



**TAHP**

The Texas Association of Health Plans



# LEGISLATIVE GUIDE

**88TH TEXAS  
LEGISLATURE**

**WORKING TOWARD QUALITY,  
AFFORDABLE, TRANSPARENT  
HEALTH CARE FOR ALL TEXANS**

# Welcome

For more than 30 years, TAHP and our member plans have worked to make Texas a healthier place. Today, more Texans are covered than ever before, more than 20 million.

Our individual market growth surpasses all states, with 15 plans competing in the ACA market and more than 2 million Texans enrolled—a number that has more than doubled in just two years. That increase was largely driven by improved affordability in the marketplace—proving once again that when the cost of coverage is within reach, Texans will sign up for a health plan they can count on.

Medicaid managed care enrollment set records during the pandemic under continuous eligibility rules. Our Medicaid managed care plans rose to the challenge. By the end of the Medicaid unwinding, all 5.5 million Texas Medicaid recipients will need their eligibility redetermined or will risk losing coverage. Texas Medicaid plans are stepping up once again to provide support to these families so qualified Texans do not lose coverage.

But there are threats to these coverage gains. Continued price gouging and price hikes squeeze employers who offer health insurance—the way the majority of insured Texans have coverage. These escalating prices lead to declines in coverage and premium hikes for all job-based coverage. Further adding to the burden for employers and the Texans they cover are state-imposed mandates that reward price gouging, stand in the way of cost controls, and increase the cost of coverage.

We know the solutions that can help lower the cost of health insurance: fewer mandates, more affordable options, exposing price gouging, and letting the market work to improve affordability without government intervention. Employers need more flexibility, not less. Families want to easily find the best providers at the best price. Texans are sick of surprise fees and outrageous prices.

**Our session guide works through the threats and opportunities that Texas employers and families face this session.** These are the issues that the Texas Association of Health Plans brings our voice to protect coverage gains and fight for affordability.



*Jamie Dudensing*

Jamie Dudensing  
Chief Executive Officer  
Texas Association of Health Plans





# CONTENTS

Legislative Priorities	1
TAHP Team	3
Texas Health Plans Cover More Than 20 Million Texans	5
Increase Access to Health Coverage in Texas	7
Healthier Texans Through Healthier Markets	9
Stop Overregulation and Unnecessary Mandates	12
Continue to Advance Medicaid Managed Care Success	14
Strengthen Texas' Health Care Workforce	17
Surprise Billing Loopholes in Texas Lead to Costly Arbitrations	19
Reduce Health Care Waste and Unsafe Care	20

# LEGISLATIVE PRIORITIES

## Top Solutions to Increase **Affordable Coverage**

- ✓ Build more affordable insurance coverage options that avoid overregulation and excessive mandates.
- ✓ Allow health plans to create market-driven, innovative incentives to reward patients who shop for the best value care.
- ✓ Reform state laws to legalize value-based care arrangements between health plans and providers.
- ✓ Study the full impact on businesses and families through a new Health Insurance Mandate Advisory Review Center (HIMARC) before approving a new mandate.
- ✓ Avoid new mandates and overregulation that raise the cost of coverage and forces employers and families to pay higher prices.
- ✓ Protect ERISA flexibility and oppose any legislative attempts to add costly mandates on self-funded employers.
- ✓ Explore opportunities to build on the state's high-performing individual market without creating disruptions.
- ✓ Ban anti-competitive health care contract terms, stop abusive facility fees, and give patients a complete price picture with transparency from all health care providers.
- ✓ Stop private equity controlled providers from abusing network adequacy laws to increase prices for Texas patients.



# LEGISLATIVE PRIORITIES

## Top Solutions for Building on the Success of Medicaid Managed Care

- ✓ Allow managed care plans to permanently assist with eligibility through the Case Assistance Affiliates program.
- ✓ Expand Medicaid texting options to allow Medicaid managed care organizations to easily communicate with families.
- ✓ Transition all remaining services, populations, and processes into managed care.
- ✓ Oppose any further delays to the Medicaid Preferred Drug List (PDL) carve-in.
- ✓ Cover the full continuum of mental health benefits in Medicaid.
- ✓ Extend postpartum Medicaid coverage to 12 months.
- ✓ Allow the use of telehealth for service coordination visits and ongoing assessments.
- ✓ Allow coverage options that address non-medical drivers of health and incentivize managed care investment through existing rate-setting processes.

# TAHP TEAM



## **Jamie Dudensing** *Chief Executive Officer*

As an advocate for public and private health plans, Jamie is dedicated to improving access to quality health care for the uninsured and committed to enhancing consumer choice and the affordability of health insurance for all Texans.

Jamie, a graduate of both the University of Texas LBJ School of Public Affairs and Texas Tech School of Nursing, began her career in Austin after being recruited to become the Capitol nurse. After gaining a Master's in Public Affairs from the LBJ School, she served two sessions as the Health and Human Services Budget Analyst on the House Appropriations Committee. She then joined the Lt. Governor's office, where she first served as Senior Advisor for Budget and Policy. There she served as Deputy Chief of Staff and Policy Director.

With more than two decades of engagement in health care and appropriations policy, Jamie provides TAHP with an extensive record of coordinating legislative strategies, testifying before legislative committees, and working closely with state agency administrators to formulate and implement policy.



