

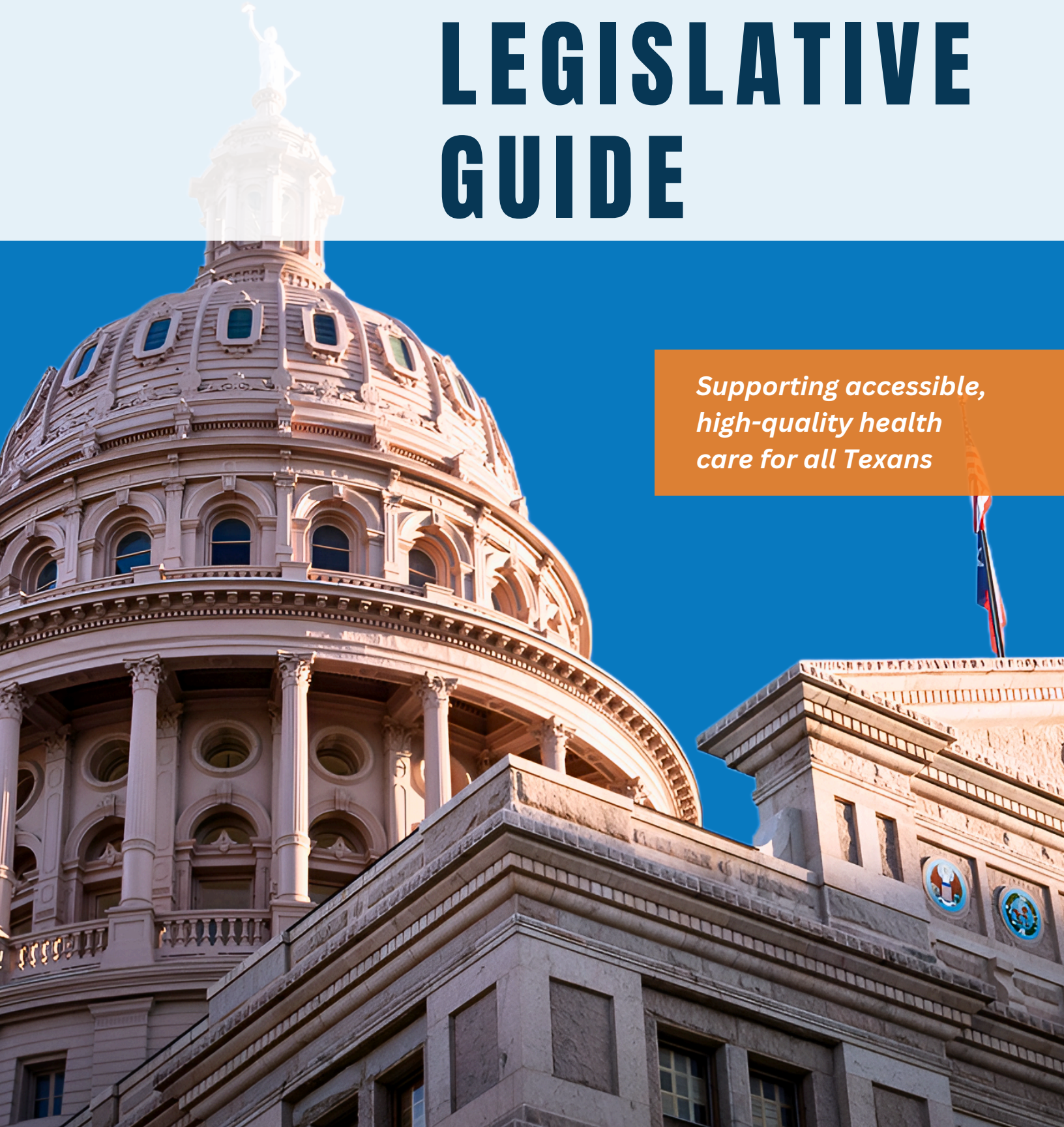
TAHP

The Texas Association of Health Plans

89TH TEXAS LEGISLATURE

LEGISLATIVE GUIDE

*Supporting accessible,
high-quality health
care for all Texans*



Welcome

For over 30 years, the Texas Association of Health Plans (TAHP) has worked towards a healthy Texas. Our member health plans provide reliable coverage for over 20 million Texans, a testament to the vital role health insurance plays in safeguarding families and communities. Coverage does more than pay medical bills - it ensures access to preventive services and life-saving treatments, protects against financial hardship, and promotes healthier lives for all Texans.

Texas now has an unprecedented opportunity to strengthen health care access and affordability. Lawmakers continue to place a spotlight on mental health, and we are helping them build on the success of Medicaid managed care to continue to improve quality and efficiency. Meanwhile, the individual market is thriving, with more insurers competing here than in any other state.

Despite these positive developments, we still face serious challenges. Our health care workforce is stretched thin, health care prices are out of control, small businesses often struggle to provide coverage, and nearly five million Texans remain uninsured. Employers and families are calling for more innovation and flexibility, but outdated insurance regulations frequently stand in the way of cost-effective solutions. Policy leaders are focusing on affordability and consumer protection, opening up doors for reforms that can drive down costs.

