began posting prices online, it has changed prices several times—lowering them in almost every instance. Like businesses in functioning markets, it has passed on its cost savings to customers. Its clear pricing has even lowered prices for patients elsewhere in the country. A Georgia man was able to get his local hospital to reduce its price on a procedure from $40,000 to $3,600 to match the published price offered by the Surgery Center (Smith 2021).

Direct primary care (DPC) is another emerging price-transparent model. For one flat monthly rate of around $75 per adult and $150 per family, members can receive all primary care needs, including discounted blood tests, stitches, and imaging.

Table 1
Surgery Center of Oklahoma Partial Price List for Knee Procedures

Procedure/Surgery	Cost
Anterior Cruciate Ligament Repair	$6,790
Anterior Cruciate Ligament Repair with Allograft	$9,790
Bilateral Knee Arthroscopy	$5,300
Chondroplasty	$3,740
Complete Synovectomy	$3,740
Continuous Infusion, Regional Block (Pain Control Catheter)	$725
Excision Prepatellar Bursa	$2,700
Hamstring Repair	$5,730
Medial Collateral Ligament	$6,160
Posterior Cruciate Ligament Repair	$6,990
Quadricep Repair	$5,730
Repair "Leg" Hernia	$3,450
Repair Gluteus Medius Tendon	$5,300
Total Knee Arthroplasty (Knee Replacement)	$15,499

Source: Surgery Center of Oklahoma, Accessed March 11, 2022, https://surgerycenterok.com/pricing/.

DPC includes 24/7 access to doctors via phone and text, increasing access and reducing costs simultaneously.

DPC facilities often dispense prescription drugs at enormous savings and act as a broker to arrange specialty care at low cash prices. According to DPC Frontier, which tracks the number of direct primary care practices nationally, there are more than 1,500 DPC practices located throughout the country.[2]

Mike Lowderman, an employer who operates a pest control business in Wichita with twelve employees, pays $50 each month per employee for DPC (Lehmann 2020). He pairs this coverage with major medical insurance for a total cost of about $375 per month—one-third to one-half the cost of traditional employer insurance.

Sidecar Health is an innovative alternative to traditional health insurance, covering a portion of the cash price of care and doing away with complicated and inflationary claims and reimbursements. Sidecar issues its members the equivalent of a debit card to pay for care directly. This model reduces overhead costs associated with the traditional model of claims and reimbursements and also reduces costs by taking advantage of the discounted cash price for care, resulting in savings of around 40 percent compared to traditional insurers. Its low-cost, no-commitment insurance can be obtained regardless of employment status and at any time of year. Monthly premiums for a healthy fifty-year-old are as low as $215 (Bernadi 2021). The coverage allows patients to visit any doctor, doing away with networks, and covers members based on the average cash price for care in an area. Since Sidecar covers a set dollar amount for each treatment, it encourages price shopping, aided by its app, which includes a price-comparison tool. Sidecar offers members a portion of shared savings if they can find care at prices below the average cash price. It is currently working on a similar product for the employer market.

The COVID-19 pandemic has also accelerated the use of telemedicine, allowing patients to contact their doctor online from the comfort and safety of their own home. This innovative twenty-first-century model of care is often provided at one low published rate. For instance, One Medical offers its members access to its team of providers 24/7 via its user-friendly mobile app. For dermatology issues, patients are instructed to send secure photos so physicians can examine them without an in-person exam. It also allows for simplified refilling of prescriptions, provides efficient care while patients are traveling, and avoids processes of finding new doctors for every destination while on the road. The average cost of a price-transparent telehealth visit is around $50, again one-third to one-half the cost of a traditional office visit claim (Yamamoto 2014).