## **Jason Baxter** *Director of Government Relations*

Jason Baxter joined TAHP in 2014 after more than a decade in the Texas Senate as a top aide to a former senator. In that capacity, Jason served as Deputy Committee Director of the Senate Finance Committee where he was responsible for the oversight of all tax policy legislation.

Jason's service in the Senate provided him with the opportunity to develop meaningful relationships with key legislators and staff members and work on a variety of issues including state budget, taxes, transportation, and insurance.

He is a lifelong resident of Austin and a graduate of Trinity University in San Antonio.



## **Patti Doner** *Director of Operations*

Patti Doner serves as TAHP's Director of Operations, managing all of the association's quarterly and annual events, including the Medical Directors Forum, the Texas Covered Conference + Expo, regular networking receptions, and member events.

Patti oversees day-to-day operations at the TAHP office, including managing accounts and existing memberships, as well as recruitment of new members. Prior to joining TAHP, Patti worked in the office of Texas Lt. Gov. David Dewhurst in the policy division following service in the Texas Senate for Senator Jane Nelson. Patti is a native Texan and resides in San Marcos.



**Blake Hutson**  
*Director of Public Affairs*

Blake previously served as the Associate State Director at AARP where he lobbied at the state capitol on health care and other issues. Prior to that, he was the Director of Grassroots for the Texas office of the American Cancer Society Cancer Action Network.

Blake also worked for Consumer Reports advocating for health reforms nationally.



**Jessica Lynch**  
*Director of Policy & Medicaid Operations*

Jessica Lynch brings city, Capitol, state agency, and association experience to TAHP. Prior to joining TAHP, she was the Executive Director of the Texas Psychological Association. She has also worked in External Relations for the Texas Health and Human Services Office of Inspector General, addressing fraud, waste, and abuse in Medicaid.

Having worked for both Democrats and Republicans, her final role in the Capitol was Chief of Staff to Representative Cecil Bell, Jr., who at the time, sat on the influential House Appropriations Committee. Jessica then went on to become the first Policy Director for the House Republican Caucus.

Jessica holds a BA in English from Texas State University, where she began her political career as the first student liaison to the San Marcos City Council. She also holds a JD from the University of Texas School of Law.



**Alicia Pierce**  
*Director of Communications*

Alicia Pierce is the communications director for TAHP. Previously, she was the communications director and vice president for marketing at the Texas Public Policy Foundation, the largest state-based think tank in the nation.

She served four Texas Secretaries of State and managed multiple statewide voter education campaigns. Her work is rooted in a strong legislative background. She worked both in the Texas Senate and on Capitol Hill.

A graduate of Abilene Christian University, Alicia received the Gutenberg Award from ACU's Department of Journalism and Mass Communication.



**Camryn Burner**  
*Deputy Director of Medicaid Policy & Operations*

Camryn spent the last seven years at the Texas Health and Human Services Commission, most recently as Senior Advisor for Program Policy within Medicaid and CHIP Services. She is a Licensed Master Social Worker who began her health care career as a Medicaid attendant and case manager.



**Erin Jordan**  
*Communications Associate*

Erin is the communications associate for TAHP. In this role, she supports our team and helps communicate news about the good work of our membership. A recent Baylor graduate, Erin majored in journalism with a concentration in public relations and had a variety of internships within the healthcare and creative arts industries.



**Kevin Stewart**  
*General Counsel*

Kevin is an attorney and political consultant based out of Austin. He attended The University of Texas at Austin for both undergraduate and law degrees, focusing his studies on the legislative process and statutory interpretation. His firm specializes in assisting clients with regulatory and legislative issues. Kevin is also the author of the Texas Legislative Law Handbook and a member of the Campaign & Legislative Law Section of the State Bar.



# Texas Health Plans Cover More Than 20 Million Texans

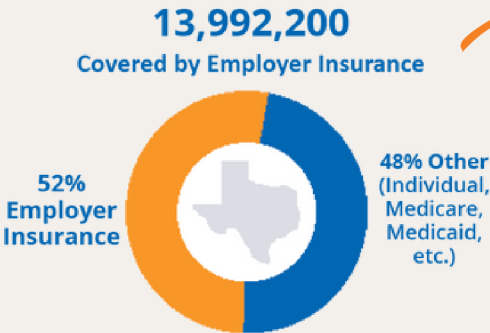
Texans with health insurance coverage have undeniably better health outcomes and access to care than those without.

- We **negotiate lower prices** with doctors, hospitals, and drug companies and then pass on savings as lower premiums.
- Health coverage **encourages preventative care** which leads to better health outcomes. Many preventive services—like screenings for cancer, high cholesterol, depression and diabetes—are 100% covered.
- Health plans cover the millions of Texans with **preexisting conditions** from cancer, to diabetes, to asthma, to chronic pain.
- The variety of health plans in the market means that they are **competing to offer the best value** and best type of plan for payers.
- The benefits offered by health insurance are **regulated and guaranteed** unlike other health products which are buyer beware.
- Health plans provide coverage for **mental health support**.

