



Health Insurance 101

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The Texas Association of Health Plans

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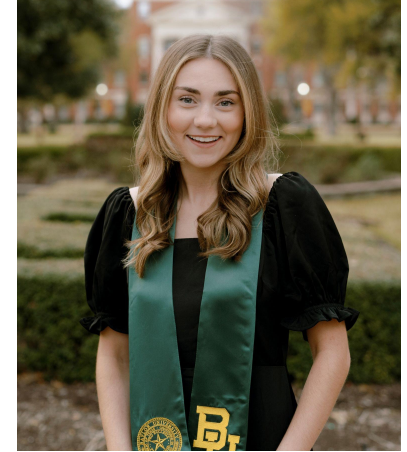
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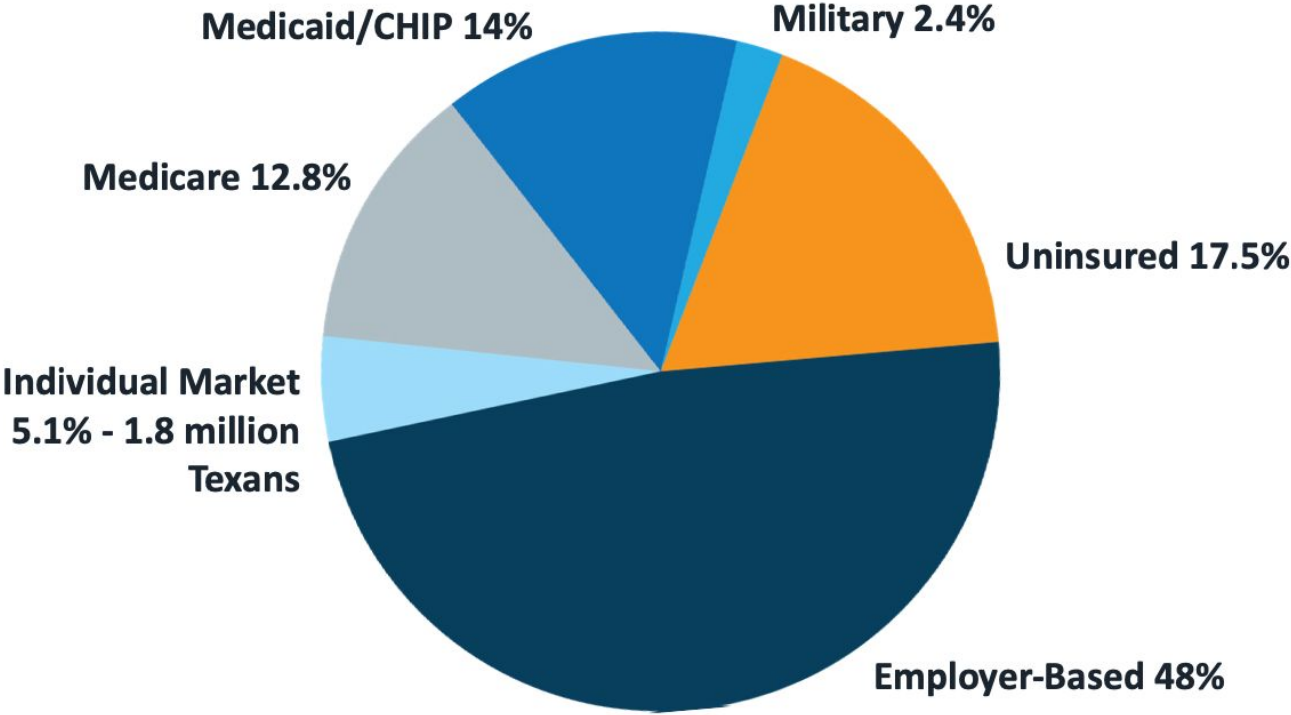
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The Value of Coverage

Research shows that individuals with health insurance coverage have better health outcomes and access to care than those without

- ✓ People with health insurance are on average healthier, have their own doctor, and receive important preventive health care services
- ✓ People with health insurance are also better off financially because they are protected in the event of a serious illness or injury, and far less likely to postpone health care or forgo it altogether
- ✓ New mothers who have consistent access to Medicaid and private insurance coverage have [healthier babies and lower mortality rates](#)
- ✓ Children with coverage [do better in school, miss fewer school days](#), are more likely to finish school and achieve higher education, have fewer ER visits as adults, and have higher earnings potential
- ✓ Uninsured patients have an increased risk of being diagnosed at later stages of diseases and have higher mortality rates

Texas Health Plans Cover More Than 20 Million Texans

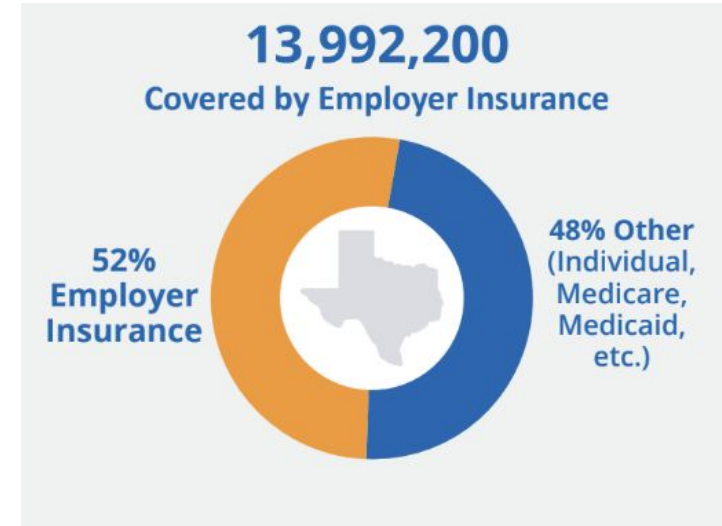


Health insurance helps keep families and communities healthy through:

- Medicaid
- Medicare
- Tricare
- Individual
- Employer

Employer Based Coverage – 14 million Texans

- Health plans partner with Texas employers large and small to provide comprehensive health coverage to hardworking families.
- 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.



How Insurance Works?



