Commissioner Jones Responds To Covered California's Defense Of Its Restraint On Competition

Covered California's defense of its anti-competitive decisions -- limiting competition by denying certain health insurers from entering the market or denying their ability to expand where they sell – boils down to its assertion that its "active purchaser" model is sufficient to get Californians the best possible prices.

The problem with this defense is that a recent national study by a reputable team of researchers, published in Health Affairs, found that "active purchaser" exchanges like Covered California did not fare as well as "take all comers" exchanges in terms of prices. "Active purchaser" exchanges (of which Covered California is one) had higher adjusted average premiums for all plans within each metal level compared to the "take all comers" state-based marketplaces and the federally facilitated and partnership marketplaces.

The 2015 4.2% average rate increases that Covered California points to were the result not of Covered California's bargaining power, but rather were the result of insurers and plans' decision to file lower than usual rate increases in the face of a statewide ballot measure (Proposition 45) which, if passed, would have resulted in the regulation of their rates. The last thing the insurers wanted to do was to repeat Anthem Blue Cross of California's decision to file high rates in 2009 while the Affordable Care Act was being debated in Congress. The public outrage over Anthem's rate increases in 2009 helped secure the passage of the Affordable Care Act. Major rate increases for 2015 would have made the case for Proposition 45.

With just four carriers controlling over 93% of the Covered California individual market, Covered California simply does not have bargaining power to get lower rates. Witness the tremendous profits that the companies have been making as further evidence of this fact.

While Anthem's market share has declined, the fact is that just four carriers, including Anthem, control over 93% of the market. And the share held by other insurers, according to the table provided by Covered California, has decreased from 10% to 5%. The big four have gained more total market share, not less.

Covered California argues that the 2014 market is more competitive than the 2012 market, according to the Kaiser family Foundation. I never argued to the contrary. But there is no question that the market in 2014 and 2015 would be more competitive if HealthNet had been allowed to expand as it twice requested and if Moda had been allowed to enter the market. And the market would be more competitive still if United HealthCare were allowed to enter in 2016 and sell statewide. In all four of these cases, Covered California said no.

According to information published by Covered California, seven of the nineteen regions in California include areas where Californians only have 1 or 2 health insurance carriers to choose from if purchasing a plan through Covered California - the only place where the consumer can receive a federal premium subsidy to make their health insurance more affordable. Consumers have complained to Covered California, the Department of Insurance, state legislators and members of Congress asking that the number of carriers selling through Covered California be expanded. While Covered California did make a decision in 2013 to limit competition, when it became clear that Californians in many counties had only one or at best two carriers from which to choose, the correct decision would have been to allow additional carriers to sell through Covered California for 2015 and beyond

Covered California's statement that "more consumer choice does not equate to more true competition" runs contrary everything we know about competition and markets. Covered California has decided to substitute its own wisdom about how much competition is enough, instead of allowing competitors to come into the market and compete.