VIEWPOINT

Evaluating Open Payments

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With the enactment of the Affordable Care Act in 2010, pharmaceutical and medical device firms were required to report payments that they make to physicians to the federal government.[1] Administered by the Centers for Medicare & Medicaid Services, the Open Payments program aggregates this payment information and makes it publicly available.[2] To ensure accuracy, physicians can report errors in their reported payments during the Open Payments annual review and dispute period, and drug and device firms will work with physicians to correct any misreporting in the system.

Despite having only released its fifth full year of data, Open Payments has brought to light a wealth of new data on industry payments to physicians. Analysis of Open Payments data has revealed that approximately half of US physicians receive payments from drug and medical device firms in a typical year[3] and that members of clinical practice guideline committees, formulary committees, scientific advisory committees, and prestigious hospital boards have received hundreds of thousands of dollars from drug and medical device companies.[4] In addition, prominent medical leaders have failed to report these payments as required.[5] Studies using Open Payments data have also reported an association between industry payments and greater prescribing of opioids,[6] cancer therapies,[7] and a wide range of other drugs. Not all of these payments are objectionable; some payments certainly constitute fair compensation for expert advice and enable socially beneficial research that may not have otherwise been undertaken. However, Open Payments has largely confirmed what many critics of pharmaceutical and device firms have long argued: the reach of these industries in medicine is vast and their influence significant.

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But, has Open Payments achieved its goals? To the extent that these goals focused on informing patients about relationships their physicians have with industry, thereby improving their health care decisions, the answer would seem to be no. Studies have found that transparency has not increased patients' knowledge of whether their own physician received industry payments[8]; patients are largely not accessing the information that Open Payments makes available to them, nor is it clear that they would benefit from doing so. How can a patient know how to interpret information that a physician received payments from a pharmaceutical manufacturer? Similar to the way that price information sometimes decreases pressure to lower prices because people infer quality from price, it is possible that patients could interpret industry payment to their physician as an indication of the physician's professional prominence rather than a hint that the physician might be biased. Further, Open Payments only reports payments made by drug and medical device firms for currently marketed products; other financial interests and activities, such as investments in start-up entities and in consumer products not regulated by the US Food and Drug Administration that could pose a conflict of interest, are not part of the program.

Even if patients were concerned that their physician might be biased, how should they respond? By changing physicians? By not following their physician's advice? When people do not know what to do with information, they typically ignore it. Given the well-documented limits on human information processing, it seems perverse to transfer the burden of interpreting and responding to information about industry payments to consumers.

However, perhaps the greatest challenge of transparency may be its potential to increase patient distrust of medicine, adversely affecting the patient-physician relationship and patient health. The extensive use that journalists have made of Open Payments in spotlighting physicians with the largest payments, as well as lapses in reporting conflicts of interest, raises the question of whether disclosure of industry payments to physicians could have a perverse effect, potentially leading patients to avoid the services of physicians, including physicians who did not receive payments, or to not follow well-informed advice.

Compared with its influence on patients, the influence of Open Payments on physicians is likely more mixed. Both journalists and government agencies, such as the Department of Justice, have used the Open Payments database to identify individuals who are suspected to be excessively profiting from industry payments as targets for investigation. The activities of these groups have certainly had an effect on the physicians who were publicly profiled and may well act as a warning for other physicians who might consider accepting industry payments. These investigations, combined with the work of researchers linking payments to increased prescribing and to pro-industry publication bias, have woven critical narratives of industry payments. But whether these narratives have resulted in a broad

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reduction of questionable payments, or only in a reduction of the largest and most troubling payments, is unclear.

It is possible that publicizing the payments may result in an increase rather than a decrease in them if physicians who see that other physicians are receiving payments perceive themselves to be entitled to them as well. Studies conducted in the United States and other countries have found that the public revelation of top executive salaries combined with the aim of companies to provide competitive remuneration to their own executives has contributed to dramatic increases in executive compensation.[9]

Moreover, payment information could potentially be used by the pharmaceutical companies to fine-tune their marketing efforts, similar to the way that it has been argued that the "sunshine reforms," enacted in the 1970s to decrease corruption and the influence of lobbyists, provided information that helped corporations, special interests, and foreign governments, to increase their influence.

Given the inherent attractiveness of transparency, are there ways that the positive effects of Open Payments can be enhanced? One way is to support informed intermediaries who can either present the specific information that patients need in a way that they can understand or who can act as trustworthy agents for the patients. For example, health plans could present this payment information to patients as they are choosing their physicians or could create networks of physicians who have been certified not to have attended industry-sponsored meals or given industry-paid talks. Because physicians who do not receive payments have been associated with lower prescription drug expenditures, the establishment and publicizing of these networks could lead to cost-savings for health plans.

Additionally, physicians who choose not to accept payments could advertise their status, certified by a third party, to prospective and current patients on their websites or in their waiting rooms. If patients care about whether their physicians receive industry payments, these physicians could benefit financially from this branding strategy.

However, even with the best implementation and support from intermediaries, transparency does not provide a full solution to financial conflicts of interest in medicine. Transparency is a politically expedient and low-cost remedy for the problems caused by conflicts of interest. Moreover, taking this limited approach could backfire if it prevents more effective action from being taken on conflicts of interest. Indeed, there is evidence that, when people are presented with both a low-cost policy solution that helps a little and a high-cost solution that helps a lot, the possibility of implementing inexpensive "nudges" can crowd out support for more effective solutions.[10] Open Payments has illuminated numerous aspects of conflict of interest in medicine, but it should not prevent bolder and more effective action from being taken to address the problem of industry influence and other conflicts of interest.

ARTICLE INFORMATION

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