TAHP's legislative priorities respond to these issues. We support pausing new mandates that drive up premiums, encouraging innovative payment models, and ensuring patients have access to clear, upfront pricing. By tackling rising prices, eliminating outdated regulations, and expanding affordable coverage options, we can help Texans get the care they need at a price they can manage.

In this guide, you'll find our insights on the key legislative issues shaping health care during the 89th session. Ultimately, these decisions will affect every Texas family and employer. TAHP looks forward to working with lawmakers to protect coverage, improve affordability, and build a healthier Texas for all.



Jamie Dudensing

Jamie Dudensing

Chief Executive Officer

Texas Association of Health Plans

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LEGISLATIVE PRIORITIES

for the 89th Legislative Session

Stop Costly Mandates on Employers & Families

Overregulation and excessive mandates are driving up health care costs and limiting affordable coverage options.



- **Mandate Moratorium:** Avoid new mandates and overregulation that raises the cost of coverage and forces employers and families to pay higher prices. Texas has passed a dizzying array of health insurance mandates—23 in the past two sessions alone. Texas employers need relief from these excessive mandates.
- **Mandate Transparency:** Before passing any new mandates on the health coverage of employers and families, estimate the cost and impact through a mandate fiscal note.
- **Protect Employer Coverage:** Protect ERISA flexibility and oppose legislative attempts to add costly mandates on self-funded employers. Major employers across all industries oppose these costly mandates.

Unleash Innovation and Flexibility to Lower Health Care Costs for Texans

Employers and families are demanding innovation and flexibility to access coverage for the health benefits that meet their unique needs and help them control costs. However, outdated Texas laws and regulations stand in the way.



- **Incentivize Patients to Shop for Low Cost, High Quality Care:** Modernize outdated regulations to allow innovative health plans to incentivize patients to shop for high value care with lower out of pocket costs.
- **Remove Restrictions on Innovative Payment Models to Lower Costs:** Innovative models like direct primary care incentivize quality over quantity with paying providers based on comprehensive value-based care.
- **Expand Affordable Coverage Alternatives:** Allow more mandate lite, affordable insurance coverage options that meet employer and family needs without overregulation.

Protect Patients and Fight Back Against Out-of-Control Health Care Prices

Texas has been a national leader in protecting patients from surprise billing and requiring price transparency. However, Texas also leads in price gouging and anti-competitive practices from heavily consolidated health care providers.



- **Stop Inappropriate Facility Fees & Ensure Transparency:** Facility fees have rapidly become the new surprise bills in health care popping up in clinics and even for telehealth. Texas should put a stop to abusive fees and require transparency to protect patients.
- **Build on Price Transparency:** Texans still like a complete price picture with transparency from all health care providers. Patients need a guaranteed upfront estimate in order to make the most informed care decisions.
- **Root out Anticompetitive Consolidation:** Highly consolidated hospital systems and private equity driven monopolies are raising prices behind the scenes in health care. Market share should be transparent and shouldn't be used to harm patients with anticompetitive practices.

Protect & Build on the Success of Texas Medicaid Managed Care

Texas has long been a leader in creating a Medicaid managed care model that delivers high quality care, saving more than \$13 Billion for taxpayers. Lawmakers should protect Texas market-based Medicaid managed care, reject proposals that disrupt patient care and add costs, and look for opportunities to efficiently offer benefits that Texas families need.



- **Ensure Comprehensive Medicaid Mental Health Coverage:** Millions of Texans, especially children, lack the mental health coverage they need, increasing risks of foster care placement, crises, and hospitalizations, while raising state costs.
- **Protect Managed Care Innovation:** Oppose any attempts to undermine managed care flexibility, suppress innovation, or endanger stability and efficiency in the Medicaid managed care program.
- **Transition all Remaining Services to Managed Care:** While Medicaid managed care already covers 97% of Texans on Medicaid, there are still some services administered through the more expensive fee-for-service program.
- **Reject a Full Carve Out of Medicaid Drug Benefits or a Single Statewide PBM for Medicaid:** These proposals are proven to disrupt care coordination, threaten patient access to medications, and significantly increase taxpayer costs.

THE 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, enhancing consumer choice, and improving 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 served as Senior Advisor for Budget and Policy before becoming the office's Deputy Chief of Staff and Policy Director.

With more than two decades of engagement in health care and appropriations policy, Jamie leads 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 overseeing all tax policy legislation. He is a lifelong resident of Austin and a graduate of Trinity University in San Antonio.

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



Patti Doner
Director of Operations

Patti Doner serves as TAHP's Director of Operations. Patti oversees all of the association's quarterly and annual events, including the Medical Directors Forum, the Texas Covered Conference + Expo, networking receptions, and member events. Patti also handles day-to-day operations of the TAHP office, including managing accounts and existing memberships, as well as recruiting 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 has also worked for Consumer Reports as an advocate for national health reform.