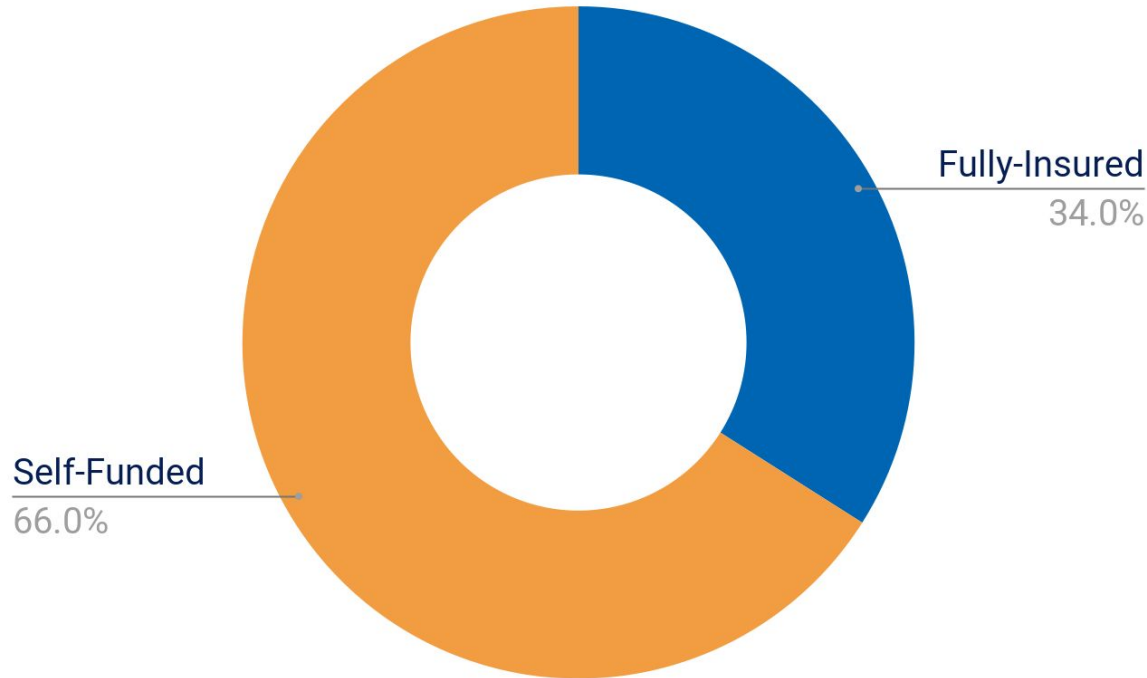
What is Insurance?

Fully-Insured: An employer, family, or individual purchases coverage from a health insurer and pays a **fixed monthly premium** for the year

- In return, the health insurer assumes **financial risk** for medical claims based on the amount of coverage purchased
- Governed by **state state insurance laws**, with some regulation at the federal level by the Centers for Medicare & Medicaid Services (CMS) as a result of laws including the Health Insurance Portability and Accountability Act (HIPAA) and the Affordable Care Act (ACA)
- **Examples:** All of individual market, Medicaid managed care, and Medicare Advantage and some employer coverage

“Insurance” is Only 34% of Employer Coverage

Types of Employer Coverage



What is the other type of main coverage?

What is Self-Funded Coverage?

Self-Funded Employer Coverage: The employer assumes the financial risk for providing health care benefits to employees (the “plan sponsor”) instead of paying “premiums” to the insurance carrier, they are paying the actual claims as they arise (usually through a licensed TPA or insurer acting as an administrator)

- In most circumstances, a health insurance provider delivers administrative services and stop-loss coverage to protect against catastrophic loss
- Self funded plans are governed by federal law, under the **Employee Retirement Income Security Act of 1974 (ERISA)**
- Most oversight is conducted by the U.S. Department of Labor’s Employee Benefits Security Administration (EBSA), with some by the Centers for Medicare & Medicaid Services (CMS) and Internal Revenue Service (IRS)
- **Also often referred to as self-insured or ERISA coverage**

What is ERISA and the ERISA preemption?

Most employer group health plans are regulated under ERISA even if they administer benefits through state-licensed insurers

- ERISA's "preemption clause" voids state laws to the extent that they "relate to" employer-sponsored health plan
 - BUT the preemption provision includes an important exception that allows states to continue to regulate "the business of insurance"
 - 34% of private employer coverage
- The **ERISA "deemer clause" prohibits states from regulating plans that are self-funded** (they are not "the business of insurance")
 - State insurance laws do not/cannot apply to self-funded ERISA plans (they are preempted)
 - Ex: State Mandates can only apply to fully insured and state/local government plans
- ERISA laws do not apply to local government or state plans (like ERS)

Why Does The ERISA Preemption Matter?

- ERISA is designed so that the health and benefit plans offered by large employers around the country only have to comply with one set of federal rules
- ERISA preemption accomplishes this goal by preventing every local and state jurisdiction from imposing its own costly regulations, mandates, and preferences on employers who offer such plans
- The intent of this broad preemption provision is to encourage employers to offer their employees benefit plans
- **This has worked** – 98% of Texas large employers provide coverage to their employees

Back to “Insurance”: What are the Types of Insurance Markets in Texas?

Individual Market:

- Purchase health coverage directly from an insurance company, through an agent or broker, or in the federal marketplace (exchange aka [healthcare.gov](https://www.healthcare.gov))
- Can cover the individual only or can include a spouse and dependents

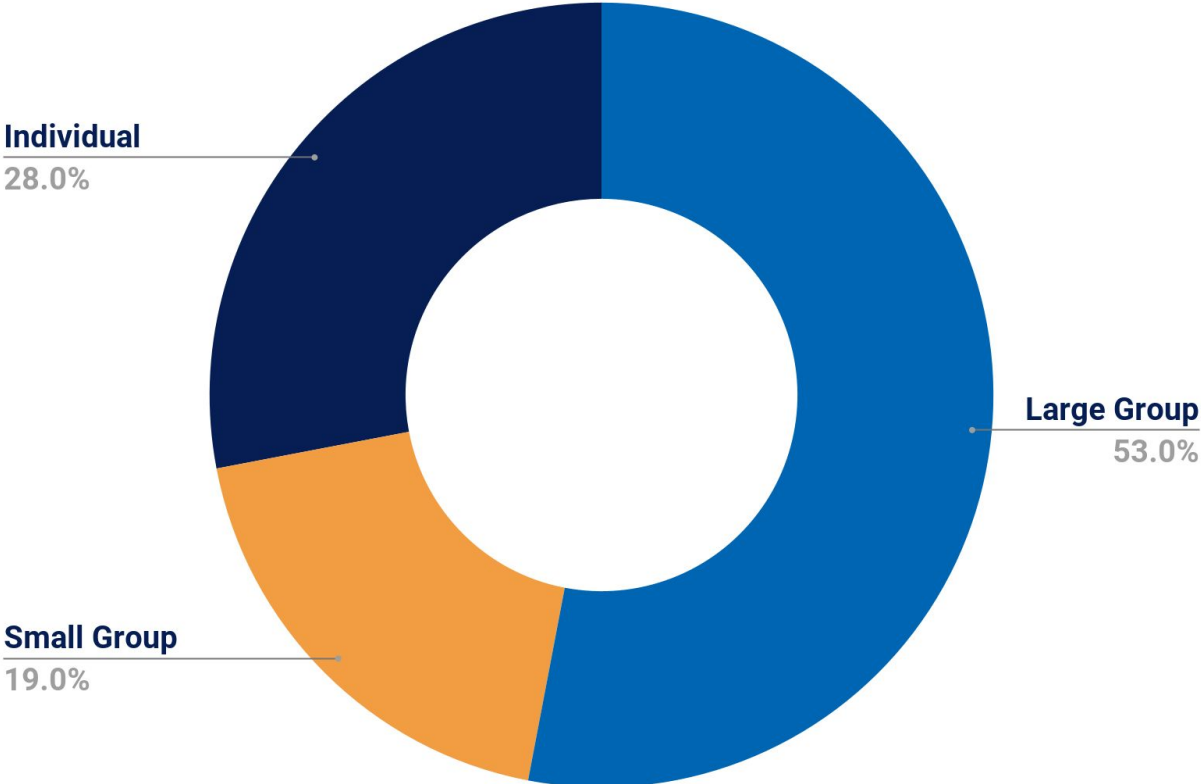
Small Group:

- Small-employers between two and 50 employees
- Full-time employees (those who work 30 hours or more per week) or to both full-time and part-time employees, as determined by the employer.
- No lifetime or annual dollar limits on coverage, no denials because of preexisting conditions or health history

Large Group:

- Large-employer plans are offered by businesses with more than 50 employees
- No lifetime or annual dollar limits on coverage, no denials because of preexisting conditions or health history
- Full-time employees or to both full-time and part-time employees, as determined by the employer.

Main Source of "Insurance" Coverage is Employers



What are the Health Insurance Products in Texas?

PPO

- Most Purchased
- Higher Premiums
- Out-of-Network Benefits
- Referrals not Required
- Large/Small Group

HMO

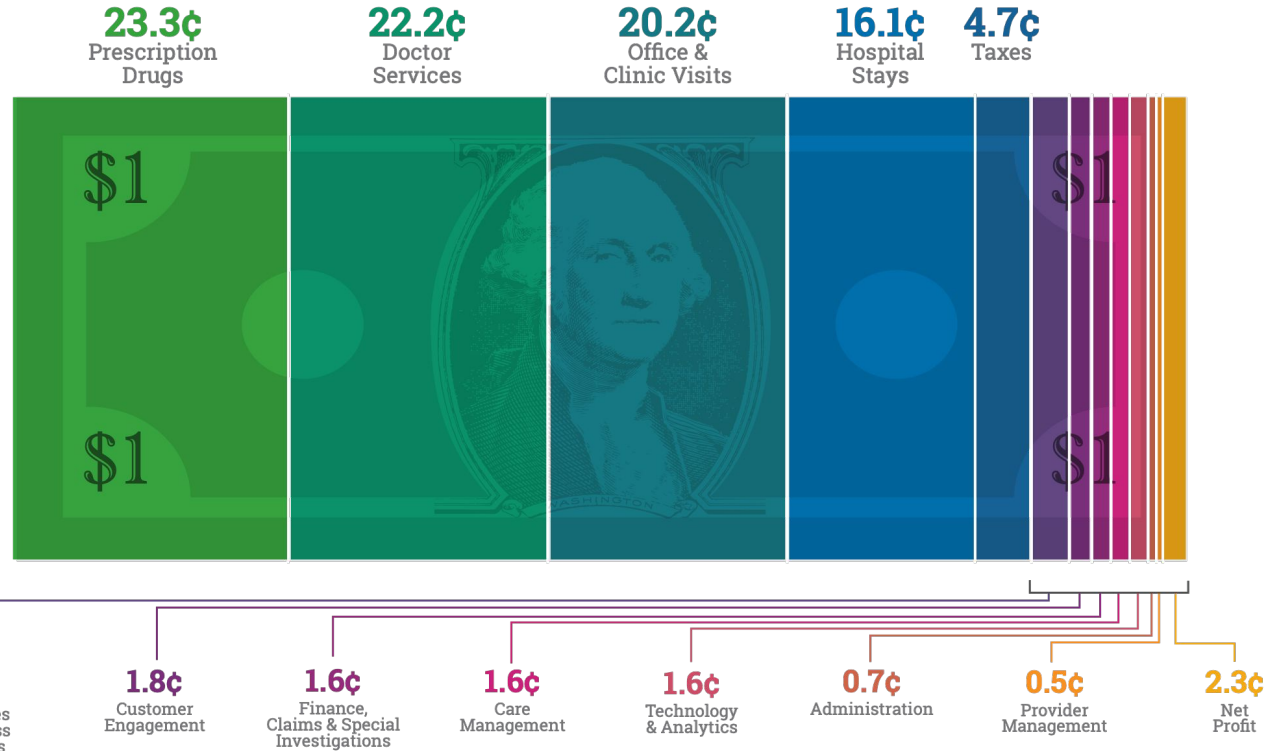
- No Out-of-Network Benefits (Except ER & When Network Provider not Available)
- May Include PCP Referrals
- Individual Market

EPO

- No Out-of-Network Benefits (Except ER & When Network Provider not Available)
- No PCP Referral Requirement
- Individual Market

How Do Insurers Spend Premiums?

- Vast majority of premium dollars** go to direct health care costs (80%-85% MLR requirement)
- Health plans' profits and overhead (MLR) are always capped**, which means Texas consumers and businesses are always protected



