

Health Care Victories in the 2018 State Legislative Sessions

While congressional health care legislation stalled and federal actions undermined provisions of the Affordable Care Act, state policymakers stepped up to address a range of issues affecting health care costs, access, and Medicaid programs in 2018.

Families USA has identified some of the biggest legislative victories for health care in the 2018 state legislative sessions. We also include significant bills that are awaiting governors' signatures or are still active in legislatures that remain in session. From Medicaid expansion to exploring Medicaid buy-in options, from addressing adult dental benefits to measures that created or maintained health care protections for consumers, the issues of health care ranked at the top of lawmakers' agenda. Many of these bills will be models for advocates and policymakers looking to create agendas for improving health care affordability and access in the upcoming 2019 legislative sessions.

Highlights from the 2018 State Legislative Sessions

Prescription Drug Pricing

Drug price transparency legislation was a popular approach for states in this legislative session to help address the high costs of medication. Following [California's groundbreaking legislation](#) that was signed into law last year, Oregon and Connecticut lawmakers passed similar measures.

- » This year, Oregon passed [H.B. 4005](#), which will require insurers and drug manufacturers to make information transparent about high and rising drug costs. Advocates from the [Oregon](#)

[State Public Interest Research Group \(OSPIRG\)](#) and their partners advocated successfully for H.B. 4005, requiring insurers to report to the state's insurance department information about the prices of the costliest drugs and how they impact insurance premiums through the state's rate review process. Manufacturers of high-cost drugs will report a range of data, including research and development costs, profits, marketing costs, and more. The insurance department will make this information available on its public website.

- » Connecticut passed [H.B. 5384](#) with advocacy from the Universal Health Care Foundation of Connecticut and their partners. The transparency legislation requires insurers to report on drug costs through the insurer rate review process to the state's insurance department. Additionally, the Connecticut bill requires pharmacy benefit managers (PBMs) to report the amount of rebates they collect and pass on to insurers. The insurance department will create an annual public report on drug prices and provide drug price and PBM information to the state's Legislature each year. The department must also create an annual report for the Legislature on how carriers are accounting for rebates and passing them to consumers.

Surprise Bills

Over the past few years, states have addressed the financial harms consumers face when they are subjected to surprise out-of-network bills. In 2018, Missouri and New Jersey passed protections against surprise bills.

- » Missouri [S.B. 982](#) passed with the help of advocates, including [Missouri Health Care for All](#). This law prohibits surprise bills from out-of-network providers in in-network emergency facilities. It also requires insurers to cover emergency services for situations a “prudent layperson” would consider an emergency, thus preventing insurers from denying coverage for a situation they deem not to be an emergency after the fact.
- » New Jersey [A2039/S485](#) was signed into law after intensive advocacy from the NJ for Health Care Coalition with strong leadership from organizations like [New Jersey Citizen Action](#). This new law, the Out-of-Network Consumer Protection, Transparency, Cost Containment and Accountability Act, is a law that has been in the works for years.

Medicaid

Medicaid was a big focus area in the [2018 state legislative sessions](#). Medicaid expansion proved a success in Virginia, but faced new barriers and restrictions in other states. As can be seen on Families USA’s [Waiver Strategy Center](#), many states faced the challenge of work requirements and other threats to their Medicaid programs through 1115 waivers. Some states fought back, considering legislation that would prohibit waivers that undermine access to coverage and care in Medicaid. In other

states, legislatures considered how the state can expand coverage and lower health care costs by allowing people not currently eligible for Medicaid to buy into the program.

Medicaid Expansion

- » Following the state’s 2017 elections, newly elected Gov. Ralph Northam brought Virginia into the fold of Medicaid expansion states. Thanks to health care leaders, like the Virginia Poverty Law Center and Virginia Organizing, Virginia had one of the biggest Medicaid victories this session, becoming the 33rd state to expand Medicaid. Other states, including Idaho, Nebraska, and Utah, were not able to win full expansions in the legislature and are following the example of [Maine](#) in turning to ballot initiatives in the 2018 elections in hopes of expanding health care coverage.

Medicaid Buy-In

- » New Mexico [HM 9/SM 3](#), memorial resolutions requiring the Legislative Health and Human Services Committee to study the possibility of offering state residents who are not eligible for Medicaid the opportunity to buy into a health plan administered by Medicaid, passed this year. Advocates, including [Health Action New Mexico](#),

Medicaid and Waivers

Families USA's [Waiver Strategy Center](#) tracks the changes states make to health care programs using 1115 and 1332 waivers. These changes can be good or bad for consumers.

successfully advocated for these memorials, under which the committee will examine if Medicaid buy-in could expand health coverage and lower health care costs for the people of New Mexico.

- » Delaware [Concurrent Resolution 70](#) passed this year, creating a Medicaid Buy-In Study Group in the state. The group will study the adoption of an expanded Medicaid buy-in program in Delaware, including federal requirements and approvals, eligibility criteria for individuals, potential premiums and levels of coverage, and potential positive and negative consequences of creating an expanded Medicaid buy-in program. The bill also authorizes the state to apply for a 1332 state innovation waiver under the Affordable Care Act.
- » Maryland passed [H.B. 1782](#) this year, which among other provisions (see pages 4 and 5) requires the Maryland Health Insurance Coverage Protection Commission to consider a Medicaid buy-in program. Consumer Health First successfully advocated for the inclusion of this provision in the bill.