Madison Kieschnick
Director of Policy & Government Affairs

Madison Kieschnick began her career as a Legislative Aide to Representative Dade Phelan. She later contributed her expertise to the Texas Farm Bureau before advancing to the Texas Senate. In the Senate, Madison served as the Legislative Director for Senator Dawn Buckingham and later the Committee Director for the Senate Committee on Business and Commerce under Senator Charles Schwertner. Her passion for policy and dedication to public service are hallmarks of her career.



Greer Gregory
Director of Medicaid Policy & Government Affairs

Greer is an experienced legislative professional who has worked four legislative sessions at the Texas House of Representatives for members on both sides of the aisle, covering a variety of policy issues, including health care, natural resources, education, and appropriations. She most recently served as the Committee Director for the Texas House Select Committee on Health Care Reform. Previously, Greer worked in Government & Stakeholder Relations at the Texas Health and Human Services Commission. She is passionate about making meaningful change to improve accessibility and affordability of health care for all Texans. Greer received both her BA and JD from the University of Texas at Austin.



Lynn Ramsey
Director of Medicaid Operations

Lynn Ramsey is a certified Healthcare Auditor (CHA) who works closely with Medicaid health plans across Texas, ensuring compliance and advocating for effective healthcare solutions. Lynn has a strong background in healthcare management, having previously served as the Director of Regulatory Operations and as the Internal Auditor for the Driscoll Children’s Health Plan. She also held the position of Director of Health Information Management for two HCA facilities. Passionate about promoting affordable healthcare and improving access for Texans, Lynn is dedicated to making a positive impact in the community.



Mina Chitti
Operations & Policy Associate

Mina is a seasoned advocate with experience with digital health, mental health, and substance use legislation. Mina began her career as a Program Development Coordinator for the Colorado Office of the Alternate Defense Counsel in 2021. After moving to Austin in 2022, Mina worked to combat the opioid crisis by establishing partnerships, conducting political research, and building digital tools at UT Austin. She is passionate about finding innovative ways to make healthcare affordable and accessible.



Kevin Stewart
General Counsel

Kevin Stewart is an attorney and political consultant based out of Austin. He attended The University of Texas at Austin for both his 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.

WHO WE ARE

Texans with health insurance coverage have undeniably better health outcomes and access to care than the uninsured.

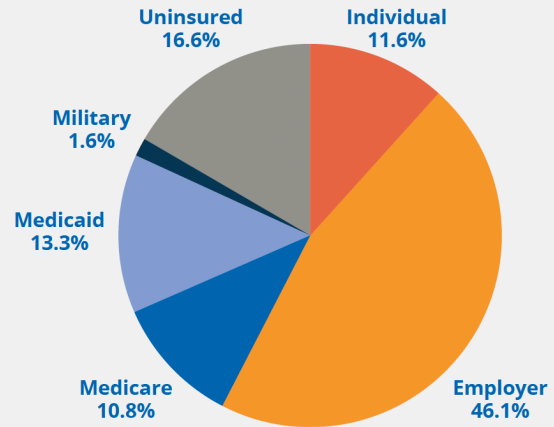
Your health insurance is an essential partner that protects you from major medical expenses, connects you to better health by covering the cost of preventive care, and ensures your out-of-pocket costs are reasonable and affordable. Your health insurance delivers the peace of mind that you can access the care you need when you need it—at a price you can afford.

- Insurers negotiate **lower prices** with physicians, hospitals, and drug companies. You benefit from **lower premiums** so you can get the best possible care at the lowest possible price.
- Health insurance encourages **preventive care**, leading to better health outcomes. **Early screenings** for cancer, high cholesterol, depression and Type-2 diabetes are **100% covered**, so you won't pay anything extra.
- Health insurers cover the **millions of Texans with preexisting conditions** like cancer, diabetes, asthma, and chronic pain; so you always have access to the coverage you need.
- Families with health insurance are more likely to get the right care at the right time and avoid unnecessary and expensive ER visits.
- **Children with health insurance** do better in school, miss fewer days, are more likely to finish school and achieve higher education.
- Texans with health insurance coverage are nearly twice as likely to have their mental health care needs met.



Every Texan deserves **affordable, high-quality health coverage** that provides access to safe and convenient health care and peace of mind.

Health Coverage in Texas



82% of Texans are protected by health coverage, with more than 15 million Texans covered by private insurance.

Doing Our Part:

How Texas Health Insurers Contribute to Texas' Economy

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

**AmeriHealth Caritas | Blue Cross Blue Shield of Texas
CareSource Bayou Health | Cigna | Community First HealthPlans
Community Health Choice | Cook Children's Health Plan
Curative Insurance Company | CVS/Aetna | Driscoll Health Plan
El Paso Health | Harbor Health | Humana
Memorial Hermann Health Plan | Moda Health
Molina Healthcare of Texas | Oscar Insurance Corporation of Texas
Parkland Community Health Plan | SCAN Health Plan
Scott & White Health Plan | Sendero Health Plans
Seton Health Plan | Superior HealthPlan
Texas Children's Health Plan | Texicare | UnitedHealthcare
USABLE Mutual Insurance Group | Wellpoint**

- Insurers pay over \$2.5 billion in state premium taxes.
- Insurers employ over 30,000 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 employers.