Texas Has A Competitive Health Insurance Market

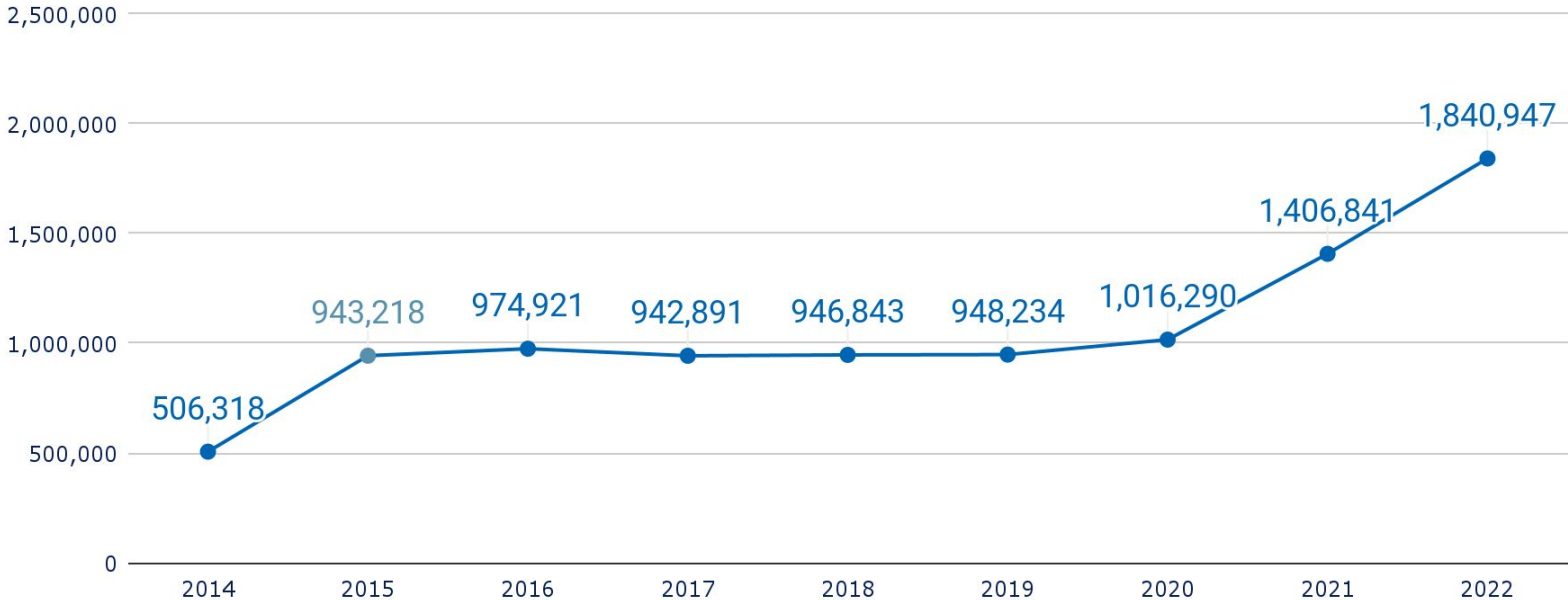
The individual market provides affordable, high-quality health care for hardworking Texans who buy coverage on their own. Through the Marketplace, health insurance providers compete to provide Texans with coverage that protects their health and financial security.

- **Competition among health plans continues to increase in Texas.** The number of plans serving Texas in the Marketplace, more than any other state: **15 for 2023**
- In 2021, **86%** of Texans had a choice of **3 or more health plans**
- Average monthly premium after tax credits: **\$86**

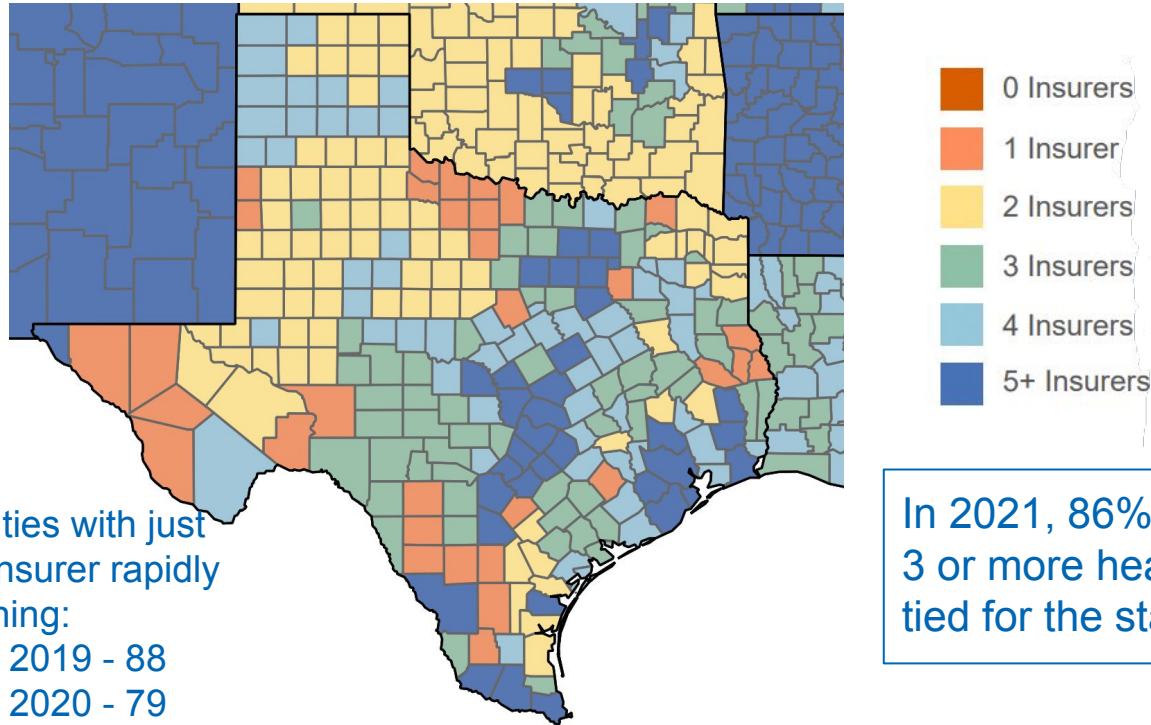
When affordability improves, coverage expands. Coverage in the individual market is working. A record high 1.84 million Texans signed up for coverage in 2022—an 80% increase in 2 years thanks to increased ARPA tax credits.

Some Good News – Texas Marketplace Enrollment

Texas Marketplace Enrollment Hits a Record for 2022



Texas Has a Competitive Health Insurance Market



Counties with just one insurer rapidly declining:

- 2019 - 88
- 2020 - 79
- 2021 - 37
- **2022 - 32**
- **2023 - 28**

In 2021, 86% of Texans had a choice of 3 or more health plans and Texas is tied for the state with the most insurers

Health Insurance Patient Protections

- **Guaranteed Issue for Individual Plans (ACA)**
During annual open enrollment and defined special enrollment periods
 - No discrimination based on gender or pre-existing conditions or health status in eligibility, benefits, or rate (ACA)
- **Guaranteed Issue for Small Employer Groups (ACA and TIC)**
 - No discrimination based on group size, gender, or pre-existing conditions or health status in eligibility, benefits, or rate (ACA)
- **Guaranteed Renewal**
 - Benefit changes only at annual plan renewal with advance notice
 - Withdrawal from market results in 5-year ban on selling in TX
- **Essential Health Benefits (ACA and TDI)**
 - Mandated benefits for (non-grandfathered) individual and small employer group plans
 - Standard Summary of Benefits required

Extensive Insurance Regulations in Texas

Insurance Companies and HMOs are Licensed and Heavily Regulated:

- Policy forms must be filed and approved by TDI and CMS prior to use
- Rate filings with TDI and CMS required
- Annual actuarial certifications required for rates
- Regular TDI exams
- Advertising, marketing, and agent regulations apply
- Financial solvency requirements
- Annual filing of audited financial reports required
- Guaranty fund assessments and protections against insolvency
- Annual and quarterly statement submissions required
- Corporate governance annual disclosure filing required
- Biographical affidavits and fingerprints for officers and directors required