Walmart is also revolutionizing employer care options by expanding price-transparent health clinics in Georgia and throughout the South. The company's integrated care offers primary, dental, and mental healthcare at low published prices

2. DPC Frontier Mapper, DPC Frontier, https://mapper.dpcfrontier.com/.

Figure 1
Walmart Price List for Primary Care, Mental Health, Dental, and Vision Services

Walmart Health

Summarized Pricing List for Dallas, GA Store #3403

Primary Care Basic Services	Price
Office Visit	$40.00
Annual Checkup - Adult	$30.00
Annual Checkup – Youth	$20.00

Primary Care Add-ons	Price
Lipid Test	$10.00
A1C Test	$10.00
Pregnancy Test	$10.00
Flu Test	$20.00
Strep Test	$20.00
Mono Test	$20.00
Stitches & Other	$115.64

Counseling Services	Price
Individual Counseling, Existing Patient (45 minutes)	$45.00
New Patient Therapy Intake	$60.00

Dental Services	Price
Patient Exam (Including X-Rays)	$25.00
Teeth Cleaning - Adult	(Starting at) $25.00
Teeth Cleaning - Youth	(Starting at) $15.00
Porcelain Crown	$675.00
Teeth Whitening, in Office	$225.00
Deep Cleaning (Per Quad)	$75.00
Emergency Treatment for Dental Pain	$50.00
Filling	$75.00 - $125.00

Optometry Services	Price
Routine Vision Exam	$45.00
Contact Lens Fitting	$55.00

*Source: S*ummarized Pricing List for Dallas, GA, Store #3403, Walmart Health, September 11, 2019, https://corporate.walmart.com/media-library/document/walmart-health-center-summarized-pricing-list/_proxyDocument?id=0000016d26f0-da5a-ab7d-26fb9d760000.

(see figure 1). Office visits are $40, X-rays are $10, and mental health counseling sessions are just $45. These published prices are significantly less than the cost of traditional care, and Walmart's model holds potential for undercutting healthcare prices for employers and patients as it expands across the nation.

More than 80 percent of individuals without chronic illnesses do not exceed their annual insurance deductibles in any given year (Ryan 2015), so greater use of HSAs can give patients more control over their healthcare spending, returning U.S. healthcare to the functional era of a generation ago, when patients paired major medical insurance with cash payments. Harnessing DPC, telemedicine, cash for care, innovative insurance alternatives, and other patient-centered healthcare innovations can decouple healthcare coverage from employment, empowering patients and competitive markets, while allowing employees to move from job to job and in and out of the labor market without fear of losing healthcare coverage.

Administrative Best Practices

An important step employers can take in following the roadmap to shift to a price-transparent healthcare benefit design is choosing an independent third-party administrator (TPA) to manage their health network, claims payments, and administration for employees. Large TPAs can often be conflicted. Sometimes they refuse to give over claims data even though the self-funded plan should own it.

Consider attempts to reform North Carolina's State Health Plan, which insures the state's roughly 750,000 public employees, dependents, and retirees (Rau 2020). State officials have long been concerned that the State Health "Plan is at risk for overpaying medical claims" because it lacks access to pricing data (North Carolina Department of State Treasurer 2021). In 2018, State Treasurer Dale Folwell attempted to ascertain this pricing information, but the State Health Plan's third-party administrator, Blue Cross Blue Shield of North Carolina (BCBSNC), refused. The state-owned hospital, UNC Health, sent over a heavily redacted fee schedule with BCBSNC prices blotted out, keeping North Carolina officials in the dark about healthcare prices and savings opportunities (Roberts 2019).

In contrast, independent TPAs such as the Rosetta Group don't get paid commission and don't have financial ties to the biggest healthcare industry players. Therefore, they can prioritize the interests of employers by routinely sharing pricing data necessary for CEOs and CFOs to make financially prudent decisions about healthcare plan structures.

Consider two examples of employers who have followed a price-transparent model and reaped the rewards in terms of substantial healthcare cost savings.

Rosen Hotels and Resorts (Orlando). In response to runaway healthcare costs that had no relationship with employee healthcare use, Harris Rosen, the CEO of Rosen Hotels, ended his contract with his company's health insurer and created a

self-insured, price-transparent alternative called RosenCare (PatientRightsAdvocate.org 2021c).

RosenCare removes middle players from the process by hosting a medical facility directly on-site to cover the primary and secondary healthcare needs for nearly 6,000 employees and their families. Of course, these measures were taken prior to pandemic-related increases in telecommuting.

It negotiates upfront, clear prices with surgical centers and hospitals for serious and emergency care. Like many businesses, Rosen draws on Walmart's integrated vision and prescription drug services, which allow it to take advantage of upfront pricing at everyday low prices and bypass pharmacy benefit managers and their associated opaque cost burden.