## Texas Employers Lead the Way in Health Coverage

**TAHP health insurance providers are proud to partner with Texas employers large and small to provide comprehensive health coverage to hardworking families.**

**13,992,200**  
Covered by Employer Insurance



Category	Percentage
Employer Insurance	52%
Other (Individual, Medicare, Medicaid, etc.)	48%

## Doing Our Part

Health insurance helps keep families and communities healthy. Our health plans serve more than 20 million Texans.

**AmeriHealth Caritas | BlueCross Blueshield of Texas | Bright Health Plan | Cigna Community First Health Plans | Community Health Choice | Cook Children’s Health Plan CVS/Aetna | Driscoll Health Plan | El Paso Health | Humana | Memorial Hermann Health Plan | Molina Healthcare of Texas | Oscar Insurance Corporation of Texas | Parkland Community Health Plan | Scott & White Health Plan | Sendero Health Plans | Seton Health Plan | Superior HealthPlan | Texas Children’s Health Plan | UnitedHealthcare USAble Mutual Insurance Group**

- 82% of Texans are protected by health coverage, with more than 15 million Texans covered by private insurance, mostly through their employers.
- Insurers pay over \$2.5 billion in state premium taxes.
- Insurers employ 34,105 Texans with a payroll of \$2.4 billion.
- Health insurance is the single largest tax break for employers, valued at over \$329 billion nationally—lowering the cost of premiums by 32% for employer.

- In a competitive labor market, offering high-quality, affordable, innovative coverage is part of many companies’ talent recruitment and retention strategies.
- 3 out of 4 employees report that health insurance weighed into their decision to accept a job.
- Employers pay 83% of the coverage costs for a single person, and 73% of the coverage costs for a family.
- 86% of employees report they are satisfied with their health insurance.

## Individual Marketplace

- The individual market provides affordable, high-quality health care for Texans who buy coverage on their own.
- Through the Marketplace, health insurance providers compete to provide Texans with coverage that protects their health and financial security.
- Competition among health plans continues to increase in Texas. The number of Plans Serving Texas in the Marketplace, the highest in the nation: **15**
- Coverage in the individual market is working. More than 2.3 million Texans signed up for coverage in 2022—an **80% increase** in two years thanks to increased ARPA tax credits.
- Average Monthly Premium After Tax Credits: **\$86**

## Texas Medicaid Works

Medicaid managed care is safety net health insurance that protects Texans who need it most, including children, mothers, grandparents, and Texans with disabilities. **Texas partners with private health insurers to provide more than 5 million Texans with the personalized care and coordination they need to get healthy, stay healthy, and live independently in their own homes and communities.** But Texas Medicaid is more than health care coverage—it also includes services that go beyond the walls of a doctor’s office, including arranging transportation, coordinating meals, and navigating challenges with school and work.

### Medicaid and CHIP cover



**47% of  
all Texas  
Children**

### Medicaid covers



**51% of all  
Texas  
births**



**25% of Texans  
on Medicare  
depend on  
Medicaid for  
long-term  
care services**



**Medicaid covers  
58% of  
nursing  
home  
residents**

Managed care’s focus on prevention, wellness, and care coordination has translated into increased access and better outcomes for Texas patients and lower costs for Texas taxpayers.



Texas has saved more than **\$5 billion** through the use of Medicaid managed care since 2009.

# Increase Access to Health Coverage in Texas

## Value of Coverage.

Having health insurance coverage is crucial for the well-being and success of Texans. However, Texas currently has the highest rate of uninsured individuals in the country, with 18% lacking coverage. This is more than double the national average and puts many Texans at risk for poor health outcomes, late stage diagnoses, and higher mortality rates.

Investing in health insurance coverage has long-term benefits for individuals and the community as a whole. Children with health insurance are more likely to perform well in school, have fewer absences, graduate, and pursue higher education. They also have fewer emergency room visits as adults and higher earning potential later in life.



It is imperative that steps be taken to increase access to health insurance coverage for all Texans. This will not only improve the health and well-being of individuals, but also have a positive impact on the overall success and prosperity of the state.

## Solutions:


 ***Increase outreach and education to uninsured Texans about the availability of affordable coverage.***

Most uninsured Texans qualify for a government health program or for federal subsidies that would help pay for private coverage. An estimated 42% of Texas' uninsured are eligible for ACA subsidies and 13%, mostly children, are eligible for Medicaid or similar assistance. The fastest way to reduce the rate of the uninsured is to educate Texans about the availability of very low cost or free coverage and remove barriers to signing up for this coverage.

 ***Explore options to lower the cost of health coverage for small businesses.***

While nearly all large employers offer health care benefits, less than half of businesses with fewer than 10 employees offer coverage. In a recent survey from the Texas Association of Business, employers say that health care is the top benefit for attracting employees and costs are the number one impediment.



 **Explore opportunities to build on the state’s high-performing individual market without creating disruptions.**

Texas made substantial gains in increasing access to insurance coverage. The number of Texans with marketplace plans doubled in the last two years and 15 plans are offering coverage in Texas—a record number. Policies like a state-based exchange or 1332 coverage waiver could build on these successes but should not be implemented in a way that would create market instability, increase costs, or reduce competition and access. The state should look for reforms in the insurance market that further reduce the uninsured and lower costs.



