

Discussion of “Arbitration as Outside Option”

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What this paper does

- Studies the **unintended consequences** of the No Surprises Act (NSA):
 - ▶ Eliminates balance billing for patients
 - ▶ Introduces **arbitration (IDR)** for insurer-provider disputes
- Provides the first **national evidence** on:
 - ▶ Provider network participation
 - ▶ Insurance plan design
- Core message:

This policy TOTALLY backfired.

Main findings

- **Provider network exit:**

- ▶ Significant decline in in-network participation
- ▶ Concentrated in NSA-exposed specialties

- **Mechanism:**

- ▶ Larger exit where providers win more arbitration cases
- ▶ Stronger for **group-affiliated providers** (lower costs)

- **Insurer response:**

- ▶ Higher premiums
- ▶ Higher in-network deductibles

Higher costs are passed on to all enrollees.

Is arbitration actually profitable?

- Mechanism requires:

IDR must be more attractive than staying in-network.

- Evidence is **suggestive but indirect**:

- ▶ High provider win rates
- ▶ Larger exit where IDR is more favorable
- ▶ Stronger for group-affiliated providers

- This raises **several questions** for me:

- ▶ How large is the profit gain from IDR?
- ▶ Why didn't firms do this before? Was arbitration not available at all?
- ▶ Is the problem just the high win rates? Who is to blame for that?
- ▶ Why aren't consumer protection advocates up in arms about this?

- Authors' structural model will surely speak to these in the future.

Some comments and suggestions

- **Mechanism (arbitration)**

- ▶ Win rates are suggestive but potentially endogenous
- ▶ Can we use fee changes, timing, or arbitrator variation more cleanly?

- **Selection and composition**

- ▶ Which providers exit? Are these marginal or high-value providers?
- ▶ Does exit change the composition or quality of networks?

- **Insurer response**

- ▶ Pass-through into premiums is clear, but what about margins and competition?
- ▶ Any evidence on insurer entry/exit or plan variety?

More comments and suggestions

- **Identification and interpretation**

- ▶ State-level variation may capture more than NSA exposure
- ▶ Is there a way to strengthen this with insurer-level variation?

- **Networks and welfare**

- ▶ Assumes network exit has limited direct welfare cost
- ▶ But could matter for access, coordination, or quality

- **Equilibrium scope**

- ▶ Focus is on ACA marketplace
- ▶ Do we expect this to be better or worse for employer-sponsored insurance?

Conclusion

- This is a **very nice and important paper** which will only get better and more interesting in the future.
- Main contribution:
 - ▶ Shows how arbitration can distort contracting through outside options
- Broader lessons:
 - ▶ Policy design matters in equilibrium.
 - ▶ Backstops can become primary margins of behavior.
 - ▶ Talk to IO economists before redesigning policy.
- I learned a lot from this paper and look forward to the full paper version.



Thank You!