Texas Mandates are Adding to the Health Care Affordability Crisis

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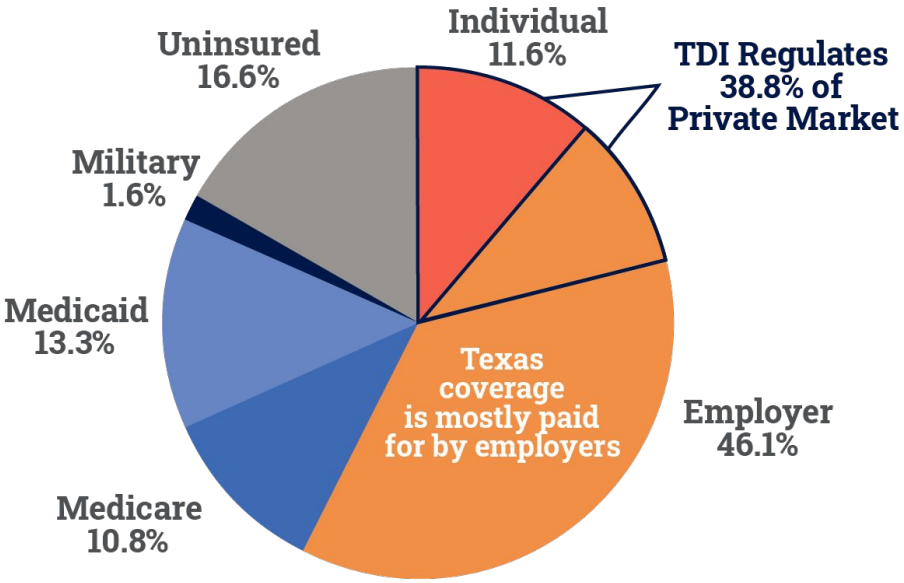
Texas Health Plans Cover More than 25 million Texans

Texas coverage is mostly paid for by employers — government and individual markets fill in the rest



15M EMPLOYER COVERAGE
Largest single source - about 4 of 5 employees are in ERISA self-funded or level-funded plans

3.3M INDIVIDUAL MARKET
Three fold increase since 2020 (1M → 3.3M)

7.6M GOVERNMENT COVERAGE
Medicaid (4M) + Medicare (3.6M) = 25% of Texans

5M UNINSURED
Lack of job-based coverage cited as #1 reason

Private market = 58% of Texans. Employers purchase coverage for about 80% Texans covered in the private market. TDI regulates 39% of the private market - the fully insured share. Remainder of market under ERISA.

54% Texas employers offer coverage: 38% of small employers & 96% of large employers

Source: U.S. Census Bureau (2024); Texas Department of Insurance; KFF Employer Health Benefits Survey 2025; NAIC

Hospital Care is the Largest Driver of Health Spending Growth

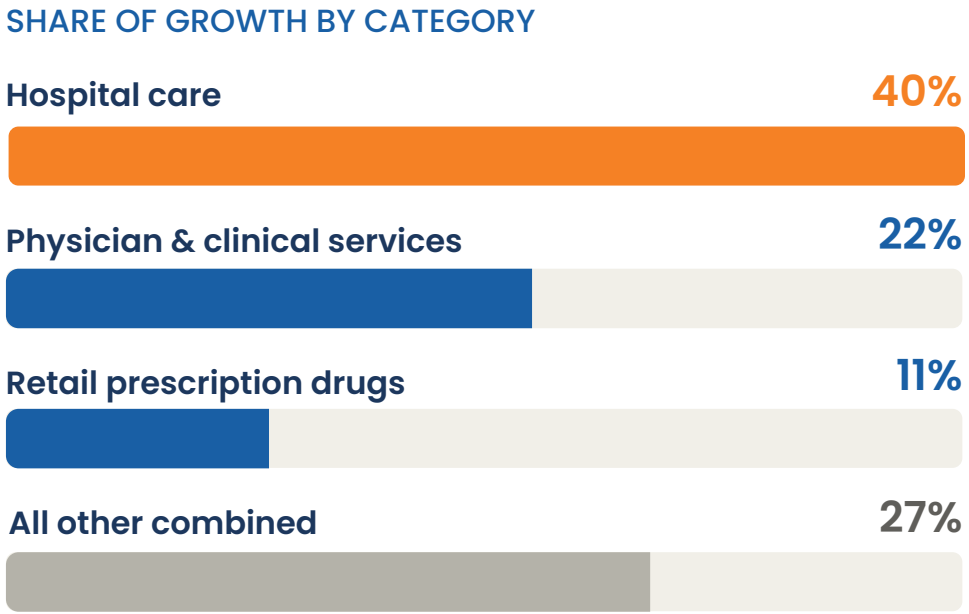
Hospital prices in 2024 grew faster than any year since 2007

NATIONAL HEALTH SPENDING GROWTH, 2022-2024

40%

came from hospital care

$277 billion of the $692 billion in total spending growth.