 **Extend postpartum Medicaid coverage to 12 months.**

In Texas, half of all births are covered by Medicaid. How we administer Medicaid pregnancy coverage dramatically affects the overall wellbeing of Texas mothers and infants. Unfortunately, we rank 15th nationally for maternal mortality with even more significant disparities in minority communities. Access to health care for a full year postpartum is one of the best ways we can address maternal mortality. Texas should join the majority of states and extend Medicaid postpartum coverage to a full year.

 **Simplify the Medicaid enrollment process for children and increase outreach to parents.**

An estimated 400,000 Texas children are eligible but not enrolled in Texas Medicaid. By simplifying the enrollment process, we can bring coverage to Texas children who already qualify for Medicaid coverage.

 **Expand programs to close the gap for low-income, working Texans.**

We need coverage gap solutions for working Texans that make too much to qualify for Medicaid but not enough to receive subsidies for affordable coverage through the Marketplace.

 **Prohibit discrimination for pre-existing conditions.**

No Texan should be denied affordable coverage because of preexisting conditions. However, these protections must be coupled with solutions that stabilize the market and lower health care costs, such as continuous coverage requirements, limited annual enrollment periods, and subsidies to lower the cost of coverage for everyone.

# Healthier Texans Through Healthier Markets

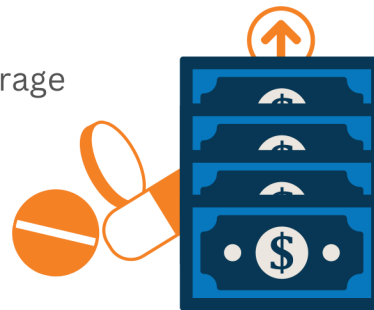
## Health Care Prices in Texas are Out of Control.

Health care prices are irrationally high and vary greatly, even for routine care. Rapidly consolidating hospital systems in Texas charge employers double what it costs to break even—more than three times Medicare—forcing employers and families to pay millions of dollars more than necessary.

In Dallas, removing a gallbladder can cost less than \$5,000 or more than \$35,000, depending on which hospital you choose. Hospitals are also marking up life-saving drugs an average of 250%. Private equity-backed staffing firms are aggressively consolidating physician practices then inflating prices and charging abusive facility fees. Price increases alone account for 75% of the increase in health insurance premiums—not utilization, not patient health, and not technological advancements.

Texans deserve affordable, high-quality health coverage and care, but rising prices push coverage further out of reach for too many.

### Solutions:



Hospitals mark up life-saving drugs an average of **250%**

### ***Increase Transparency***

 ***Give patients a complete price picture with transparency from all health care providers and facilities.***

In 2021, Texas lawmakers created hospital price transparency laws and required health plans to publish all of their negotiated prices. But that's where price transparency ends. Consumers still lack a complete picture to window-shop for most health services.


 ***Require state reporting of private equity takeovers, market share, and patient disclosure.***

Private equity is profit-motivated not patient-driven. Families need to know who is behind their care from the clinic to the nursing home.

 ***Require hospitals to provide patients with itemized bills and prohibit debt collection for hospital non-compliance.***

Patients deserve access to a detailed list of charges from hospital visits so they can confirm charges, dispute fees, and negotiate discounts.

## **Increase Competition**

 **Protect patients and lower prices by banning anti-competitive contract terms like most-favored nations clauses and all-or-nothing agreements between providers and insurers.**

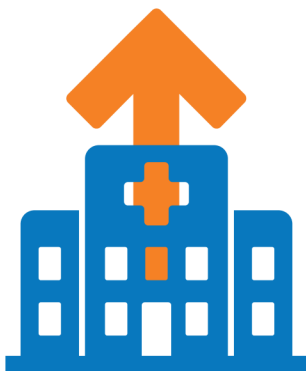
When health systems and private equity controlled provider groups take over health care markets, they can demand contract terms that inflate prices and choke out competition. Specifically, lawmakers should address most-favored nations clauses and all-or-nothing agreements between providers and insurers.


 **Stop abusive facility fees for services provided outside of hospitals or through telehealth.**

When a consolidated system or private equity firm takes over a physician's office, patients often see excessive new facility fees added—even though the site of service never changed. Medicare already prohibits the use of hospital billing codes and facility fees if a provider is located more than 250 yards from a hospital's campus, achieving a \$153 billion savings over 10 years for Medicare beneficiaries. If implemented nationally, it would save an estimated \$672 billion in a decade.

 **Stop private equity controlled providers from abusing network adequacy laws to increase prices for Texas patients.**

Throughout the state, private equity groups are amassing anti-competitive market shares and then leveraging network adequacy requirements to demand excessive payment agreements. Without waivers or exemptions, health plans must enter agreements with these groups regardless of the cost. Strategic waivers and exemptions allow network adequacy laws to work how they should, protecting access for insured patients while maintaining a check on provider prices.



 **Limit the expansion of certificates of public advantage (COPA), require transparency, and create new price protections.**

COPAs authorize mergers between hospitals that would otherwise violate antitrust law. Texas should limit the expansion of COPAs, increase transparency requirements, and create new protections against price increases when mergers are allowed.