As a result, RosenCare's costs are roughly half the national average, and employees enjoy easily accessible, high-quality, personalized healthcare. They don't have to pay deductibles, coinsurance, or (for most services) copays.

Since its inception in the early 1990s, Rosen Hotels estimates that this healthcare model has saved the company more than $400 million in healthcare costs compared to the traditional health insurance model. The company has been able to put these savings to productive uses, including business expansion, hiring, wage increases, and other benefits, including education scholarships for employees and their families.

Employee Solutions (Dallas). Like Rosen Hotels, Employee Solutions struggled to absorb annual double-digit healthcare cost increases. The company identified its traditional insurer, which engaged in complex and hidden pricing mechanisms and contract arrangements with providers, as the main driver of its healthcare cost burden (PatientRightsAdvocate.org 2021a).

In response, the company eliminated its insurer and began directly contracting with price-transparent primary and surgical care centers. Employees receive on-site primary care and telemedicine with no copays, deductibles, or paperwork. The company steers employees to surgical centers by offering them a share of savings in the form of cash bonuses.

By self-insuring and contracting with healthcare providers at transparent prices, Employee Solutions has been able to reduce its healthcare expenses by nearly 50 percent, from roughly $800 a month per employee to about $450. Since employees pay a small portion of their coverage costs, they've enjoyed similar savings and dramatically reduced deductibles. Price certainty has allowed the company to budget its healthcare costs more efficiently and deploy increased earnings not to ever-increasing healthcare costs but to productive uses that benefit the company, employees, and community.

Cost Savings Roadmap

For businesses of sufficient size to leverage competition and the healthcare price transparency requirements.

1. **Become self-insured**, moving health plan structure under ERISA law, thereby facilitating greater control over plan structure and providers while avoiding state restrictions and regulations.
2. **Select an independent, third-party administrator** to manage the health network.
3. Use data and services such as Embold Health, the nation's largest healthcare bluebook, **to identify and eliminate over-priced, low-quality providers**. Instead, partner with providers that reveal price and outcomes data and that practice in an appropriate manner. Examples include price-transparent surgical centers and health clinics such as the Surgery Center of Oklahoma, Texas Free Market Surgery, OSS Health, and Walmart. Support the use of these high-value providers by offering to pay for travel costs or use their prices for negotiating leverage in local markets. These tools encourage the use of cash for care combined with a level of catastrophic coverage.
4. Empower employees to save for quality care at low costs by **fully funding triple-tax-preferred health savings accounts (HSAs)** to the maximum amount allowed.
5. **Encourage employees to use price-transparent primary care** for access at a known monthly fee, which includes office visits, comprehensive testing, and telemedicine and texting support, twenty-four-hours a day, seven days a week. Alternatively, encourage the use of price-transparent integrated health clinics like Walmart Health and 24/7 price-transparent telemedicine services such as One Medical, even for mental health and specialty care.
6. **Purchase reinsurance** for medical and prescription drug stop-loss protection for coverage in case of catastrophic claims.
7. **Get a plan audit** to ensure compliance with federal, state, and local laws. Implement cost-containment metrics and benchmarks, and reward employees with a portion of the savings.

ERISA Law May *Require* Employers to Pursue Healthcare Price-Transparency Solutions

The Employee Retirement Income Security Act of 1974 (ERISA),[3] which governs private employee benefit plans, seemingly requires employers to pursue price transparency. Its disclosure and fiduciary requirements impose the "highest duties known to the law" on employers to ensure that benefit plans are always administered and operated in the best interests of employees. No prudent fiduciary facing these disclosure requirements could take the position that employees are not entitled to know the price of healthcare services before a purchase. Such information is indispensable to consumers' ability to make informed decisions in their best interests.

