

# State Opportunities to Advance Health Care in 2020

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## EXECUTIVE SUMMARY

Health care continues to be a top priority as we enter 2020. Congressional deadlock over prescription drug pricing and protections against surprise medical bills offers state leaders the opportunity to lead the way toward accessible, affordable health care for individuals and families.

State leaders understand their responsibility to their constituents and can put politics aside to address problems impacting the daily lives of their family, friends and neighbors.

This year, state lawmakers will build on the momentum generated during 2019; some will champion bold measures, others will take small steps, and the rest will use 2020 to lay the groundwork for transformative health care policies in 2021. Initiatives passed over the next year will be strong predictors of future state and federal action.

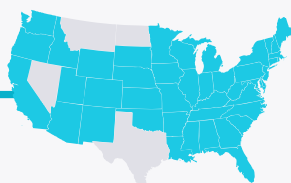
Over the next 12 months, we expect activity in four key areas:

- ★ **Affordability:** States are taking a variety of approaches to address consumer concerns around high health care costs, working to lower premiums by building reinsurance programs, expanding access to care through Medicaid, and establishing affordability standards and cost growth caps. [Colorado](#), for one, is pursuing a state coverage option to provide consumers with more affordable choices.
- ★ **Prescription drugs:** States are exploring and enacting policies to help consumers facing rising prescription drug costs. Several states, for example, are advancing policies to cap the cost of insulin for diabetic residents.
- ★ **Mental health services and substance use disorders:** States across the country are working to improve mental health services and reduce substance use disorders. Both are being addressed through parity efforts, seeking to provide equal treatment for mental health and physical health care services.
- ★ **Health disparities:** States are developing policies aimed at reducing health disparities and improving health outcomes experienced by vulnerable populations. One focus is maternal mortality; as states work to curb disparities, we expect to see several consider extending postpartum Medicaid coverage from the traditional 60 days post-birth to one year, providing needed relief to new mothers.

## LEGISLATIVE SESSIONS

**46** states are in session in 2020

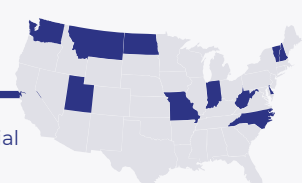
*Nevada, North Dakota, Montana, and Texas are out of session*



## STATE ELECTIONS

**11** states have gubernatorial elections in 2020

*Delaware, Indiana, Missouri, Montana, New Hampshire, North Carolina, North Dakota, Utah, Vermont, Washington, and West Virginia.*





## INTRODUCTION

In 2019, states showed that progress on health care is possible, with at least 14 states enacting meaningful changes. Congress, however, remains mired in gridlock, ending 2019 with unfinished business on key health care priorities. While the House [passed](#) a bill to address the high cost of prescription drugs, the debate continues in the Senate where the bill faces an [uphill battle](#). At the last minute, Congress could not pass a bipartisan [agreement](#) to end the exploitative practice of surprise medical bills, though there is optimism that legislation could pass by the [end of May](#).

With the federal government struggling to advance meaningful solutions, state policymakers remain the ones to watch. Working closely with policymakers, advocates, and other stakeholders at the state level gives us a unique insight into the current policy landscape, including areas ripe for opportunity and exploration. Whether addressing the sky-high cost of insulin and other prescription drugs, creating more affordable insurance options, or improving access to mental health care, there are many priorities state leaders can tackle, both through new legislation and successful implementation of recently enacted laws. People articulate basic health care needs without regard for partisan affiliations; state leaders should continue to push beyond partisan concerns as they seek meaningful changes for those they serve.

## 2020 LEGISLATIVE SESSIONS: BY THE NUMBERS

Many state legislatures have short sessions in 2020, leaving fewer legislative days to advance significant health care policy change. As we approach 2020 legislative sessions, it is important to understand where states stand with their legislative schedules and state elections.

### *Legislative Sessions*

- ★ [46 states are in session in 2020](#).
- ★ Nevada, North Dakota, Montana, and Texas are out of session.