***COPAs “do not achieve projected cost savings and efficiencies” and “are instead associated with quality declines.”***

-Federal Trade Commission



## ***Allow Innovative Price Shopping and Value-Based Payments***

### ***🏛️ Allow health plans to create market-driven, innovative incentives to reward patients who shop for the best value care.***

While new federal rules encourage health plan arrangements that incentivize patients to shop for low-cost, high-value providers, Texas prohibits these benefit designs. Insurers can't use innovative solutions like lower out-of-pocket costs to reward patients for being smart shoppers. Insurers can't even easily share nationally recognized quality of care information with patients.

Texas should open up the door to private market innovations that can motivate patients to be savvy health care shoppers with customized savings and rewards programs that best meet the needs of families and employers. However, government mandates don't lead to innovation and can't keep pace with consumer behavior. Lawmakers should avoid mandates that prescribe right-to-shop programs with one-size-fits all incentive designs. Instead, focus on removing barriers that hinder innovative attempts to motivate patients to high-value care.



### ***🏛️ Reform state laws to legalize value-based care arrangements between health plans and providers.***

Health care is rapidly moving to capitated and value-based care arrangements like advanced primary care and direct primary care. In these models, providers commit to caring for patients based on a flat fee instead of individually charging per service. Under a true capitated arrangement, providers voluntarily share some financial risk of caring for patients.

Unfortunately, Texas laws create barriers to health plans and providers creating these innovative benefit designs. Changes to state law would allow for some shared financial risk would all for true value based care arrangements that benefit health plans, providers and most importantly, patients.

# Stop Overregulation and Unnecessary Mandates

## Expensive New Laws are Driving Up Health Insurance Costs.

Government mandates and overregulation hinder innovation and add costs to an already expensive system. This expense is borne by employers and families through increasingly unaffordable premiums.

Despite Texas' business friendly, low-regulation reputation, Texas ranks third in the nation when it comes to regulations that go beyond the federal requirements of the ACA. In 2021, Texas reached a high-water mark for excessive regulations that drive up insurance costs in the Lone Star State.

Last year, Texans faced an average premium increase of 13% while premiums were flat nationally. In a recent survey, employers overwhelmingly opposed new government mandates and interference in contracting to negotiate more affordable health care services.

The result of overregulation and new mandates is more expensive health insurance for everyone with little or no additional benefits for patients.

Seeing what some new mandates will cost, the Legislature often exempts their health insurance from such requirements but requires private employers to comply with these costly new requirements. For example, last session ERS and TRS were exempted from costly new pharmacy mandates.

### Solutions:

 ***Build more affordable insurance coverage options that avoid overregulation and excessive mandates.***

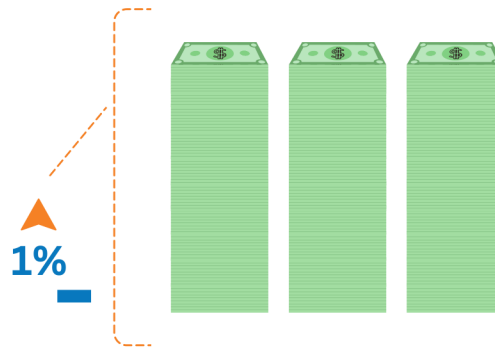
New health care products added last session avoid government mandates and provide more choices for some Texans. The state should build more options that avoid mandates and regulations exceeding federal requirements and allow insurers to sell mandate-lite coverage through consumer choice benefit plans. These plans already exist in Texas law, but over the years legislation has eroded their function and flexibility.

***🏛️ Avoid new mandates and overregulation that raise the cost of coverage and forces employers and families to pay higher prices.***

Health care spending is at a breaking point, forcing more and more employers to drop coverage or increase deductibles and copays for families. The cost of new state mandates and regulations falls to employers and families while oftentimes the Legislature exempts their personal health coverage through ERS and other state-funded coverage to avoid the cost.

**Government Mandates Cost Millions**

Every 1% increase in costs from mandates costs Texans over \$200 million.



***🏛️ Study the full impact on businesses and families through a new Health Insurance Mandate Advisory Review Center (HIMARC) before approving a new mandate.***

Other states have processes to carefully review the full impact of mandates on businesses and families, health care costs, and health needs. Those states arm lawmakers with the info they need to make informed decisions.

***🏛️ Protect ERISA flexibility and oppose any legislative attempts to add costly mandates on self-funded employers.***

Most employers are self-funded, meaning they—not an insurance company—bear the financial risk to provide health coverage for their employees. These plans are governed by federal law known as ERISA and are not subject to state regulations. This is important because companies often provide health coverage to employees in different states and state regulations create administrative burdens and add costs.

**Small businesses in Texas rank cost of health insurance the #1 burden for small business owners in Texas.**

***🏛️ As a business friendly state, Texas should not try to challenge ERISA by adding state regulation to self-funded plans.***

Not only would it burden existing Texas businesses and erode health coverage, it would also create a disincentive for out-of-state businesses to expand or move to Texas.



# Continue to Advance Medicaid Managed Care Success

## Medicaid Managed Care Improves Care and Saves Money.

Medicaid managed care has been a success in Texas, leading to better health outcomes for millions of Texans, including children and pregnant women. By prioritizing prevention and care coordination, Texas has also been able to reduce costs for taxpayers by over \$5 billion since 2009. Continuing to utilize free-market Medicaid solutions will help maintain affordable and high-quality coverage for those in need.