Preventing Harmful Medicaid Waivers

- » California [S.B. 1108](#) is currently under consideration in the state Legislature. Advocates, like the [Western Center on Law and Poverty](#), are urging the state to take a proactive approach to preventing harmful Medicaid waivers with this bill, which will prohibit California from imposing work requirements on Medicaid recipients.
- » [Illinois H.B. 4165](#), which will prohibit harmful waivers, is awaiting the governor's signature. This bill, supported by advocacy groups,

including the Sargent Shriver National Center on Poverty Law, would prohibit Illinois from applying for any federal waivers that would reduce or eliminate any protection or coverage required under the Affordable Care Act in effect on January 1, 2017. This bill would prohibit waivers that decrease protections or benefits in private coverage, Medicaid, or the Children's Health Insurance Program.

Coverage for Immigrants

- » California [A.B. 2965](#) and [S.B. 974](#) are two groundbreaking bills under consideration in California's Legislature with the support of advocates like [Health Access California](#) and the California Immigrant Policy Center. If both bills are passed, full-scale Medi-Cal benefits will be extended to all individuals 26 and under, and 65 and older, regardless of their immigration status.

Adult Dental Benefits

Oral health coverage isn't always an option for many adults, especially those who rely on Medicaid or Medicare for their health insurance. Many states, however, are seeing the importance of oral health to overall health and improving coverage for adults in their Medicaid programs. 2018 saw advances in several states.

- » Maryland [S.B. 284](#) built on last year's legislation authorizing adult dental coverage. The [Maryland Dental Action Coalition](#) led the effort to enact this new law, which creates a pilot program that will offer oral health coverage to a small set of adults who are insured through Medicaid and provides an opportunity to demonstrate the importance of this coverage for all adults.
- » For the first time in Illinois' Medicaid program, preventive dental care, like cleanings and

sealants, will now be covered for adults. The bipartisan agreement was part of the [state's budget](#) that passed and was signed into law by Governor Rauner.

- » In Idaho, passage of [H 465](#) restored preventive dental care services for Medicaid recipients. Coverage for these services was previously eliminated in recession-era budget cuts, but with the help of advocates, like the Idaho Primary Care Association, these important benefits are now reinstated.
- » In Massachusetts, thanks to the advocacy of Healthcare for All Massachusetts and others, this year's [state budget](#) included funding to restore coverage for periodontal services for adults, which were cut in 2002.

Protecting the Private Coverage Marketplace

Federal actions to undermine the Affordable Care Act health insurance marketplaces are prompting some states to shore up consumer protections and take other actions to stabilize insurance markets. Examples of such state laws include those to enact state-based individual mandates, to regulate short-term plans, to guarantee essential health benefits in insurance plans, and to create reinsurance programs. Reinsurance waivers are also being considered outside the legislative process.

State-Based Individual Mandates

- » In New Jersey, [A3380](#) passed, allowing New Jersey to become the second state to enact an individual health insurance mandate, following Massachusetts, which had a mandate in place before the enactment of the Affordable Care Act. The NJ for Health Care Coalition advocated for this legislation to help keep premiums down

and to ensure that protections are stable for people with pre-existing conditions.

- » Vermont passed [H. 696](#), making the Green Mountain State the third to enact a law requiring a state-based individual mandate. Vermont's mandate will go into effect January 1, 2020.
- » Maryland's [H.B. 1782](#) requires the state's Health Insurance Coverage Protection Commission to consider whether to adopt a state-based mandate. It also requires the Commission to consider how to use payments collected from individuals who do not have coverage, including whether the payments should be used to assist individuals in purchasing health insurance. Advocates at the Maryland Citizen's Health Initiative are advocating that payments apply directly to insurance premiums for uninsured Marylanders through the health care "[down payment model](#)."
- » The District of Columbia's [Budget Support Act](#) for Fiscal Year 2019 passed with the creation of a state-based individual mandate effective for 2019. Supported by advocates at the [DC Fiscal Policy Institute](#), revenue from the mandate penalty will go toward supporting outreach to uninsured District residents, the dissemination of information to residents about their health insurance options, and other initiatives to increase insurance availability and affordability.

Short-Term Plans

- » Hawaii [H.B. 1520](#) passed this year, prohibiting the sale of short-term plans that are not required to meet Affordable Care Act standards to anyone who is eligible to purchase a health plan through the marketplace, either during open enrollment or through a special enrollment period.

- » Maryland passed [H.B. 1782](#) this session, which includes a number of measures to improve the private insurance market in Maryland, including a restriction on the duration of short-term plans to no more than three months and a prohibition on their renewal after that time.
- » Vermont [H. 892](#) passed this year, and like Maryland's law, it limits short-term plans to three months and prohibits their renewal.

Reinsurance

- » Maryland [S.B. 387](#), [H.B. 1795](#), [H.B. 1782](#), and [S.B.1267](#) are a package of bills passed this session that authorize the state to establish a reinsurance program through a 1332 waiver that will lower health insurance premiums for Maryland's individual market.
- » New Jersey [S1878](#) passed and now authorizes the state to create a reinsurance program under a 1332 waiver to lower premiums in the individual market.

Essential Health Benefits

- » Connecticut [H.B. 5210](#) was passed into law with the help of the [Universal Health Care Foundation of Connecticut](#). The law mandates insurance coverage of essential health benefits and simultaneously expands mandated health benefits for women, children, and adolescents.

Informing Legislative Agendas for 2019

The bills passed and considered in 2018 provide examples and guidance for states and advocates looking to create legislative agendas on health coverage, care, and improved health for the upcoming 2019 state legislative sessions.

We urge you to share your 2019 legislative priorities with us and to stay in touch with Families USA for additional resources. Together we can help ensure that we continue to see wins and protections for health care consumers across the states in 2019 and in the years to come.

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