Health Insurance is Heavily Regulated in Texas

- TDI has adopted the strongest **network adequacy requirements** in the U.S.
 - All plan networks must be adequate regardless of size or type of product
 - Annual network maps/access plan filed annually for approval
 - Quantitative standards: Mileage/distance (geographic) and appointment availability (wait time) requirements
 - Only 23 states have one or more quantitative standards – Only 11, including Texas have two or more quantitative standards
 - Of all the states, only Colorado and Texas have such thorough requirements
- **Provider directories must be public** and electronically searchable
 - List by group/specialty/accepting new patients/facility-based providers for each hospital
 - Required ongoing review, update monthly, correct errors w/in 7 days
 - Health plan must treat as INN if enrollee relies on error in directory

Health Insurance is Heavily Regulated in Texas

- **Out of Network Protections**

- Out-of-network “surprise” balance billing prohibition
- Right for enrollees with pregnancy or acute or life-threatening condition to **continue seeing a provider as in-network** after termination from network

- **Health Plan Price Transparency**

- Must submit all claims to All Payer Claims Database
- Must post machine readable files of all negotiated rates on their website
- January 2023 real time cost calculators for patients
- Health plans must **provide estimates of out-of-pocket costs** upon request

- **Highest U.S. Penalty for prompt payment of claims** – Only state that requires health plans to pay full billed charges instead of interest penalty

- **Extensive complaints and appeals processes**

Health Insurance is Heavily Regulated in Texas

Strongest Prior Authorization protections in the U.S.

- Must be processed by a doctor licensed in Texas
- Only state that mandates gold carding for all services at 90%
- Most PAs required to be processed in Texas within 3 (calendar) days
 - Shortest time frame in the U.S.
- Other state PA's start when all information is received – Texas timeline starts with the first request regardless of missing information
- All PA criteria must be based on evidence-based care developed and adopted by the medical community
- Prohibits PA for emergency care, stage IV cancer drugs
- Required to be transparent and posted on health plan websites
- Provides extensive rights to appeal to an independent physician
- PA approvals cannot be reversed

Health Insurance is Heavily Regulated in Texas

Texas Has the Strongest Formulary and Step Therapy Protections

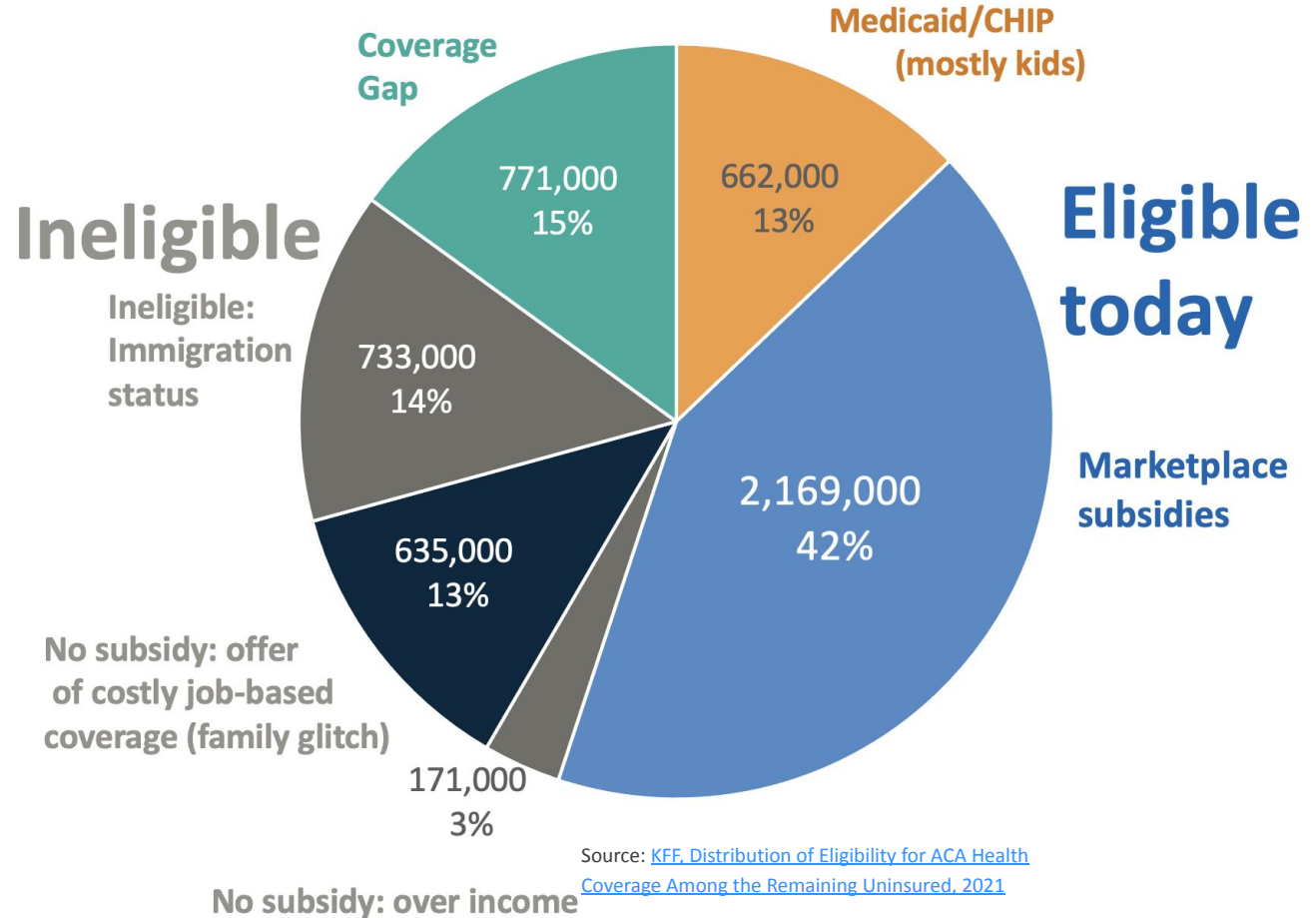
- Formulary must be transparent and posted on website
- Frozen Formulary – state law already prohibits changes within a plan year (Only three states mandate this)
- If you're stable and your physician feels that an alternative would be less effective, you get to stay on the drug permanently, regardless if you change plans or start a new benefit year – Exceptions include:
 - If you're already on another drug and stable.
 - If your doctor says the new drug isn't in your best interest, could cause a bad reaction, likely won't work, or could create mental or physical harm.
 - If you ever at any time tried the drug and it didn't work or caused a bad reaction.
 - If your doctor thinks you're unlikely to take the new drug or it could worsen a different condition.