Medicaid managed care is a critical program in Texas that has both saved taxpayers money and improved health outcomes.”

- Gov. Greg Abbott

### Solutions:

***Oppose any attempts to decrease flexibility, suppress innovation, or endanger stability and efficiency in the Medicaid managed care program.***

Maintaining innovation is crucial for providing high-quality services and cost-saving measures in Medicaid, but it requires finding a balance between necessary regulation and the freedom to implement innovative solutions.

***Transition all remaining services, populations, and processes into managed care.***

While Medicaid managed care already covers 97% of Texans on Medicaid, there are still some benefits, programs, and policies at HHSC that are administered through the more expensive fee-for-service program. For example, hospice services are not yet included in managed care. By fully incorporating these remaining services and processes into managed care, the state can expand upon its current success and optimize efficiency.

 ***Allow managed care plans to permanently assist with eligibility through the Case Assistance Affiliates program.***

By partnering with HHSC as Case Assistance Affiliates, managed care plans have the opportunity to support an estimated 2.7 million Medicaid members who require eligibility review before continuous eligibility ends.

Under this new program, Medicaid MCOs can help Texas families with eligibility challenges such as updating passwords and uploading eligibility documents. Allowing Medicaid managed care plans to permanently assist with eligibility will not only reduce administrative burden on HHSC, but it also allows Texas families to turn to trusted sources for assistance.

 ***Oppose further delays in the Medicaid Preferred Drug List (PDL) carve-in.***

The prescription drug benefit in Texas Medicaid is heavily influenced by pharmaceutical companies, causing higher costs, physician administrative burdens, and delays in access to necessary medications. Allowing managed care organizations to fully manage the Medicaid PDL would improve patient care, save taxpayer dollars, and modernize the Medicaid system.


This implementation has already been delayed 10 years due to pharmaceutical lobbying, and it is crucial that Texas prioritizes the needs of its citizens and the effectiveness of its health care system over protecting pharmaceutical profits. Further delays will harm health outcomes, access to prescription drugs, and efforts to improve patient outcomes, as well as significantly increase Medicaid costs.

States with managed care coordination of drug coverage save 21% compared to states that do not use managed care.

 ***Cover the full continuum of mental health benefits in Medicaid.***

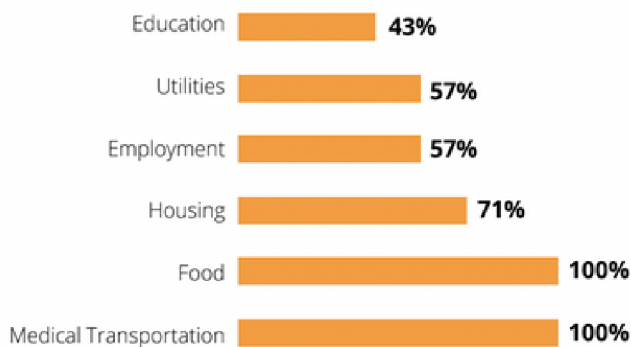
In the private market, parity laws require comprehensive coverage of mental health services. However, Texas Medicaid does not provide the same level of care, leaving a significant gap in coverage for the more than 50% of children in the state who rely on the program.

Medicaid only covers the two extremes of the spectrum of mental health care—therapy or inpatient hospitalization. It does not consistently offer other mental health services, such as home and community-based care. The Legislature attempted to cover these services as optional in lieu of services benefits in 2019, but few have been implemented. Extending Medicaid coverage to include a full range of mental health services will improve access to care for families and prevent the need for more intensive, costly hospital-based treatment.

 **To improve health outcomes and reduce costs, Medicaid should allow coverage options that address non-medical drivers of health and incentivize managed care investment through the existing rate setting processes.**

Non-medical drivers of health, such as food insecurity, social isolation, inadequate housing, and lack of transportation can greatly affect health outcomes and drive up costs. As much as 80% of health outcomes are attributable to these issues.

**Texas Medicaid Health Plans Go Beyond Health Coverage and Address Barriers to Care**



For example, a child with asthma may have frequent ER visits due to a lack of proper ventilation in their home. Texas Medicaid should allow coverage of services that tackle these barriers. Other states have implemented solutions to address these issues, including using existing managed care rate setting processes to incentivize health plan investments.

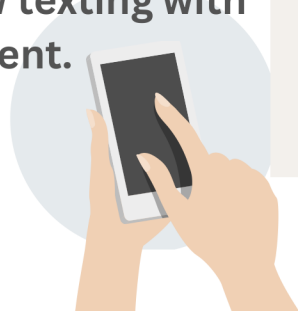
The federal government recently announced that states are allowed to expand coverage for these services through optional in lieu of services. By increasing resources that address non-medical drivers of health, we can anticipate better health outcomes and more cost-effective care.

 **Expand Medicaid texting options to allow Medicaid MCOs to easily communicate with families.**

The current “opt-in” process for texting and email on the eligibility application can be confusing, leading to missed opportunities for important communication. By switching to an “opt-out” option, we can streamline the process and make it simpler for Medicaid families to stay connected with their healthcare providers and stay informed about their coverage.