Sources: KFF analysis of CMS National Health Expenditure Accounts (February 2026). Non-medical insurance expenditures contributed 2%

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65¢ of Every Premium Dollar Goes to Hospitals and Drugs

Federal law requires plans to spend at least 80-85% of premiums on medical care.

HOSPITALS + DRUGS

65¢

Inpatient, outpatient, ER + Rx — the biggest drivers of premium increases.

DOCTORS + OTHER CARE

19¢

Physician visits and outpatient services

ADMIN, TAXES, PROFIT

16¢

Including just 2.4¢ profit

FULL BREAKDOWN

- Drugs 24.2¢
- Inpatient 17.6¢
- Outpatient 19.9¢
- ER 3.2¢
- Doctor visits 11.6¢
- Other outpatient 7.2¢
- Admin 7.3¢
- Taxes 3.4¢
- Business 3.3¢
- Profit 2.4¢

Source: AHIP, "Where Does Your Health Care Dollar Go?"

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Employer coverage is getting too expensive — especially for small employers

TX SMALL EMPLOYER PREMIUMS

15–20% premium increases

for **Texas small employers** in 2026

36–82% above the national average

TX EMPLOYER SENTIMENT

87% of Texas employers say health care costs are rising at an **unsustainable rate.**

WORKERS PAY THE PRICE

Every **10% rise in premiums** means a **1.6% loss in jobs** and a **2.3% cut in wages.**

The bottom line: The Texas small group market has unique challenges — too many mandates, few competitors, less flexibility, and higher family premiums and cost-sharing than the large group market.

Source: 2026 ACA small group rate filings (ratereview.healthcare.gov); NAIC 2024 Supplemental Health Care Exhibit Report; Peterson-KFF Health System Tracker (Sept 2025); Texas Association of Business employer survey; Brot-Goldberg et al., wage/employment pass-through research; TAHP analysis.

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TEXANS ON EMPLOYER COVERAGE

The single largest source of coverage in Texas

15.4M

ERISA · FEDERALLY REGULATED

12.2M 79%

Self-funded and level-funded plans chosen by employers for flexibility. **State mandates don't apply.** Mostly large employers, with a growing share of small and midsize.

FULLY INSURED EMPLOYER COVERAGE · TDI REGULATED

3.2M 21%

Every Texas mandate applies to this part of the market.

SMALL GROUP (2-50)	LARGE GROUP
~670K	~2.5M

WHO OFFERS COVERAGE IN TEXAS

54%
of all Texas employers offer health benefits

96%
of large employers offer coverage

38%
of small employers offer coverage

Source: NAIC; KFF Employer Health Benefits Survey 2025; TDI; TAHP analysis.

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The Texas employer shift: away from state mandates, toward level-funded plans

THE REASON EMPLOYERS MOVE

19% average savings

for employers who move from fully insured to level-funded plans.

State mandates don't apply to level-funded plans.

THE TREND

7% → 37%

of small/midsize employers (3–199) offering **level-funded plans** — from 2019 to 2025.

THE ASK

77%

of Texas employers want the Legislature to give them **more flexibility** to contain costs.

WHY THIS MATTERS

When the Legislature debates a new mandate, it raises costs for the shrinking fully insured market — pushing more employers to leave for ERISA or making coverage too expensive to offer at all.

Source: TCCRI Mandate Impact & Transparency Report (2024); KFF Employer Health Benefits Survey 2025; NAIC; TAHP analysis.

WHAT PATIENTS WANT

It's the Price Tag that Matters

Asked to name the single most important problem in U.S. health care, Americans point overwhelmingly to one thing: what coverage and care cost them.

78%

say the cost of coverage & care — premiums and what they pay out of pocket — is the top problem

22%

combined for prior authorization and finding a doctor or getting an appointment

- Premiums 42%
- Out-of-pocket costs 36%
- Prior Authorization 15%
- Finding a doctor 7%

Republicans (45%), Democrats (44%), and independents (42%) cite premiums as the top problem at nearly identical rates — a rare consensus in health policy.

Source: Commonwealth Fund, "What Americans Want Fixed in Health Care and Who They Think Should Do It" (Aug. 13, 2026)

Three Forces Driving up Costs — and One Lever to Fix Them

Texas is the 5th most expensive state for health care in the nation. Three drivers explain why — and the Legislature can address all three.

PRICE INFLATION

75% of premium increases are prices

Hospital prices are the single biggest driver — 40% of national growth, with prices up 281% since 2000. Texas consolidation pushes prices 15–30% higher.