Who are the Uninsured?

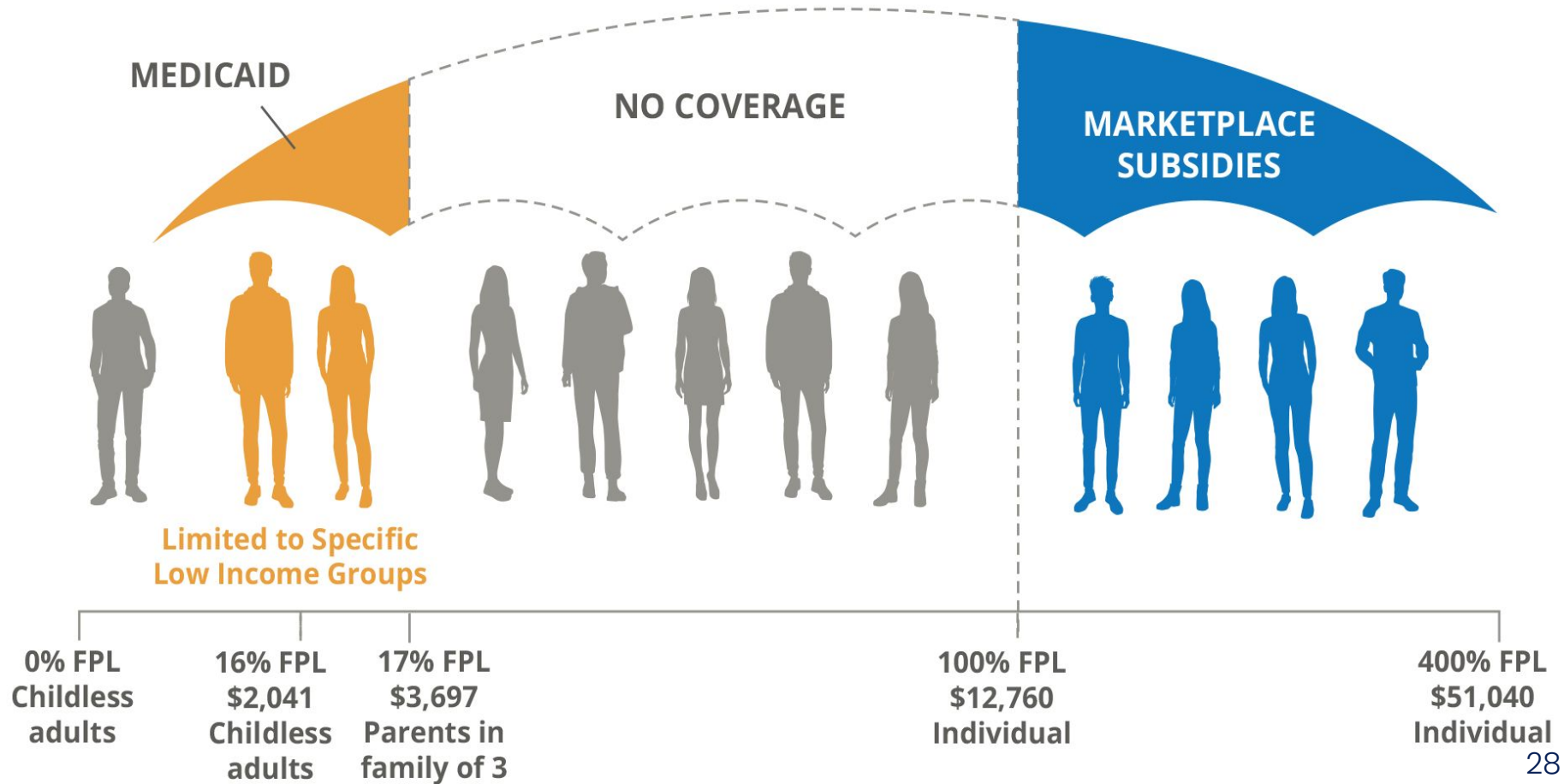


Coverage Eligibility for Texas Uninsured

- Roughly **5 million Texans** are uninsured.
- **Texas has the nation's highest uninsured rate—about 18%** in 2021, compared to the national average of 8.6%.



What is Medicaid Expansion: Addresses Coverage Gap



Increasing Coverage Access Is More than Medicaid Expansion

- **42%** of uninsured Texans are eligible for very affordable private market coverage (marketplace subsidies), but over 70% are not aware they are eligible
- **13%** of uninsured kids are already eligible for Medicaid/CHIP coverage
- **13%** of uninsured Texans are in the family glitch – Recently been fixed
- **56%** of uninsured Texans are part of families that include one full-time worker
- **98%** of large employers in Texas provide coverage, but **only 50% of small businesses** do – small employer coverage has declined by 17% in the past 20 years
- **Over 50%** of uninsured Texans cite employment as the main reason they are uninsured – Top reason Texans blame on being uninsured is currently not being employed (30%) – second reason is their employer does not provide coverage (27%)

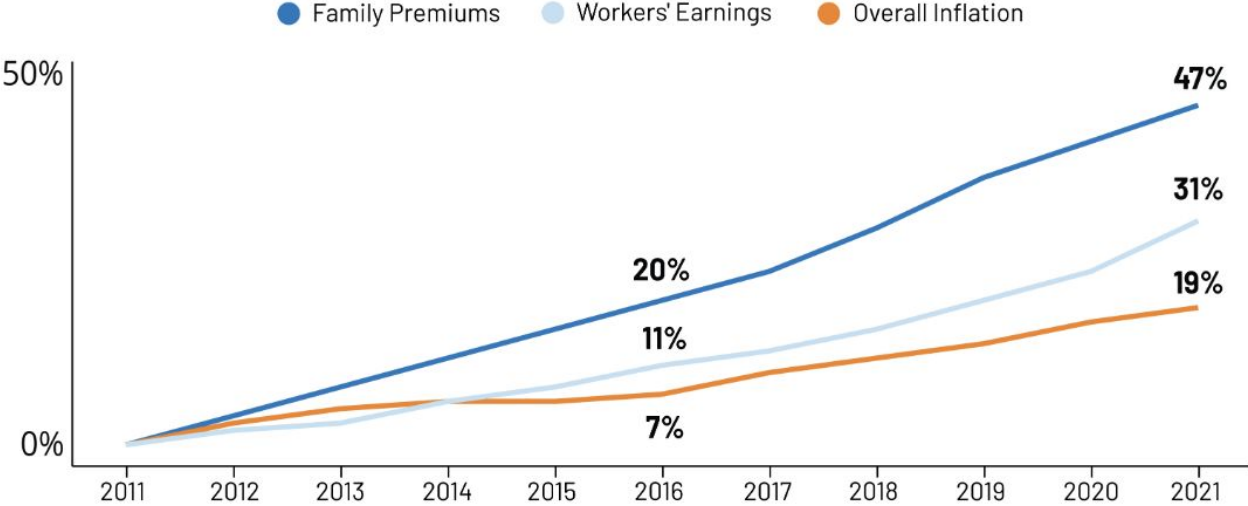


Biggest Threat to Coverage: Costs

Health Care Costs are the Biggest Threat to Coverage

Annual family premiums for employer-sponsored health insurance rose 4% to average \$22,221, according to the 2021 benchmark KFF Employer Health Benefits Survey.