### *State Elections*

- ★ [Gubernatorial elections](#) will occur in Delaware, Indiana, Missouri, Montana, New Hampshire, North Carolina, North Dakota, Utah, Vermont, Washington, and West Virginia.
- ★ Every state legislature is up for election [aside](#) from Alabama, Louisiana, Maryland, Mississippi, New Jersey, and Virginia. Michigan is an outlier, with elections only happening in the lower chamber.

Progress to ensure every person in America has access to quality, affordable health care will look different from state-to-state, with some states moving forward to make a significant change, others making more incremental changes, while the rest lay the groundwork to introduce bold policies in 2021.

Despite shorter legislative sessions, many state leaders will have a window of opportunity to make tangible progress on health care this year.

## HEALTH CARE AFFORDABILITY

Most Americans, regardless of political party, [identify](#) health care affordability as a top concern. While little has happened at the federal level to address these concerns, state policymakers continue to explore a variety of ways to lower costs for both people and the health care system.

### *Creating New Coverage Options*

States are exploring ways to offer additional affordable coverage options, allowing people to “buy-in” to state

programs and leverage existing infrastructure to provide such coverage. At least [13 states have explored](#) ways to allow consumers to buy into Medicaid, state employee health plans, or new state options altogether. Last year, Colorado and Washington passed legislation to create state-based coverage options, sometimes referred to as public options, to expand choice and drive down costs for consumers. 2020 will be a key year for implementing these plans, which can serve as models for other states.

- ★ After passing legislation in 2019, Colorado developed a proposal for a [state coverage option](#), which could save consumers up to 10% in premiums. The proposal, which would work through private insurance companies beginning in 2022, will allow people to use more health care services before meeting their annual deductible. In 2020, legislation is being pursued to implement this proposal.
- ★ In 2019, Washington enacted [Cascade Care](#), which relies on private issuers to offer standardized plans on the state’s insurance exchange beginning 2021. Developing and implementing the components of Cascade Care will take place over the next several months, and states interested in pursuing similar approaches are watching with interest.
- ★ In addition, [states](#) are studying buy-in options for the 2021 and 2022 sessions. [Nevada](#) and [New Jersey](#), for example, will release reports on buy-in options in 2020.

### *Affordability Standards*

Despite ongoing discussions about affordability, there is [no agreed-upon definition](#) of what “affordable” health care



means. States are taking steps to create standards and definitions of affordability that are compatible with how people think about their health care costs. This means looking beyond premiums to incorporate the [often high out-of-pocket costs](#) faced by consumers. States can use these standards in several ways, including providing coverage that falls within the state's definition of affordability. A [handful of states](#), including [Massachusetts](#) and [Rhode Island](#), have long led the way on this issue, establishing policy approaches that define affordability and drive policy to help consumers realize affordable care. Recent progress includes:

- ★ [Two pieces](#) of legislation enacted in Colorado in 2019 directed state agencies, the Division of Insurance (DOI) and the Department of Health Care Policy and Financing (HCPF) to define affordability. These agencies took a broad look at affordability that includes premiums, out-of-pocket costs, and the balance between health care costs and other family budget necessities. [In 2020](#), DOI and HCPF will further develop the standard through regulation.
- ★ The Office of Health Strategy in Connecticut is [developing](#) a health care affordability standard that also incorporates the cost of basic needs; it will analyze and measure future policy proposals' impact on consumer affordability.

#### ***Cost Growth Targets***

Cost growth targets aim to limit health care spending growth throughout the health care system, driving down costs for consumers. Establishing cost growth benchmarks allow states to set and enforce targets for health care costs among issuers and providers. While affordability standards focus on *consumer* affordability, cost growth benchmarks focus on costs within the *health care*

*system*, working to lower costs for consumers. Many states are exploring this approach, and we expect it to be a policy method to watch in 2020.