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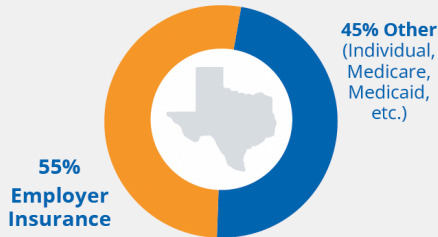
Texas Association of Health Plans

Texans Covered@Work

Texas health plans and businesses partner together to deliver comprehensive coverage for hard working families.

13,854,500

Covered by Employer Insurance



- For more than 13 million Texans, job-based coverage delivers widespread access to health care for workers and their families.
- Employers cover most of the cost—83% for employees and 73% for their families. Employer coverage means affordable care.
- Employees want the peace of mind of job-based coverage. That's why 75% of people report that health care coverage influences their employment decisions.
- Protecting Texas' pro-business environment means giving employers more—not less—ability to control their health care costs.

Individual Coverage

- Through the healthcare.gov marketplace, health insurers provide Texans with **affordable, high-quality health care** and financial security.
- Texas has one of **the most competitive insurance markets**. 15 health plans now compete on the marketplace—more than any other state—meaning more choices and more affordable care for Texans.
- This coverage is working with a record of **almost 4 million Texans signed up** for coverage in 2025.

Texas Medicaid Works

- Texas partners with private health insurers to provide more than **4 million low-income Texans with the personalized coverage, care, and coordination they need to get healthy, stay healthy, and live independently in their own homes and communities.**
- 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



51% of all Texas children

Medicaid covers



53% of all Texas births



29% of Texans on Medicare depend on Medicaid for long-term care services



Medicaid covers 56% of nursing home residents

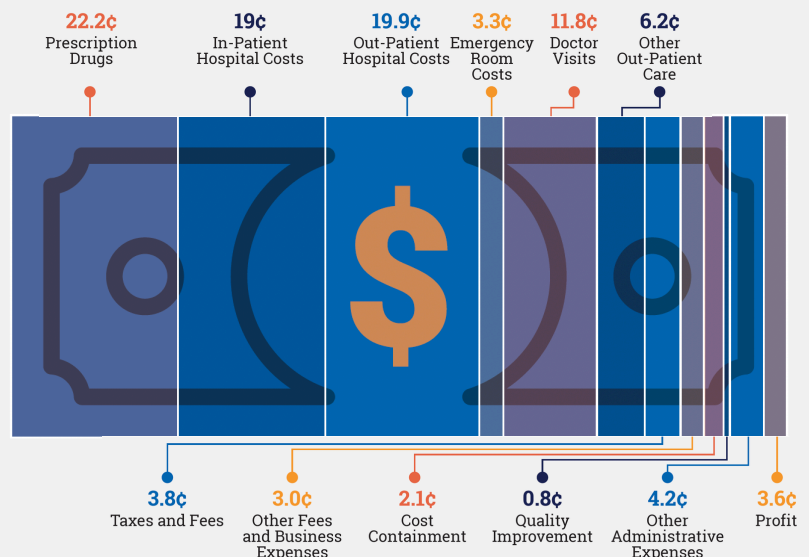
Managed care's focus on prevention, wellness, and care coordination has translated into increased access, better outcomes, and **taxpayer savings—over \$5 billion** since 2019.

Where Does Your Health Care Dollar Go?

Texas health insurers profit and overhead are always capped, which means Texas families, taxpayers, and employers are always protected.

The vast majority of your premium—how much you pay for your health insurance coverage each month—helps cover the costs of the medications and care you receive.

That's why rising physician, hospital, and prescription drug prices lead to higher premiums.



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 16%—more than double the national average—of Texans lacking coverage. This puts Texans at risk of poor health outcomes, late-stage diagnoses, and higher mortality rates.



Investing in health insurance coverage has long-term benefits for individuals and their communities 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 and higher earning potential later in life.

Increasing access to health insurance coverage for all Texans 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.

An estimated 56% of uninsured Texas are eligible for existing government-supported programs including Medicaid and subsidized coverage in the ACA private insurance marketplace. The fastest way to reduce the number of uninsured Texans is to educate Texans about very low cost or free coverage and remove barriers to getting enrolled.




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

While nearly all large employers offer health care benefits, less than a quarter of businesses with fewer than 10 employees offer coverage. Although 85% of employees say employer-provided health insurance is a “must have”, small employers have ranked the cost of health insurance as their single biggest problem since 1986.

Solutions, cont.

 **Protect the gains made in the state’s high-performing individual market and avoid coverage disruptions.**

Texas made substantial gains in increasing access to insurance coverage. The number of Texans with marketplace plans nearly tripled in the last three years, and 15 plans are offering coverage in Texas—a record number. Policies like a state-based exchange risk market stability and access.