Over Time, Family Premiums Have Risen Faster than Wages and Inflation

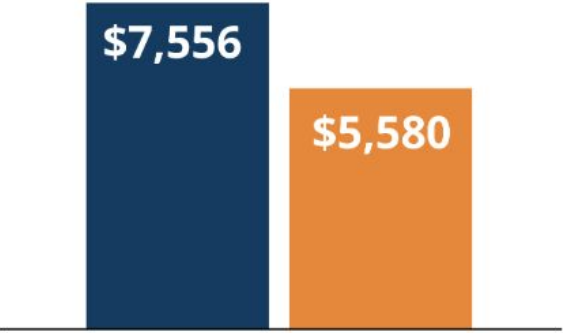


Health Care Costs are the Biggest Threat to Coverage

Workers at Small Firms Pay More in Premiums and Face Higher Deductibles than Workers at Large Firms

● Small Firms (3-199 workers) ● Large Firms (200+ workers)

Average annual worker contribution to family premiums



Average single deductible:



What's Driving Spending in Private Market & What Can Be Done

7 Factors Driving Spending

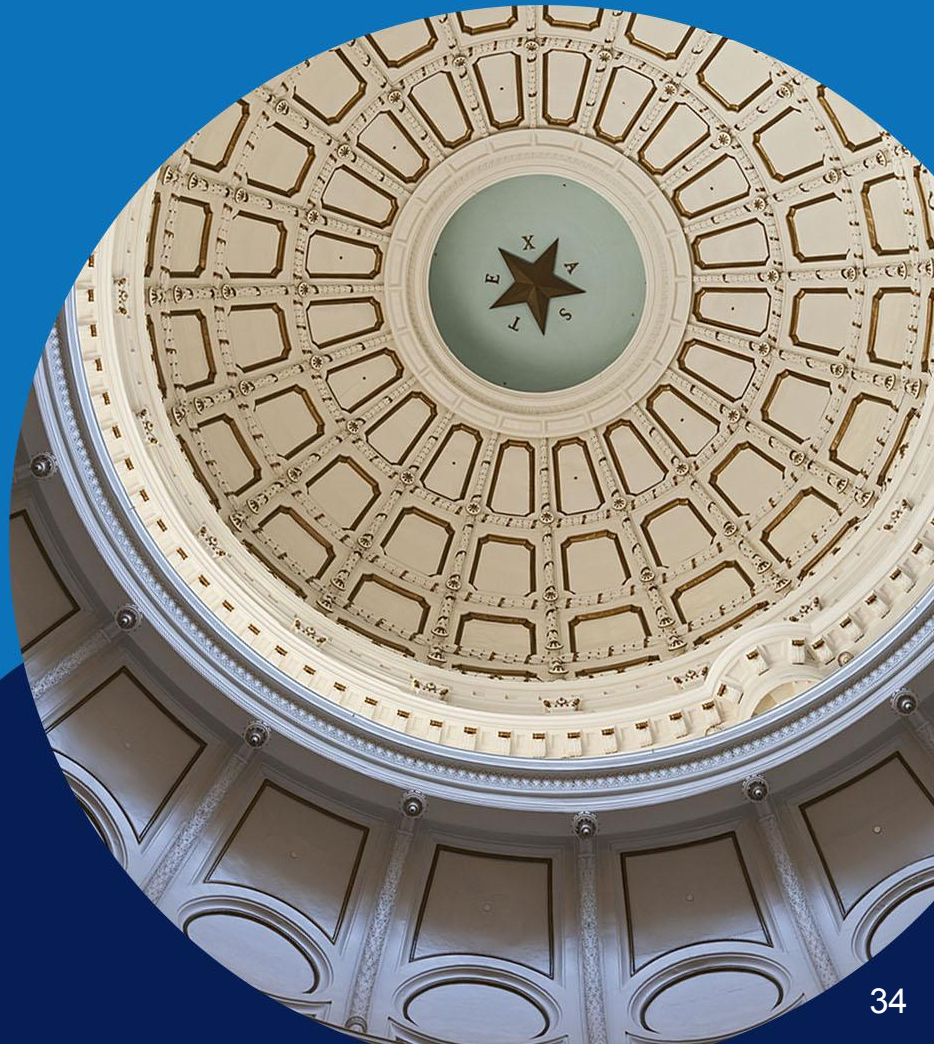
1. Private Equity Involvement
2. ER Prices & Utilization
3. Hospital Consolidation & Markups
4. Price Gouging through Hidden Fees
5. Prescription Drug Costs and Overutilization
6. State Regulations that Limit Benefit Designs and Innovation
7. State Mandates that Increase Spending



Health care price increases alone are responsible for more than 75% of the growth in the private market seen in health care spending over the past decade. (not utilization, not technology, not patient health)

[Source: Health Care Cost Institute 2021](#)

**Mandates: Let's
have the talk.**



What is a mandate and why should you care?

Mandates are legislation that require Texas employers and individuals to pay more for their health insurance coverage by forcing insurance companies to:

- **Pay for extra benefits & extra regulations above the Affordable Care Act**
- **Pay higher prices**
- **Contract with more expensive providers**

The result is more expensive health insurance, often with no additional value for Texans and Texas employers.

What's worse?

The Legislature typically exempts their own personal health plan through ERS and other state-funded coverage because of the costs, but passes these costs on to employers. For example, last session, these state health plans were pulled out at the last minute from new expensive pharmacy mandate requirements.

We oppose mandates and over regulation that:

- The Legislature is not willing to pay for in ERS and TRS
- Increases the cost of coverage without adding real value
- Isn't evidenced-based and backed by the medical community
- Rewards price gouging and forces higher prices
- Stands in the way of lower prices for patients
- Doesn't address a problem or is already being covered
- Stops insurers from protecting against fraud, waste, and abuse
- Limits flexibility of benefit design for employers
- Narrows coverage options for employers and families

Bad Mandate Example: White Bagging Prohibition

Hospital and Physicians are excessively marking up the price of drugs: The most expensive drugs are often those provided at a hospital or doctor's office. Lately hospitals & cancer centers are marking up drugs at excessive amounts—200% on average and as much as 634% for cancer drugs. By comparison, Medicare allows a 6% markup.