[Oregon recently](#) passed legislation — similar to [Massachusetts](#) in 2012, [Delaware](#) in 2017, and [Rhode Island](#) in 2018—to develop targets for health care spending growth among issuers and providers across the state. Results from Massachusetts show that growth in the state slowed after the targets were put in place, providing valuable lessons for other states pursuing similar policies.

#### ***Additional Financial Assistance for Health Coverage and Costs***

States are using their coffers to provide additional help to residents that goes above currently provided federal financial assistance. Interventions hope to reduce the financial burdens faced by consumers, which may include more robust premium tax credits or frameworks for reducing cost-sharing. This approach can provide relief to those who find coverage and care hard to afford, and help encourage people—who wouldn't normally do so—to purchase coverage, improving risk pools and lowering costs for everyone.

- ★ In 2019, California [passed legislation](#) to provide tax credits to qualified individuals with incomes up to 600% of the Federal Poverty Level (FPL) rather than up to the 400% FPL provided through the federal government, beginning Jan. 1, 2020.
- ★ Massachusetts, which also provides additional financial assistance to people buying coverage on the individual market, has seen [very positive results](#), including lower costs for unsubsidized enrollees.
- ★ Other states, including [Connecticut](#) and [Minnesota](#), debated this policy

option in 2019, though neither passed legislation.

- ★ As a part of the [legislation](#) creating Cascade Care, the Washington Health Benefit Exchange is required to develop a plan to implement and fund premium subsidies for people with incomes below 500% FPL.

As California's open enrollment closes at the end of January, states will watch carefully for lessons on how investing state resources in financial support for consumers influences enrollment, shapes risk pools, and impacts California's bottom line. Other states may follow in Washington's footsteps, choosing to study policy and funding options ahead of potential legislation in 2021.

#### ***Medicaid Expansion and Waivers***

With a host of studies [documenting](#) the benefits of adopting Medicaid expansion, we are closely watching the [14 states](#) that have, so far, chosen not to expand. In 2020, state policymakers will continue to debate the merits of expanding Medicaid or taking alternative approaches, including:

- ★ This year, efforts are underway to bring Medicaid expansion before voters in [Oklahoma](#) and [Missouri](#), building on the success of 3 states (Utah, Idaho and Nebraska) that approved ballot initiatives in 2018.
- ★ State leaders in Kansas are poised to expand Medicaid this year, following the [recent announcement](#) of a bipartisan agreement between Governor Kelly and legislative leaders.
- ★ [Georgia](#) released a proposed waiver that pairs a partial Medicaid expansion with work or other community engagement requirements.



- ★ [Tennessee](#) submitted a request to amend its current Medicaid waiver to create a modified block grant program.

Many states are watching the federal response to both waiver requests. And those that have yet to expand Medicaid will be closely following this year's ballot measures to determine whether it continues to generate broad support.

### **Surprise Billing**

Surprise billing has garnered attention across the country, with [27 states](#) passing legislation to protect patients from these charges, 13 of which include “comprehensive” protections, such as emergency department and in-network hospital safeguards. At both the state and [federal level](#), lawmakers are working across party lines on approaches to ensure patients who seek care at in-network hospitals and emergency departments will not be penalized for unknowingly receiving care from an out-of-network provider.

With efforts to pass a federal [compromise](#) hitting a [roadblock](#) last month, states are again taking the lead on passing protections for their residents. Given the uncertain outlook for federal legislation, states that have not yet enacted surprise billing legislation will face pressure to act. For example, legislators in [Michigan](#) recently introduced surprise billing legislation, which may move in their 2020 session.

### **Reinsurance**

A growing number of states are using [1332 waiver authority](#) to implement reinsurance programs to [lower premium costs](#) for consumers in the individual market by assisting health insurers to offset spending on high-cost claims. [12 states](#) have approved reinsurance waivers in place, with Colorado, Delaware, Montana, North Dakota, and Rhode

Island all receiving approval in 2019; [Georgia](#) submitted a 1332 waiver that includes reinsurance in December 2019; Idaho, Louisiana and New Hampshire have passed legislation authorizing the state to work on waiver applications; and [Maine](#) introduced legislation that would extend reinsurance to a newly-merged individual and small group market.