 **Simplify the Medicaid enrollment and renewal 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. Texas also has one of the lowest ex parte automated renewal rates in the country, resulting in individuals who qualify for Medicaid being dropped due to bureaucratic barriers and administrative errors. Texas should amend its ex parte renewal policies to allow for the maximum flexibility permitted by federal law.



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

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

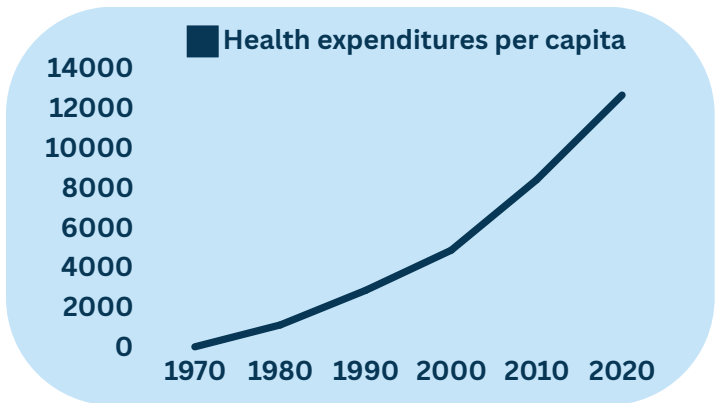
 **Prohibit discrimination for pre-existing conditions.**

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 that lower the cost of coverage for everyone.



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 that of 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% and charging abusive facility fees. Private equity-backed staffing firms are aggressively consolidating physician practices and inflating prices. 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

Increase transparency

 **Give patients a complete price picture with a good faith estimate for shoppable services from all health care providers and facilities.**

In 2021, Texas lawmakers created hospital price transparency laws and required health plans to publish their negotiated prices—but that’s where price transparency ends. Consumers still lack a complete picture of what it takes 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 all health care providers 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.

Solutions, cont.

Increase competition

-  **Protect patients and lower prices by banning all anti-competitive contract terms, including 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.

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

Surprise facility fees are the latest addition to out-of-control health care costs. Facility fees result in higher out-of-pocket spending for patients and increased premiums for employers and families. They were originally intended to help cover the overhead cost of hospital ERs that must stay open at all hours to meet patient needs. However, hospitals are now expanding these fees to routine, non-emergency health care visits—even for telehealth services. States are increasingly becoming aware of the need to step in to set limits on abusive pricing schemes as hospital systems rapidly buy up doctor's clinics and impose hospital-level billing.

Patients must be protected from these unavoidable and unexpected new fees. Texas should require advance notice of new fees and transparent, unique billing codes that actually reflect where services were performed. Excessive facility fees for telehealth, preventive care, and outpatient drug infusions should be prohibited to protect patients from surprise bills.



Facility fees can add hundreds or even thousands of dollars to a medical bill.

Health Affairs, 2023

Solutions, cont.

Increase competition



Ensure network adequacy standards and requirements are workable and achievable without adding unnecessary administrative burdens.

Texas' network adequacy requirements—while intended to ensure access to care—are having an unintended consequence of driving up costs for Texas families and employers through excessive waiver requirements and burdensome, unnecessary public hearings. Potentially more concerning, providers with significant market power can exploit these regulations to force health plans to pay higher rates, which result in higher premiums. In many cases, plans are forced to apply for hundreds or thousands of waivers simply because there are no available providers in certain areas. Texas should also consider expanding the standards to account for the availability of health care providers through telehealth services.



Limit the expansion of certificates of public advantage (COPAs), 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.

Market Driven Solutions Can Lower Health Care Spending, but Overregulation Stands in the Way

Employers are increasingly focusing on innovation in health benefit plan designs to address rising health care costs. Employers are adopting programs that reward high value care and actively engage patients. However, Texas laws written over decades have not kept pace with private market innovation. Regulations routinely block innovation and are out of step with the latest needs of employers. While self-funded (ERISA) employer plans aren't subject to onerous state restrictions, employers buying coverage in the fully-insured market only have options that are based off of antiquated regulations. Texas should both proactively undo overregulation, expand allowances for innovative benefit designs, and avoid further unnecessary government mandates that run counter to employer and patient needs for high quality, affordable coverage.



Medical innovation keeps us alive, healthy, and stronger than those who came before us.

Texas Medical Center, 2021

Solutions



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

Federal rules encourage health plan arrangements that incentivize patients to shop for low-cost, high-value providers but 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. Meanwhile, large, self-funded employers are increasingly taking advantage of these types of benefit designs to manage health care spending.

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. 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.

Solutions, cont.

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

Health care is moving towards capitated value-based care arrangements like advanced and direct primary care, where providers take on the risk of caring for patients and are rewarded based on predetermined outcome measures. These models are gaining traction for employees, employers, and doctors. More than 80% of employees say they would sign up for an all-inclusive direct primary care plan. 44% of employers have shifted to or are considering high-quality primary care models like advanced & direct primary care.