ERISA law imposes several specific requirements that also seemingly require employers to offer price-transparent health benefits. **Duty of Loyalty** requires that ERISA fiduciaries "shall discharge their duties with respect to a plan 'solely in the interest of the participants and beneficiaries,' that is, 'for the exclusive purpose of (i) providing benefits to participants and their beneficiaries; and (ii) defraying reasonable expenses of administering the plan.'" **Duty of Care** requires fiduciaries to act with the "care, skill, prudence and diligence . . . that a prudent man . . . would use in the conduct of an enterprise of a like character and with like aims." Federal courts have held that a "fiduciary has an obligation to convey complete and accurate information material to the beneficiary's circumstance, even when a beneficiary has not specifically asked for the information." **Disclosure obligations**—Part 1 of Title 1 of ERISA—require disclosure of certain information to plan participants and beneficiaries. The relevant clause reads: "The administrator shall, upon written request of any participant or beneficiary, furnish a copy of . . . any . . . contract, or other instruments under which the plan is established or operated." At least one federal appellate court has held that "all other things being equal, courts should favor disclosure where it would help participants understand their rights."[4]

Such ERISA clauses and court rulings strongly suggest that compliant employers must take action to move away from opaque contracts in favor of transparency. Of course, employers should not, and are not required to, wait for ERISA law to force their hand or government policy to guide it. As numerous businesses across the country are proving in real time, employers have the resources to act now to pursue price transparency.

By continuing to embrace the failing healthcare status quo, employers are exhibiting cognitive dissonance: they are accepting opacity and cost overruns from their healthcare costs that they would never tolerate in any other part of their business.

3. Employee Retirement Income Security Act (ERISA), U.S. Department of Labor, https://www.dol.gov/general/topic/retirement/erisa.

4. *Bartling v. Fruehauf Corp.*, 29 F.3d 1062, 1070 (6th Cir. 1994): https://casetext.com/case/bartling v-fruehauf-corp.

If employers handled the rest of their business costs with the same disregard and fatalism as their healthcare liabilities, they would run their business into the ground and do so in short order. CEOs and executives must put healthcare costs under the same keen eye that they use in examining all their other operating expenses. They must no longer accept automatic healthcare cost increases far above inflation but instead commit to putting these cost trends in reverse.

Employers Can Lead the American Revolution in Healthcare

Following the roadmap and recommendations laid out above will allow employers to reduce healthcare costs for their businesses and their employees by identifying the best care at the best prices, causing providers and insurers to compete on price and quality. Employers have reduced healthcare costs for their employees and businesses by 30 percent to 50 percent through price transparency reforms, savings that can be used to increase employee wages and business earnings.

Employers have a fiduciary responsibility under ERISA law to inform their employees of their real healthcare prices. Such price transparency fulfills employers' good governance obligations under environmental, societal, and corporate governance (ESG) criteria that many businesses must follow.

Moreover, fulfilling their fiduciary role under ERISA by providing their employees with access to real prices fits the expanded role of a corporation to collectively benefit all of its "stakeholders," including employees, customers, suppliers, communities, and shareholders. There is no single action such business groups can take that can have more effect on these stakeholders than reversing runaway healthcare costs that are bankrupting patients, stagnating wages, and slowing economic growth. Businesses and business groups can benefit their employees and society by immediately committing to price-transparent contracts with their providers and insurers.

Competition leads to lower prices in almost every other sector of the economy. Providing a functional market to healthcare and empowering consumers to shop for care and coverage will benefit all Americans, independent of what broader healthcare system the country chooses. Even with a public option, price transparency is necessary to hold hospitals and health insurers accountable to keep costs, in this case at the taxpayers' expense, in check.

Rejecting the failing healthcare status quo and forging an innovative new approach based on price transparency is in line with the best of American business traditions. To reduce obscene healthcare costs for their employees and businesses and to accelerate economic growth, employers and C-suite executives must adopt the same ambitious mindset they have already used to succeed in the marketplace and lead a revolution in American healthcare by demanding actual prices and managing their healthcare costs.

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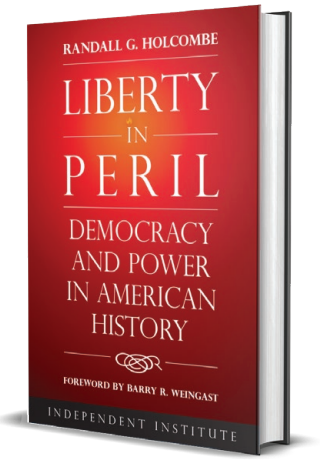

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