State reinsurance programs have proven effective at lowering premium costs for people purchasing coverage on the individual market. For example, 2019 premiums in [Maryland and Oregon](#) decreased by 13% and 9%, after implementing their programs. North Dakota's 2020 premiums are [20% lower on average](#) than they would have been without reinsurance. With this track record of success, we expect that additional states will seek to establish their reinsurance programs.

### **Easy Enrollment Pathways**

States can move forward with policies that provide more streamlined pathways to affordable coverage for their residents. For example, following the passage of [bipartisan legislation](#) in Maryland to create the “Maryland Easy Enrollment Health Insurance Program,” uninsured tax filers in the state will check a box to be screened for affordable coverage eligibility and begin the enrollment process. This program is beginning this year, so states seeking to make it easier for consumers to enroll in affordable coverage can look to [Maryland's experience](#) when pursuing similar policy options.

### **State-based Marketplaces**

After the passage of the Affordable Care Act, [14 states](#) and the District of Columbia received approval to operate state-based marketplaces. A decade later, some states taking part in a facilitated marketplace are following suit to enjoy greater flexibility, financial incentives, and autonomy.

In 2019, [New Jersey](#) and [Pennsylvania](#) enacted legislation to transition to a state-based exchange, and [Nevada](#) has now moved to a state platform for the 2020 plan year. Looking ahead, [New Mexico](#) intends to convert by 2022, and [Oregon](#) and [Maine](#) have taken steps to evaluate the benefits and effectiveness of transitioning to state-based marketplaces. While this may not be a viable option for every state, the advantages will merit consideration by additional states.

### **PRESCRIPTION DRUGS**

States enacted a record number of laws to address prescription drug pricing last year. With drug prices climbing ever higher, federal legislation languishing in Congress, and people continuing to call for help with burdensome prescription drug costs, affordability will continue to be a top state priority in 2020.

### **Affordable Access to Insulin**

Insulin is a critical maintenance medication that saves lives. For the [over 30 million Americans](#) living with diabetes, the [rising prices of insulin](#) have become increasingly problematic—and dangerous. Patient advocacy has risen around the high prices of this almost [98-year-old](#) medication, and state policymakers are responding accordingly. Insulin-targeted policies are gaining momentum across the country following the 2019 legislative sessions.

- ★ In 2019, Colorado passed [legislation](#) going into effect in 2020 that caps the monthly out-of-pocket cost for insulin at \$100 for insured consumers. Colorado's insurance carriers estimated in their 2020 rate filings that the premium cost of this life-saving protection [was negligible](#).
- ★ Minnesota policymakers explored an [Emergency Insulin Access bill](#) that would, in part, give patients access



to a 20-day supply of insulin if they meet financial requirements. While the Alec Smith Emergency Insulin Act did not pass in 2019, is likely to remain on the agenda in 2020.

- ★ In 2020 and beyond, [additional states](#) will follow Colorado and Minnesota's lead. For instance, several states, including [Florida](#), [Massachusetts](#), [Michigan](#), [New Hampshire](#), [New Jersey](#), [New York](#), [Ohio](#), [Oklahoma](#), [Pennsylvania](#), [Virginia](#), [Washington](#), and [Wisconsin](#) have introduced similar insulin caps as Colorado, and Illinois's General Assembly has approved an almost identical [policy](#) and sent it to the Governor who has [indicated](#) he will sign it. Several other state policymakers, including those in [Texas](#), have shown an interest in pursuing similar policies.

### ***Price Transparency and Affordability Review Boards***

Two states, [Maryland](#) and [Maine](#), enacted laws to establish Drug Affordability Review Boards, which [provide the ability](#) to limit the cost of certain high-cost drugs, increasing affordability for consumers. At least [8 states](#) explored Prescription Drug Affordability Review Boards in the 2019 session. With two states now moving to implement this approach, other states will watch their work to see if this policy results in significant savings. These boards seem to be a growing trend across states, and because of successful passage in these two states, we expect other states to follow and learn from the outcome of Maine and Maryland's implementations.