Texas laws should be updated to allow these alternative payment arrangements so physicians can voluntarily assume risk and reap rewards based on agreed to metrics. HMOs are the only type of health plan in Texas that can partner with doctors for value-based care. That means the more common (and employer-preferred) PPO plans and EPO plans, cannot pay a primary care doctor a flat, monthly payment for models like risk-based direct primary care or advanced primary care.

Avoid regulations that weaken the potential of artificial intelligence (AI).

As the Texas Legislature considers how to regulate AI, it's crucial to recognize that AI offers significant benefits for patients, providers, employers, and insurers—including improved efficiency, reduced administrative costs, and enhanced patient care through faster processing and better decision-making. Texas laws already require strict “human-in-the-loop” requirements for prior authorization processes that extend to the use of AI.

Lawmakers should avoid limitations that could stand in the way of utilizing AI to address fraud, waste, and abuse. Texas should adopt industry-wide, multi-state definitions that distinguish AI from traditional algorithms to protect ongoing cost-saving practices. In addition, Texas should implement a risk-based regulatory framework to avoid a one-size-fits-all approach.



Solutions, cont.**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 that lower the cost of coverage for everyone.

**Reform prompt pay laws to remove incentives for hospitals to inflate billed charges and increase health system spending through excessive lawsuits.**

Texas prompt payment laws require penalty payments for even slight deviations from payment timelines. Unlike any other state, ERS, Medicaid, Medicare, or any other line of insurance these penalty amounts are based on a hospital's self-determined billed charges—which are typically much higher than actual market prices. This creates an incentive for hospitals to increase billed charges and for trial lawyers to file hundreds of lawsuits related to prompt pay penalties due to the huge penalties when claims are paid late. The result is added health care spending that impacts employers and families with higher monthly premiums and higher health care prices. Texas should reform prompt payment penalty calculations to remove these inflationary incentives which benefit rapidly consolidating hospital systems.

Texas Needs a Moratorium on Mandates Until Costs are Transparent

When Texas families and employers buy health insurance, they face a dizzying array of mandates for extra benefits and regulations that go beyond the Affordable Care Act. As a result, Texas businesses and families pay more for health insurance and have decreased access to innovative coverage options. The costs of these mandates are borne by employers and families through increasingly unaffordable premiums and out-of-pocket costs. In the past two sessions, Texas has imposed 23 new government mandates on health insurance without estimating the costs that employers and families will face as a result.

Solutions



Create transparency on the full impact that mandates have on businesses and families before hearing and passing bills.

At least 29 states (not Texas) have a process to estimate the cost of health care mandates so lawmakers are fully informed before adding costs to businesses and families. An effective mandate review program will equip lawmakers with the data they need before voting. Texas should create a mandate transparency program that utilizes already available data at the state’s All-Payor Claims Database. Lawmakers owe it to employers to be more careful about adding mandates to their health insurance.

Every 1% increase in health care costs from mandates costs Texans over

\$200 million
per year.



Texans for Affordable Health Care, 2022



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

While lawmakers approved health care products that avoid government mandates and provide more choices for some Texans, the same flexibility wasn’t granted to the health insurance products that millions of Texas employers and families rely on but struggle to afford. The state should build more insurance coverage options that avoid mandates and regulations exceeding federal requirements as well as allow insurers to sell mandate-lite coverage.

Solutions, cont.



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

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

Texas currently ranks **3rd** in the nation for the most mandated benefits. Yet, Texans are more likely to be uninsured than residents of any other state—by a wide margin.

Centers for Disease Control and Prevention, 2022
Longview News-Journal, 2022



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 a 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 differing state regulations create administrative burdens and add costs. Smaller employers are rapidly adopting self-funded coverage benefit designs to avoid excessive state mandates. Proposals to place mandates on ERISA coverage erode employer flexibility and ability to provide health coverage. Texas lawmakers should reject legislation that interferes with ERISA.



Avoid attempts to preempt Medicare regulations and add costly mandates to Medicare supplemental coverage.

Like ERISA, federal rules expressly preempt state regulations of traditional Medicare, Medicare Advantage, and Medicare Part D. Texas lawmakers should not engage in efforts at undermining Medicare coverage with state mandates, including legislative proposals that would increase the cost of Medicare supplemental coverage premiums for older Texans on fixed incomes.

Medicaid Managed Care Improves Care and Saves Money

Medicaid managed care has led 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.



Solutions



Oppose any attempts to decrease flexibility, innovation, stability or 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 federal waiver flexibilities and the Case Assistance Affiliates program.

By partnering with HHSC as Case Assistance Affiliates, managed care plans have the opportunity to support Medicaid members who require eligibility review and need enrollment assistance. Medicaid MCOs can help Texas families with eligibility challenges such as updating passwords and uploading eligibility documents. In addition, Texas can request waivers to extend the COVID-19 flexibilities, allowing MCOs to conduct outreach to members and update contact information. Allowing Medicaid managed care plans to permanently assist with eligibility will not only reduce administrative burden on HHSC, but also allow Texas families to turn to trusted sources for assistance.

