

John Santa MD MPH United Health—Amedisys Acquisition Comment

December 18, 2023

I submit this comment in opposition to the United Health Amedisys acquisition especially as it relates to the acquisition of hospices. I am a retired (73 year old) physician and health administrator. I have taken care of many patients in hospices. I have had friends and family in hospices. A longtime friend died in a Portland hospice one year ago. While all ages of patients may use hospice, most patients are over 65 and have coverage through Medicare. In Oregon a near majority of patients are in Medicare Advantage. And United Health is a major Medicare Advantage and Medicare supplemental carrier. United Health also owns a variety of other health organizations in Oregon including physician groups via Optum.

Hospices provide unique services in unique settings with completely different processes and regulations than other physical medicine, behavioral health or other health services. The determination of “quality” in hospice is evolving because of shortcomings in current hospice metrics. It is likely issues around equity will evolve as data increasingly appears that significant differences in hospice care emerge depending on the source of funding ie nonprofit versus for profit. Success in insurance often is driven by selection of the most profitable patients and there is now evidence that selection of profitable patients is key to for profit success.

There is no time in life that is more difficult for patients and family than the end of life. And yet we seem to be comfortable turning that difficult work over to “market forces” and encouraging profit being a major factor. UnitedHealth has a proven track record at making profits and using data to drive favorable selection for its insurance products. If United Health were serious about this issue, it could deliver all hospice care through a Oregon nonprofit that focused on evidence based approaches to palliative care and end of life support.

This is the third acquisition HCMO has received that involves hospices. It is important to analyze this proposal carefully since it likely involves more scale and impact on the Oregon hospice industry.

The Falcon Hospice acquisition is currently under a one year follow up review. FU data has been submitted to HCMO with no comment from HCMO. Input from families of patients in Kindred/Gentiva hospices were solicited in August 2023. HCMO has made no comment about any information received from this solicitation. Comments expressing concern about this acquisition were submitted by SEIU Local 49, OSPIRG, and Private Equity Stakeholder Project. I share the concerns of these commenters. HCMO in its review acknowledged these concerns especially related to quality. What is the status of this review?

A few months later HCMO reviewed a notice of acquisition of LRH, including hospices, by United Health and approved the acquisition. No comments were received, and HCMO expressed no concerns even though many of the same issues related to quality are relevant to this acquisition as was the case with Falcon. No follow up review was required.

Now HCMO has yet another proposed acquisition by United Health of a company providing hospice services. While the footprint of this acquisition may be modest compared to the national impact, continued concern about the performance of for profit hospice organizations have continued to be published in 2023. The Center for Economic and Policy Research (CEPR) published a report titled, “Preying on the Dying: Private Equity Gets Rich in Hospice Care.” <https://cepr.net/report/preying-on-the-dying->

[private-equity-gets-rich-in-hospice-care/](#). Over 68 pages CEPR reviews the evidence comparing for profit hospice and non profit hospice. The differences are significant and multiple.

In September 2023 Researchers at Cornell and Vanderbilt published a paper titled, “Changes in Diagnoses and Site of Care for Patients Receiving Hospice Care From Agencies Acquired by Private Equity Firms and Publicly Traded Companies,” in *JAMA Network Open*. 2023;6(9):e2334582.doi:10.1001/jamanetworkopen.2023.34582. The paper’s conclusion: “This cohort study suggests that hospices owned by PE firms and PTCs may target Medicare patients likely to be more profitable, specifically those in sites of care and/or with certain clinical conditions, such as dementia, that are associated with lower complexity of care. Additionally, prior to acquisition, PE firms and PTCs appear to have targeted agencies with more patients in nursing homes.”

It is no surprise that for profits do things differently than non profits. They allocate funds differently with the requirement that they put their shareholders first. And these differences inevitably affect quality and equity. The JAMA Network Open shows one major difference--for profits are more likely to successfully segment their market of dying patients and select demented patients. That selection has an impact on equity and quality. Patients with dementia can’t remember what to complain about to their families and when they do folks, are more likely to shrug and say, “they are demented.” And patients with dementia tend to live longer than patients with cancer or end stage heart disease so revenues are higher. When there is successful selection there cannot be equity because one participant in the market is extracting revenue at far lower costs leaving the less profitable patients to others in the market---often the non profits, the organizations seeing lower income patients etc. How can a selection process that creates profits support equity?

I urge HCMO to take a different approach than in the first 2 reviews. Hospice is different. The national transition to for profits is showing significant quality and equity problems. The federal government is failing to regulate this “market” despite the vulnerability of the patients involved and their families. If there is a state that cares about end of life, it is Oregon. Oregon is the state to take this on. Consider:

- 1) Do a comprehensive review to better explain to Oregonians what is going on in the hospice industry.
- 2) Get input from Oregon and national researchers regarding for profit versus non profit hospice as part of this review. Include Oregon Ethics and Palliative Care clinicians.
- 3) Organize a community review board to discuss the findings of the comprehensive review with Oregonians especially families of patients recently in hospice. If there is an issue that truly calls for input from the public it is this one.