### ***Pharmacy Benefit Managers (PBMs) Regulations***

Pharmacy benefit managers (PBMs) manage prescription drug benefits for health plans, Medicare or large employers. PBMs negotiate with drug manufacturers

and pharmacies to control drug spending, pay for prescription drug claims, and update drug formularies. States are exploring ways to regulate PBMs to address rising prescription drug costs, including placing restrictions on Medicaid programs, requiring licensing from state Departments of Insurance, and increasing monitoring from relevant state agencies and health plans. During the 2019 session, at least [36 states](#) drafted PBM legislation. In 2020, states will continue this trend of enhancing consumer protections through regulations of PBMs, like what we saw in 2019.

- ★ [Maine](#) passed a bill in which health insurance carriers using PBMs to manage prescription drug benefits must monitor all activities performed by the contracted PBM.
- ★ [Louisiana](#) gave authority to the Department of Health to use pharmacy services from Medicaid Managed Care Organization contracts and have primary responsibility for all the pharmacy services, allowing the state to receive all the discounts that the PBMs would have otherwise received.
- ★ In Minnesota, a bipartisan [bill](#) to lower drug prices by regulating Pharmacy Benefit Managers passed, giving the Minnesota Department of Commerce licensing authority over PBMs, which requires the PBM to notify health insurance carriers when an activity presents a conflict of interest, prohibits gag clauses, and requires PBMs to create transparency reports to plan sponsors and the Insurance Commissioner.

### ***Wholesale Drug Importation***

[Florida](#), [Colorado](#), and [Maine](#) enacted legislation to allow for wholesale importation of prescription drugs in

2019, joining [Vermont](#). Recently, the Trump Administration [released proposed guidance](#) on the federal approval process that these states will need to navigate as they establish their programs. Many of the states [that considered legislation last year, including Connecticut](#), will probably revisit the issue, building on the successful legislative efforts in these three states last year. State leaders will also be watching state efforts to establish their programs and navigate the federal approval process.

### **MENTAL HEALTH AND SUBSTANCE USE DISORDERS**

Mental health challenges can affect nearly everyone, whether as a family member, caregiver or patient; however, our policies on mental health and substance use disorders rarely meet the needs of those experiencing them. In 2017, over [150,000](#) Americans lost their lives to drugs, alcohol or suicide. If this trend continues, 1.6 million more people could die from the preventable causes of drugs, alcohol and suicide by 2025. State lawmakers are working to find solutions to best fit the mental health and substance use disorder needs of their constituents.

We expect to see states across the country continue to work to improve access to mental health care services, through both improved coverage and access.

- ★ While most states enacted federal mental health parity legislation over a decade ago, they still fall short of enforcing requirements, with a [2018 report](#) giving 32 states a failing grade at parity enforcement. State leaders are responding by stepping up their efforts to deliver on the promise of mental health parity. For example, both [Wyoming](#) and [New Jersey](#) passed legislation requiring all health plans in the state to meet



requirements under the federal Mental Health Parity and Addiction Equity Act (MHPAEA) of 2008.

- ★ With [1 in 6 children](#) ages 6 to 17 living with treatable mental health conditions, states are exploring innovative ways to better connect children to treatment. During the 2019 session, [Minnesota](#), [California](#), and [Texas](#) all passed policies designed to increase availability of — and access to — school-linked mental health services.
- ★ In 2019, the Georgia General Assembly passed and Governor Kemp established the [Behavioral Health Innovation Commission](#) to examine and work toward better mental health and substance abuse outcomes in Georgia. The Commission is expected to begin making recommendations in 2020 to the General Assembly and Governor to improve behavioral health and substance abuse services for Georgians.

Access to mental and behavioral health care transcends party lines and will remain a key priority for legislators in the coming year.

### **Substance Use Disorders**

In recent years, states have increased investments in prevention and treatment programs to address opioid abuse and other substance use disorders recognizing the [significant need](#).