Solutions, cont.

Protect patient access to prescription drugs during shortages.

Recent supply chain issues have left patients without access to needed medications. Pharmaceutical companies don't always accurately report shortages—particularly when caused by increased demand. Texas Medicaid should ensure that MCOs have the flexibility to allow patients to access non-preferred drugs when preferred drugs are facing known shortages. That includes going beyond pharmaceutical industry reports to identify shortages.

There were 323 active drug shortages in the first quarter of 2024.

American Society of Health-System Pharmacists, 2024

Preserve managed care accountability and responsibility for Medicaid drug benefits.

Texas MCOs seamlessly coordinate high-quality medical and prescription drug care to nearly all Texas Medicaid families while saving taxpayer dollars. The result has been fewer ER visits, fewer hospitalizations, reduced dangerous drug interactions, and improved disease management overall.

A single statewide mandated PBM forces a one-size-fits-all requirement for health plans to manage pharmacy benefits, going against the concept of managed care plans to innovate, compete, and offer unique solutions that meet the needs of vulnerable Texans. Similarly, a full carve-out of pharmacy benefits would sever patient care management from pharmacy benefits, removing a managed care plan's holistic view of a patient's needs. Both a carve-out or a single statewide PBM would disrupt the ability of managed care companies to control costs and coordinate patient care. Mandating pharmacy dispensing fee payments is another proposal that would limit the flexibility of managed care plans to design pharmacy networks at great expense to Texas taxpayers.

Address coverage for high-cost drugs.

Medicaid families deserve access to new lifesaving treatments like rare disease cell and gene therapies. The Medicaid program needs a predictable process for determining coverage and reimbursement for these often expensive therapies that are rapidly becoming available.

In 2023, the average price of newly approved drugs was

\$300,000.



Reuters, 2024

Solutions, cont.



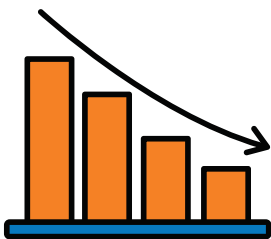
Cover the full continuum of mental health benefits in Medicaid.

Texas Medicaid doesn't cover the full range of mental health care services that employers and commercial insurers offer families, leaving millions—especially children—without the help they need. Texas Medicaid only covers two ends of the spectrum: 1) counseling and psychiatric medications and 2) inpatient hospital care.

Texas Medicaid lacks coverage for the services in between that keep kids out of foster care, help avoid crisis and hospitalization, and save state funds. Many critical, evidence-based and cost effective treatments are not covered Medicaid benefits, including intensive outpatient treatment, partial hospitalization, community programs for at-risk youth, comprehensive crisis intervention services, and residential treatment for youth.

“ Medicaid enrollees have the highest occurrence of moderate to severe mental illness and substance use in comparison to individuals with private insurance.

Hogg Foundation for Mental Health, 2024



“Step down” programs like intensive outpatient treatment have been shown to lower overall behavioral health costs by up to **43 percent**.

American Journal of Psychiatry, 2013

The legislature attempted to cover some of these services as “in lieu of” services benefits in 2019, but only a few are in the process of being implemented and coverage is optional. Gaps will still remain due to administrative complexities and barriers resulting in a slow and cumbersome process that creates provider and member confusion. To ensure reliable, consistent, mental health services across the state, these services need to be added as covered Medicaid benefits. Closing gaps in Medicaid mental health coverage will improve access to mental health care for vulnerable Texans, ensuring families and children get the care they need, when they need it, and prevent more intensive, costly hospitalizations.

Solutions, cont.

 **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.

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 and prevent hospitalization. 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 allows states 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.

*Non-medical drivers of health account for up to **50%** of health outcomes in the United States.*



U.S. Department of Health and Human Services, 2022

The Health Care Workforce Challenge

The state of Texas faces a significant shortage of health care workers, including doctors, nurses, and other medical professionals. These shortages lead to longer wait times for patients, reduced access to care, and an overall decline in the quality of care. Rural Texans face particularly limited access to primary care services and basic hospital services. Specialty care for rural residents often means long trips to urban areas. 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.

Texas is predicted to have a shortage of 20,420 doctors by 2030.

Cicero Institute, 2024

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 as a whole—particularly in rural areas—and improve overall health outcomes in the state.



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.

Solutions, cont.

Improve access to care at pharmacies.

Removing barriers to immunizations and allowing pharmacists to “test and treat” for certain conditions would alleviate pressure on doctors and emergency rooms, reducing health care bottlenecks and wait times. Studies show that pharmacists effectively manage conditions like flu or strep throat, improving health outcomes while lowering overall health care costs.