FRAUD, WASTE, & ABUSE

10% of all health care spending

New schemes like AI-driven upcoding and other abusive billing continue to inflate bills but TDI authority is limited in addressing fraud, waste, and abuse.

MANDATES & OVERREGULATION

3rd most mandate-heavy state

Texas' mandates outpace other states and exceed federal requirements in nearly every way— forcing employers and families into expensive, one-size-fits-all plans.

THE LEGISLATURE

Addressing Texas-specific drivers

Repeal harmful mandates, prevent new ones, require real transparency, and protect employer flexibility.

Source: Forbes Advisor 2024 state health care cost rankings; KFF analysis of CMS NHEA (2026); Texas 2036; TDI; PwC Behind the Numbers 2026.

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How Texas's 2013 Billed-Charges Rule Reshaped the Market

In 2013, TDI required health plans to pay out-of-network hospital-based physicians at the billed charges rate (list price). The rule was meant to protect consumers. Instead, it drove up prices.

2013
New billed-charges mandate
Plans must pay out-of-network hospital-based providers at billed-charge rates.

PROVIDERS RESPOND
Higher Payments
Specialty groups drop network contracts. Plans pay much higher rates to bring them in-network.

MARKET RESHAPES
Private Equity
PE buys up specialty groups across Texas. Billed charges and in-network rates rise sharply with each acquisition.

2020
Consolidation and increased prices
TAHP lawsuit invalidates rule — but PE-backed groups now dominate Texas markets and prices.

TEXANS ARE STILL PAYING — TODAY

TRS testified last month that one single anesthesiology group (USAP) drove an **$11 million increase** in TRS claims, alone. That's not surprising given market shares of 70% or more. Texas teachers and taxpayers are paying for this private equity consolidation.

Source: 28 TAC §§3.3725 (repealed); TAHP v. TDI; TRS testimony (2026); TAHP analysis.

How Freestanding ERs Turned ER Care Into a Billing Loophole

In 2009, Texas created a license for freestanding ERs effectively allowing them to bill and be paid like hospital ERs, with no check on price. The law was meant to expand access. Instead, it built a billing loophole employers are still paying for.

2009

New FSER Mandate

HB 1357 licenses freestanding ERs and forces plans to pay them like true hospital ERs — even out-of-network FSERs, with no price check.

PROVIDERS RESPOND

Out-of-Network by Design

FSERs multiply statewide (~40 in 2009 to 200 today). Many look like urgent care but bill ER rates while staying out-of-network on purpose.

INSURANCE FRAUD

Waiving Copays

FSERs are routinely waiving any patient copay or deductible, so patients never see the inflated charges and keep coming back. Texas laws lack oversight & enforcement.

ABUSIVE PRACTICES

Long History of Patient Harm

Texas has passed at least six laws to try to rein in misleading advertising, price gouging, surprise billing and abuses like $10K COVID tests.

CASE STUDY: SAN ANTONIO IS PAYING THE PRICE — $40 MILLION COST OVERRUN

One FSER group with four San Antonio locations drove 53% of the city's 2025 employee ER claims. It more than doubled what the city paid per visit in a year—from $886 to $1,846—leading to the city's $40M health care spending overrun.

Source: H.B. 1357, 81st Leg., 2009; San Antonio Express-News, "San Antonio is $40M over its employee healthcare budget. What went wrong?" (Aug. 12, 2026); The New York Times (No Surprises Act arbitration payment data, 2025); Rice University Baker Institute.

How Texas' Network Adequacy Rule Nearly Broke the Market

Texas rules require health insurance networks to be roughly **twice as big** as federal law requires. But smaller, leaner networks are what actually save people money—up to **16–22% cheaper premiums**. The result is to push all Texans toward broader, pricier networks—without regard to employer and family needs and budgets.

THE RULE

Networks Twice the Required Size

Texas set its network requirement at roughly double the federal standard — locking every plan into the biggest, most expensive network option.

THE FALLOUT

Impossible Standard

The unworkable requirement forced insurers to seek thousands of new waivers to continue operating. Waivers for one insurer jumped from 2,505 to 8,608 in just two years, even though nearly all Texas providers were in network.

2026

The Market Nearly Collapsed

2.5 million Texans were about to lose their coverage entirely. TAHP sued the state and got a court injunction putting the rules on hold.

THE BOTTOM LINE

Smaller networks save Texas families real money—16–22% cheaper premiums. Texas's rule does the opposite. Forcing plans to include nearly every provider drives prices up by 28% or more. The Texas network adequacy law nearly collapsed the employer coverage insurance market and could do it again unless reformed.

Source: HB 3359 (88th Leg., 2023); 28 TAC §§3.3704, 3.3707; Texas Ass'n of Health Plans v. Texas Dep't of Insurance (Agreed Temporary Injunction, 2026); Yale School of Management (Ghil); TAHP analysis.