At least **21 states** already allow texting with implied consent.

**Expanding texting options in Texas is a simple but powerful step that would have a big impact for families all across our state.**



# Strengthen Texas' Health Care Workforce

## The Health Care Workforce Challenge.

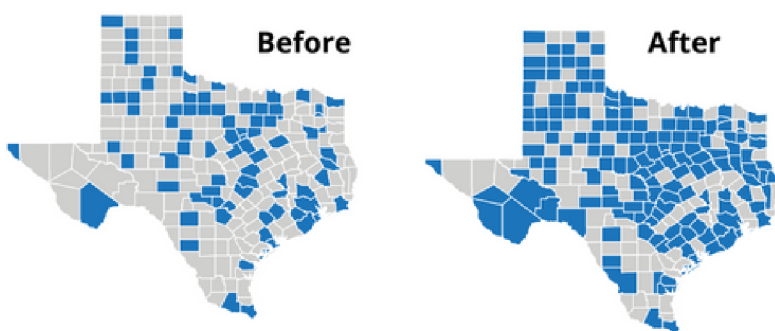
The state of Texas faces a significant shortage of health care workers, including doctors, nurses, and other medical professionals. This shortage was exacerbated by the COVID-19 pandemic, which put a strain on the health care system and highlighted the need for additional workers. The shortage of health care workers leads to longer wait times for patients, reduced access to care, and an overall decline in the quality of care. To address this shortage, the state should implement strategies such as recruiting and retaining more health care professionals, utilizing telehealth, and allowing providers to practice at the top of their license.

### Solutions:

#### **Remove career-long delegation contract requirements for APRNs to increase access to primary care.**

Under current Texas law, Advanced Practice Registered Nurses (APRNs) must sign—and sometimes pay thousands of dollars—for a delegation contract with a physician before they can do the job they have been trained, state-licensed, and nationally board certified to do. More than half of states removed these outdated barriers leading to better access to care. By allowing APRNs to practice independently, without the requirement for physician oversight, the state of Texas can tap into this underutilized resource and increase access to care for patients. This can help alleviate the burden on the health care system and improve overall health outcomes in the state.

#### Eliminating APRN Requirements Immediately Closes Most of the Provider Gap




Texas areas with a primary care shortage

■ shortage of primary care  
■ no shortage of primary care

- **Greater Access:** States with APRN delegation requirements have up to 40% fewer primary care nurse practitioners.
- **Cost Savings:** Florida estimated up to \$44 million in annual Medicaid savings, up to \$2.2 million in state employee health insurance savings, and \$399 million in total health care savings by eliminating the delegation agreement.
- **Better Quality:** A wide body of evidence found nurse Practitioners delivered comparable care and reduced hospitalizations, readmissions, and ED visits.



 ***Increase funding to programs aimed at addressing nursing shortages through additional capacity in nursing schools, increased faculty, and more preceptors.***

The Texas Center for Nursing Workforce Studies projects a shortage of 57,012 RNs by 2032. Limitations on nursing school capacity force Texas to turn away more than 10,000 qualified applicants every year.

 ***Increase community attendant pay.***

Texas is experiencing a shortage of community attendants who provide in-home care for elderly, disabled, and chronically ill individuals. Low wages for these workers leads to high turnover and a shortage of qualified attendants, reducing access to care and lowering the quality of care. Increasing wages for community attendants in the Texas Medicaid program can help attract and retain more qualified workers, improve access to care, and reduce the burden on the health care system. It can also improve overall health outcomes.

 ***Reduce barriers to care through expanded telehealth options and allow health insurance networks that utilize telehealth as a key feature.***

Telehealth has become an increasingly important tool in the delivery of health care services, particularly in light of the COVID-19 pandemic. Nearly 40% of mental health visits continue to be provided through telehealth. However, the use of telehealth is still limited in Texas due to a variety of regulatory and logistical barriers. Expanding access to telehealth and increasing telehealth flexibility in Texas could help address health care workforce shortages and improve access to care for patients in underserved or rural areas.

For example, Medicaid families should have the personal option to use telehealth for service coordination visits and ongoing assessments. Texas could also expand telehealth by making it easier to use across state lines, relaxing restrictions on its use for network adequacy, and continuing to invest in infrastructure. However, Texas should avoid adopting health insurance telehealth parity payment mandates that hinder innovation and new payment models. These mandates require insurance plans to pay the same amount for telehealth as in-person services, which can create financial disincentives for insurers to create innovative new payment models.

 ***Allow MCOs more flexibility for Medicaid service coordination that best fits a member's unique needs.***

Service coordinators connect members to services beyond doctor's visits. They help with transportation, housing, meals, and navigating challenges at school and work. Service coordinators do not provide hands-on medical care. Allowing managed care organizations the flexibility to utilize various types of service coordinators with differing licensure and training will reduce costs and help maximize the available nursing workforce.