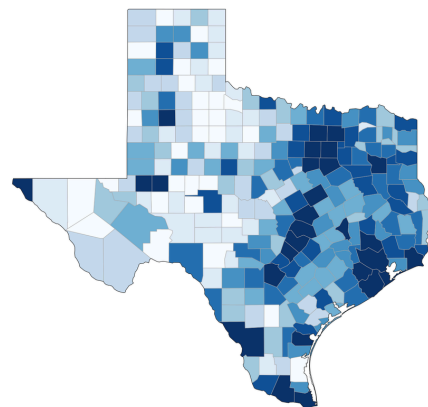
Reduce barriers to care through expanded telehealth options and allow health insurance networks that utilize telehealth as a key feature.

Telehealth has become an increasingly important tool in the delivery of health care services. 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.

**Telemedicine can address
reduce barriers to care for
rural and underserved
communities.**


Cureus, 2024



Surprise Billing Challenges Still Remain

For decades, surprise bills trapped patients with unexpected medical costs from out-of-network services, even though patients had no choice of provider. Texas led the way with its surprise billing law and Congress passed a federal ban on surprise billing through the No Surprises Act. TAHP believes patients shouldn't be trapped in billing disputes and supports laws that hold patients harmless from out-of-network bills when a patient could not choose their provider.

However, arbitration processes created from the new laws are proving inflationary. Private equity-owned physician staffing groups have been the biggest winners from the arbitration process. Roughly 70% of cases sent to arbitration in 2023 came from just four private equity owned specialty physician staffing firms. One ER staffing firm is collecting arbitration awards of more than double the average in-network rate and a radiology staffing firm is in some cases winning eight times the average in-network amount.



41% of adults have received a surprise medical bill, and 2/3 fear them.

Healthcare, 2023

While patients are now protected from surprise bills upfront, employers and families are now facing higher health insurance premiums. Texas should revisit the state's surprise billing law to root out incentives for these private equity owned physician staffing groups to raise prices and remain out-of-network. Additionally, Texas should make changes to address abuse of the mediation process and excessive fees for dispute resolution.

Solutions



Create a 90-day lookback period to align mediation timelines with arbitration.

State law currently provides an allowed lookback period of 90 days for mandatory arbitration for surprise billing disputes with physicians. However, the facility mediation law does not include a similar limitation. The result has been certain facilities that operate almost exclusively out-of-network continue to take advantage of the law's lack of a lookback period submitting batches of claims in the mediation system dating back to the beginning of the law in 2020. The statutes should be aligned to limit this abuse of the dispute resolution system.



Solutions, cont.



Expressly grant authority to TDI to establish a fee range for dispute resolution.

Federal surprise billing dispute resolution law granted authority to federal regulators to establish a fee range for dispute resolution services. However, the Texas law did not include a similar provision, resulting in ever increasing fees for arbitration and mediation. While there may be multiple providers of dispute resolution services, these entities can continuously raise their fees because the law has no upper limit. According to recent agency data, arbitration fees average \$1,149, nearly three times the average fee of \$480 in the federal program. Insurers and health care providers in Texas are required to split the cost of dispute resolution, so any price gouging negatively impacts both parties. The legislature should give the agency the ability to ensure that dispute resolution entities are paid fairly while eliminating inflationary outliers in the system.



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 actual market payments. 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 that more than doubled during the period. These costs ultimately drive up health care spending for businesses and families.

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.

65% of physicians themselves report that overtreatment is common and 15-30% of medical care is unnecessary or unsafe. Of the doctors surveyed, 71% believe that physicians are more likely to perform unnecessary procedures when they profit from them.

Doctors and clinicians provide important care and life-saving treatment and agree that we all need to work together to avoid inappropriate, unnecessary, and costly care. That's what prior authorization helps deliver. By having a complete view of a patient's medical history, health plans help ensure that medications and treatments are safe, effective, and affordable for patients.

Health plans are committed to a better approach to prior authorizations that involves taking advantage of innovations in technology to move to a smarter, faster, less burdensome system. However, efforts to limit or eliminate 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. Blanket restrictions against prior authorization risk patient harm and increased health care spending.

Solutions

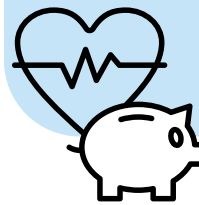


Ensure that health plans are able to review for appropriateness, fraud, waste, and abuse before and after care has been delivered.

Prior authorizations and post-utilization reviews are tools to root out fraud, waste, and abuse. Severely limiting or eliminating the use of prior authorization and post-utilization review negatively affects affordability and safety for everyone.




*Waste in the health care system could be costing Americans up to **\$935 billion.***




Texans for Affordable Health Care, 2022

Solutions, cont.

 **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 or other appropriate providers for conducting prior authorization.**

Practicing physicians and those working in administrative roles have the same training but serve different and important roles. 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.

 **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.

Solutions, cont.

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\$1.4 million

median loss for each health care fraud offense

\$9.5 million

in losses for every 1 out of 20 cases

>\$100,000

increase in fraud per offense from FY22 to FY23

US. Sentencing Commission, 2023



Texas Association of Health Plans
1001 Congress Avenue, Suite 300
Austin, TX 78701
(512) 476-2091 | www.tahp.org