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RESEARCH SUMMARY

ARE CERTIFICATE-OF-NEED LAWS BARRIERS TO ENTRY?
How They Affect Access to MRI, CT, and PET Scans

Many states require providers to seek government approval for new facilities. These certificate-of-need (CON) laws restrict healthcare institutions from expanding, offering a new service, or purchasing certain pieces of equipment without first gaining approval from regulators. Twenty-one states restrict acquisition of imaging equipment such as MRI, CT, and PET scans.

A new study for the Mercatus Center at George Mason University compares how CON regulations affect imaging services provided by hospitals and imaging services offered by other providers. The results show that CON regulations adversely affect nonhospital providers, while hospitals largely remain unscathed. Residents of CON states are also more likely to travel out of state to obtain imaging services than residents of non-CON states. CON regulations can change the market for imaging services by setting up barriers to entry for providers that are not hospitals, consequently harming consumers of these services.

To read the study in its entirety and learn more about its authors, George Mason University economics professor Thomas Stratmann and PhD student Matthew C. Baker, see "Are Certificate-of-Need Laws Barriers to Entry? How They Affect Access to MRI, CT, and PET Scans."

STUDY DESIGN

Twenty-one states have CON requirements for at least one of three regulated imaging services: MRI (magnetic resonance imaging) scanners, CT (computed tomography) scanners, and PET (positron emission tomography) scanners. Medicare claims provide an estimate of the utilization of these different services and allow their utilization and accessibility to be compared between CON and non-CON states.

Utilization is measured as the number of claims filed in a state for the service in question divided by the number of Medicare beneficiaries who reside in the state. Hospital market share is defined

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as the number of times a relevant procedure takes place in a hospital divided by the number of times it takes place in all settings.

- The American Health Planning Association provides state-level data for the year 2013 on certificate-of-need (CON) programs for imaging services. The association classifies each of the 50 states and the District of Columbia as either having a CON requirement or having no CON requirement.

- Data on Medicare is collected from the 2013 5 percent Standard Analytic Files to aggregate fee-for-service claims to the state level and provide a count of the number of Medicare beneficiaries in each state.

KEY FINDINGS

CON Regulations Have a Negative Effect on Nonhospital Providers
The association of a CON regulation with nonhospital providers is substantial, ranging from −34 percent to −65 percent utilization for MRI, CT, and PET scans. Nonhospital providers in CON states experience significant decreases in the utilization of imaging services compared to hospital providers.

CON Regulations Have No Effect on Hospitals, Thus Increasing Their Market Share
CON regulation has no measurable effect on hospitals' utilization of imaging services. The volume of services provided in hospitals is not affected by CON regulation. This may explain why hospital providers have a stronger market presence in CON states than in non-CON states.

Consumers Are Driven to Seek Imaging Services in Non-CON States

- CON regulations are associated with 3.93 percent more MRI scans, 3.52 percent more CT scans, and 8.13 percent more PET scans occurring out of state.

- CON regulations may have a negative effect on consumers because patients living in CON states have to travel out of state more often than patients living in non-CON states. This propensity for traveling out of state to obtain medical services might be attributable to any of several factors: higher costs, a smaller selection of services, or restricted access to care.

CONCLUSION

CON laws act as barriers to entry for nonhospital providers and favor hospitals over other providers. In consequence, consumers of MRI, CT, and PET scanning services are driven to seek these services either out of state or in hospitals. More research is needed to determine whether additional costs and barriers in the healthcare industry restrict specific market providers and affect where procedures occur.