- ★ One major area is states expanding Medicaid coverage for addiction [treatment options](#), including Medication-Assisted Treatment.
- ★ Some state lawmakers are working to address opioid addiction by creating opioid taxes that assess a

tax or fee on drug manufacturers and distributors selling opioid products, then using the proceeds to fund prevention and treatment programs. Minnesota, for example, passed bipartisan legislation in 2019 to enact a comprehensive [state response](#) to the opioid crisis, including grants for prevention, education, treatment and rehabilitation efforts funded by these taxes.

- ★ At least [33 states](#) have enacted opioid prescription limits for providers, and many are poised to follow. For example, in 2019, Rhode Island passed a [bill](#) that limits first-time opioid prescriptions for adults to a seven-day supply and puts the same limit on all prescriptions for minors. We expect these trends to continue in 2020.

### **ELIMINATING HEALTH DISPARITIES**

Policymakers are grappling with the many factors outside the traditionally defined health care system that influences individuals' ability to live their healthiest lives. These factors, also known as social determinants of health (SDOH), include the safety of neighborhoods, access to healthy food, educational opportunities, socioeconomic status, access to transportation and more. SDOH have [disproportionate impacts on certain populations](#), leading to health disparities based on income, race/ethnicity, geography and more. Not only can policies addressing SDOH [improve health outcomes](#), they can also [decrease the overall cost of care](#) for some populations. Lawmakers across the country recognize the impact these SDOH and health disparities have on people trying to live healthy lives and are [working to create better solutions](#).

### **Addressing Maternal Health Disparities**

- ★ States are working to reduce

the significant [maternal health disparities](#), with Black, American Indian and Alaska Native women 2 to 3 more times likely to die from pregnancy-related causes than white women and addressing [significant disparities existing](#) between rural and urban residents. States including [New Jersey](#), [Tennessee](#), [Texas](#), [West Virginia](#), and [Virginia](#) have explored expanding Medicaid postpartum coverage from 60 days to 12 months to [address this critical issue](#). [California](#) passed legislation to expand coverage; [Illinois](#), [Missouri](#), and [South Carolina](#) are seeking [federal Medicaid 1115 waivers to do the same](#). We expect these efforts to continue gaining traction across the country and across partisan lines.

- ★ States are pursuing a wide range of other policies to reduce maternal mortality rates. At least [13 states](#) have created maternal mortality review commissions to identify gaps in care. The Georgia House Study Committee on Maternal Mortality released [19 recommendations](#) to reduce the state's high maternal mortality rate.
- ★ Besides proposing expanded postpartum Medicaid coverage, a [recent budget proposal](#) in Virginia aims to reduce maternal mortality rates among women of color over two years by, in part, increasing home visits from care providers.

### **State-Federal Partnerships**

Thanks to the Centers for Medicare & Medicaid Services (CMS), states have been able to explore innovative policies to address the SDOH and health equity.

- ★ [One example](#) is [North Carolina's Healthy Opportunities](#), approved in 2018 to create its Healthy



Opportunities pilot program. This was the first time CMS allowed a state to use Medicaid funds to provide services, like deliveries of medically tailored nutritious food or support for temporary housing to beneficiaries in need. North Carolina is implementing the pilot program and is identifying trusted community partners to undertake this work [beginning in 2020](#).

★ Minnesota also received [federal approval](#) to create a package of housing stabilization services that will help qualified seniors and people with disabilities — including mental illness and substance use disorder — who are experiencing homelessness, living in institutions, or at risk of losing their homes or becoming institutionalized.

Through 2020 and beyond, it's likely that other states will work with CMS to secure funding to address social determinants of health for targeted populations like what North Carolina and Minnesota have done. States can learn from the experiences of these partnerships as they continue to be implemented and evaluated.

## CONCLUSION

While the 2020 national health care conversation may be acrimonious, states are well-positioned to continue making real progress on key health care issues that matter in people's lives.