Give Plans and Employers the Flexibility to Lower Costs

Allow Innovative, Affordable Networks Network adequacy reform	Texas mandates force oversized one-size-fits-all networks. Allow flexible network designs—narrow, high-performance—that promote competition and lower prices.
End the High-Cost Site-of-Service Mandate Fix “freedom of choice” laws that limit Steering to lower-cost locations	Prices for the same service vary dramatically by location. Let plans limit coverage to the most appropriate and affordable setting so Texans avoid unnecessarily expensive care.
Ban All-or-Nothing Contracting Expand anticompetitive contracting limits	Texas banned several anticompetitive contracting clauses with HB 711, but removed all-or-nothing clauses before passing the bill.
Ban Exclusive Provider Deals These anticompetitive deals block out providers	Hospital systems give providers exclusive monopoly privileges, blocking out competitors, rewarding consolidated physician groups, all without ensuring those providers are in the same networks.

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Reduce Burdensome State Mandates

Expand Affordable Coverage Options Mandate lite, innovative designs, and association health plans	Allow employers to purchase more affordable, innovative health insurance or association health plans that cover essential needs without the state-mandated requirements that drive up premiums.
Moratorium on Expensive Mandates Use the new fiscal note process (HB 138 HICCAP)	Avoid new mandates that raise costs for employers and families. Use the state's new mandate fiscal note to show the true cost — and never pass a mandate that state won't apply to ERS, TRS, and Medicaid.
End the Formulary Freeze Allow formulary updates for lower cost biosimilar or generics drugs	Texas is one of few states that bans mid year formulary updates for new cheaper biosimilar or generic drugs—delaying cost savings for employers & families.
Fix Prompt Pay Penalties that Incentivize Price Inflation The TX penalty law is raising costs	Prompt pay penalties are based off billed charges plus 18% interest, encouraging hospitals to inflate prices even further and adding to premiums.

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Expand Efforts to Recover & Prevent Fraud, Waste, & Abuse

Stop Providers that Illegally Waive Copays/Deductibles FSERs are manipulating Texans	Freestanding ERs are illegally waiving cost sharing so patients are blind to their outrageous pricing. Create real enforcement against this type of insurance fraud.
Make Fraud and Abuse a Licensure Violation Hold providers accountable	Confirmed fraud or abuse should put a provider's license at risk. Make it a licensure violation for every provider type.
Prohibit Contract Terms that Block FWA Enforcement Allow health plans to check bills before paying claims	Consolidated health systems force contract terms that block prepayment review and shorten overpayment recovery timelines. Ban these terms that block fraud, waste, and abuse protections.
Root out Fraud, Waste, and Abuse Extend Medicaid-level protections to commercial coverage	Texas estimates 10% of health spending is lost to fraud, waste, and abuse. Extend the same strong protections Texas uses to fight fraud in Medicaid and Medicare to TDI for employer and families health plans.

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Give Texans the Tools to Shop for Care

Increase Competition Ban anti-competitive contracts + facility fee abuse	Ban anti-competitive hospital contract terms, stop inappropriate facility fees, and require full price and billing-location (NPI) transparency.
Guarantee Upfront Prices No surprises between the estimate and the bill	Require every Texas provider to give patients a guaranteed upfront price estimate that won't change in the final bill. Patients can't make informed choices about care they can't price.
Let Patients Shop the Cash Price Cash prices already posted — make them usable	State and federal laws already require providers to post cash prices, but some refuse to share or accept those rates from insured patients. Let every Texan pay the cash price when it's the better deal.
Encourage Price Based Shopping Repeal limits on incentives	Eliminate all mandates that block rewarding Texans for choosing the most affordable care. Today, insurers are restricted from incentivize based on price alone.

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Let Employers Offer Coverage that Fits their Needs

Allow Employers to Choose Mandate-Lite Coverage Let employers decide	Texas mandates far exceed Federal law. Employers should be able to decide between a mandate-lite plan and fully mandated option.
Stop Forcing Employers to Buy Expensive Coverage Repeal the “two-plan” mandate	Texas law forces employers offering an affordable HMO to also pay for a more expensive PPO. Give employers the flexibility to offer the coverage that fits their budget and their workforce.
Protect Affordable Employer Coverage Defend ERISA flexibility	Oppose new mandates on self-funded and level-funded employers. Employers choose ERISA because it’s more affordable and flexible.
Help Small Employers Afford Coverage Support individual coverage HRAs (ICHRAs) for small employers	New tax-advantaged ICHRAs support small employers & their employees with a monthly allowance to buy coverage that fits each employee. Texas should look for opportunities to invest in employer coverage ICHRAs.

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