Health Plans are trying to bring in lower cost competition: Health plans leverage lower cost specialty pharmacies to fight back against these excessive markups to lower prices for Texas patients. Specialty pharmacies deliver medications safely but affordably to hospitals and cancer centers. This competition lowers the price of the exact same drug for patients.

Savings: Massachusetts found that bringing in lower cost drugs lowered prices on some medications up to 38%.

How much? Hospitals mark up some medicines by 250% on average



By [Ed Silverman](#)  Jan. 20, 2021

[Reprints](#)



As Americans grapple with the rising cost of prescription drugs, a new analysis found that some hospitals mark up prices on more than two dozen medicines by an average of 250%, underscoring the incentives to use more expensive brand-name treatments than lower-cost biosimilars.



Apr 19, 2022 - Health

Hospitals' massive cancer drug markups



Caitlin Owens

AXIOS



The prices that private insurers agree to pay hospitals for cancer drugs are often at least double what the hospital paid to acquire the drugs, according to a new study in [JAMA Internal Medicine](#).

What they found: Median price markups ranged 118% to 634% above the estimated acquisition cost. Prices varied widely between cancer centers and even between payers within the same center.

"Hospitals may earn greater revenue per unit from cancer therapies than the pharmaceutical companies that manufactured them," the study's authors conclude.

Bad Mandate Example: White Bagging Prohibition

The mandate: Stops health insurers from utilizing lower cost drugs from outside specialty pharmacies through a new mandate that prohibits the use of this “white bagging” policy. Mandates that health plans and patients have to pay the excessive prices set by hospitals and physicians.

The Problem : TAHP opposes this mandate, because it forces plans and consumers to pay higher prices. There is no patient benefit and no medical evidence. There are clear signs of price gouging. Any “concerns” are manufactured to masquerade the true intent to protect price gouging.

The mandate stops health plans from getting patients access to lower cost medications.

Bad Mandate Example: Permanent Formulary Freeze

What's a formulary? Health insurers use formularies to get the best deals on drugs for employers and families and incentivize patients to use lower cost options.

One Year Formulary Freeze Today: In Texas, the formulary can't change during your plan year, even when a new cheaper or better drug comes out. Only three states have this mandate.

More Patient Protections: Texas has extensive rules that let you skip steps in the formulary if your doctor recommends it. Patient groups called these regulations "among the strongest in the nation."

If you're already on a prescription drug and stable, could you be forced to change drugs by your health plan? No. Under state law, if you're stable and your physician feels that an alternative would be less effective, you get to stay on the drug permanently, regardless if you change plans or start a new benefit year.

Bad Mandate Example: Permanent Formulary Freeze

What's this new mandate? Under a permanent “formulary freeze,” plans will have to continue coverage of a drug, at the same co-pay or coinsurance level, even if the price increases or if a more affordable, more effective, or even safer option comes out.

Are other states doing this? Not a single state has this extreme and costly mandate.

Who wins under the bill? Pharma stands to gain from a formulary freeze because once they have a patient hooked on a drug, they'll be immune from competition from lower cost alternatives.

Who loses? Employers and families paying premiums would see increased costs of \$481 million over \$5 years. San Antonio would pay an additional \$3 million and \$2 million for Dallas employees. TRS would owe \$70 million more per year.

Permanent Formulary Freeze: One Example of How it Would Disrupt Competition

Hepatitis C Example:

- When Sovaldi first came on the market in the US, the price for a course of treatment was \$84,000.
- Today, there are three competitors to Sovaldi and its price is down to \$28,000 for a course of treatment.
- One new competitor drug is priced at \$26,400—an almost 70% reduction from the original Sovaldi price.
- With a permanent formulary freeze, the Sovaldi price could remain on the formulary at its current coverage level and be protected from competition from these lower cost alternatives.

Bottom Line: Texas already has extensive patient protections that almost no other state has and that don't apply to TRS/ERS. This mandate rewards pharmaceutical price gouging and isn't a problem in the market today.

Mandate Case Study: HB 1919 Higher Priced Prescriptions

What's the mandate: Under the law, health insurers can't do their jobs and help people find the lowest cost pharmacy option if that pharmacy is affiliated with their insurance.

Texas lawmakers knew how expensive this bad idea is so government funded health plans for state employees and teachers were carved out of the law. The cost to TRS alone would have been \$70 million for the biennium.

HB 1919 will raise spending on prescription drugs in Texas by \$350 million in the first year alone and will increase the cost of drug coverage by \$4.4 billion over ten years. Last year, Texas had premiums increase 13% while the national average was flat.

How's innovation impacted: New plans entering the market are realizing they can start their own pharmacies to save costs, but the new law still forces them to contract with more expensive outside pharmacies.

California Vetoed the Law saying it would interfere with coordinating care and containing costs.

Texas Has a Mandate Problem

- In recent sessions, employers have faced a flood of filed and passed mandates that increase the cost of coverage, last session was a new high-water mark
- **3rd in the nation:** Texas has more mandates above the Affordable Care Act than almost any state.
- This interference in the private market makes it harder for employers to stand out in a competitive job market
- Small business owners in Texas rank the [cost of health insurance as their single biggest problem](#) every year since 1986.
- The last thing we need are more mandates that increase the cost of care, especially mandates that force health plans to pay higher prices

Texas Employers Need More—Not Less—Control Over Health Care Costs

- According to Texas employers, health care is the most important benefit for attracting and retaining employees.
- But health care costs are too much, and Texas employers blame health care prices and mandates.
- **87%** of Texas employers say that health care costs are rising at an unsustainable rate.
- **78%** of Texas employers rank health care costs as one of the top issues affecting their business.
- **77%** of Texas employers agree that the legislature should give employers more flexibility to contain costs.
- **Three-quarters** of Texas employers say they oppose legislative mandates that interfere with how they design benefits for employees.
- **Nearly 60%** of Texas employers want the option to purchase insurance that has fewer mandates.

More Affordable Coverage Solutions

- ✓ **Avoid new mandates and over regulation** that raise the cost of coverage
- ✓ **Texas lawmakers shouldn't pass mandates** that don't apply to their own personal health insurance and state-covered health plans (ERS and TRS).
- ✓ **Protect ERISA flexibility** – Oppose any legislative attempts to add costly mandates on self-funded (ERISA) employers
- ✓ **Build more affordable coverage options** that avoid over regulation and mandates. Allow insurers to sell mandate-lite coverage through “Consumer Choice of Benefits” plans, which are more affordable for employers and families.
- ✓ **Require a fiscal review for new mandates:** Before approving a new mandate, other states have processes to carefully review the full impact of mandates on businesses and families

Questions?