# Surprise Billing Loopholes in Texas Lead to Costly Arbitrations


## Surprise Bill Challenges Still Remain.

For decades, surprise bills trapped patients with unexpected medical costs from out-of-network services, even though patients had no choice. Texas led the way with its surprise billing law and Congress passed a federal ban on surprise billing through the No Surprises Act. However, Congress learned from states like Texas and removed loopholes that result in abuse of the dispute resolution process. However, the state law still applies for state-regulated insurance plans. For these plans, the incentives for abusive pricing and dispute resolution practices have not been addressed, resulting in policies that drive up the overall cost of coverage. Texas should align the state’s surprise billing rules with federal law to maximize patient protections and lower costs.

### Solutions:

 ***Cut billed charges from the set of factors that can be considered during arbitration for surprise bills.***

Billed charges are inflated prices that don’t reflect what anyone actually pays. As one researcher noted, “Billed charges are effectively just made up.” Studies show taking billed charges into account during arbitration only incentivizes providers to make up higher and higher numbers. A new report by the Texas Department of Insurance found that average billed charges in arbitration increased by threefold from 2020 to 2022 resulting in final arbitration amounts more than doubling during the period. These costs ultimately drive up health care spending for businesses and families.

 ***Create a cooling off period following arbitration that allows time for the results of the process to affect networks and removes incentives to stay out-of-network.***

Texas has experienced a flood of dispute resolution requests, nearly 12,000 each month in the first part of 2022. Through June 2022, arbitration overuse has led to over \$75 million in new fees passed down to businesses and families.

Requiring a “cooling off period” similar to that in the federal No Surprises Act will encourage parties to negotiate in-network agreements for timely payments instead of avoiding networks in order to take advantage of an unbalanced dispute resolution process. Private equity backed physician staffing firms should not be allowed to use arbitration as a profit strategy and business model.

# Reduce Health Care Waste and Unsafe Care

## Patients Are at Risk.

From overtesting and overdiagnosis to overtreatment, health care waste and unsafe care contribute not only to patient harm but also to unnecessary costs. According to a 2019 study in JAMA, the estimated annual cost of waste in the U.S. health care system is upwards of \$935 billion, accounting for nearly 25% of total health care spending.

A 2018 report to Congress found that a significant percentage of patients received low-value care, resulting in between \$2.4 billion and \$6.5 billion in Medicare spending in 2014 alone. Physicians have reported that at least 15-30% of medical care is unnecessary or unsafe. Doctors and clinicians provide important care and life-saving treatment and agree that we all need to work together to avoid care that is inappropriate, unnecessary, and more costly. That’s what prior authorization helps deliver. By having a 360 degree view of a patient’s medical history, health plans can help ensure that medications and treatments are safe, effective, and affordable for patients.

Health plans are committed to reducing unnecessary burdens. However, efforts to limit or eliminate the use of prior authorization or post-utilization review negatively affect affordability, safety, and quality for everyone. By focusing on reducing waste and enhancing safety, we can ensure that Texans receive the high-quality care they deserve.

**PA provides critical safeguards to prevent inappropriate treatment.**

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## Solutions:

 **Ensure that health plans are able to review for appropriateness, fraud, waste, and abuse before and after care has been delivered.**


Prior authorizations and post-utilization reviews help plans hold providers accountable for fraud, waste, and abuse. Efforts to severely limit or eliminate the use of prior authorization and post-utilization review negatively affect affordability and safety for everyone.

 **Allow issuers to hold providers accountable for all fraud, waste, and abuse, even if they have an exemption from prior authorization requirements.**

Currently, health plans are not allowed to hold “gold-carded” providers accountable for the full Texas Penal Code definition of fraud, waste, and abuse. Allow issuers to hold providers fully accountable for all fraud, waste, and abuse, even if the provider has a gold card.

 **Maintain TDI’s long-standing precedent of allowing insurers to utilize physicians with administrative medical licenses for conducting prior authorization.**

Practicing physicians and those working in administrative roles have the same training but serve different and important roles in care delivery. If physicians with administrative licenses are suddenly prohibited from reviewing prior authorizations, it would effectively put an end to prior authorization and utilization review in Texas.

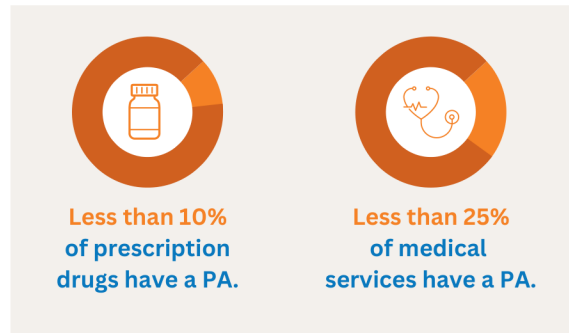
 **Ensure prior authorizations always happen for the riskiest procedures, including dangerous drugs and the likeliest opportunities for abuse.**

Some types of care are especially risky, such as opioid prescriptions, other controlled substances, and drugs with black box label warnings. No provider should have exemptions for the most dangerous medical procedures and prescription protections.

**Patient care  
should be  
appropriate.**

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 **Strengthen and prioritize enforcement of current anti-fraud laws and expand Texas’ efforts to hold providers accountable for fraud, waste, and abuse—especially in the private market.**

Although the prevalence of fraud in the commercial market is estimated to be 50% greater than in the Medicaid program, the state has not prioritized the elimination of fraud in the private market. Texas should strengthen and prioritize enforcement of current anti-fraud laws in the private market.



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