



Healthcare Regulatory Round-Up #63

Coming to a Statehouse Near You

January 24, 2024

Introductions



Martie Ross, JD
mross@pyapc.com



Kathy Reep, MBA
kreep@pyapc.com



pyapc.com
800.270.9629

ATLANTA | CHARLOTTE | HELENA | KANSAS CITY | KNOXVILLE | NASHVILLE | TAMPA



Agenda


1. Medicaid coverage
2. Medicaid payments
3. Quality standards and staffing levels
4. Price transparency
5. Surprise billing
6. Tax-exempt hospitals/community benefit
7. Prescription drug affordability
8. Payer regulation
9. Telehealth
10. Provider licensure

National Academy for State Health Policy


<https://nashp.org/>




Policy Areas Emerging Topics State Trackers Blogs Events About Us  

 **NASHP** | NATIONAL ACADEMY FOR STATE HEALTH POLICY


Committed to improving the health and well-being of all people across every state.




BLOG / 01.12.24
Trends in State Policies That Support the Community Health Worker Workforce



STATE TRACKER / 01.12.24
2024 State Legislation to Lower Prescription Drug Costs



STATE TRACKER / 01.03.24
2024 State Legislation to Lower Health System Costs



WEBINAR / 12.08.23
State-Only Discussion Series: The AHEAD Model and State Considerations

Thank you to our Strategic Partners



1. Medicaid Coverage Expansion

ACA Medicaid eligible population expansion (138% FPL) (10 states remaining; renewals/peals)

- Work requirements, increased primary care payments, private option

Maternal health

- Expanded coverage to 1-year post-partum (8 states remaining)
- CMMI Transforming Maternal Health Model

Social services programs

- Homelessness, food and nutrition
- Gun violence
 - California, Colorado, Connecticut, Illinois, Maryland, New York, and Oregon

Undocumented immigrants (Medi-Cal)

2. Medicaid Payments

- States addressing PHE aftermath (loss of additional 6.2% FMAP, other funding)
- Changes to provider assessments?
 - Used by every state except Alaska to fund portion of state share of Medicaid payments
 - Some states expanding types of providers subject to tax and/or restructuring existing taxes
 - Federal scrutiny of providers' side arrangements regarding fund allocations
- Change to fee-for-service reimbursement rates?
 - Nearly all states increasing rates in response to inflation, workforce shortages
 - Some rate reductions tied to changes in supplemental payments (DSH and UCC)
- Value-based payment arrangements
 - MCO contract provisions to all-payer initiatives (e.g., CMMI AHEAD Model)

3. Quality Standards and Staffing Levels

- Improving quality and access to care
 - Maternal health
 - Primary care
 - Behavioral health
- Workforce issues
 - Nurse-to-patient staffing ratios
 - Staffing levels
 - Addresses both nursing and allied health workers
 - Requirement for staffing committees in hospitals to develop staffing plans for both service workers and professional/technical workers (Oregon)
 - Coverage for breaks
 - Impact of minimum wage increases

4. Price Transparency

- Prohibition or caps on hospitals charging facility fees at off-campus location or telehealth other than in emergency situations (CO, CT, ME, MA)
 - Notice of higher rates than if services received in non-hospital-based office
- Disclosure of non-emergency charges in advance of service
- Disclosure to patient if cost-sharing for covered service exceeds self-pay cash price
- Requirement to comply with federal transparency “law”/regulations
 - Added penalties for non-compliance
- Legislation to parallel federal transparency requirements

4. Price Transparency (cont'd)

- Prohibition on non-compliant hospitals from billing patients/refund any payments received as of date of transparency violation
- Expands transparency to medical, dental practices, ASCs
- Time period limitation on action to collect medical debt (3 years FL)
- All-payer claims database – creation and elimination
- Tracking of drug prices across payers and manufacturers
- Rate comparisons to percentage of Medicare (IN, 285%)
- Requirements for manufacturers to notify state purchasers in advance if wholesale acquisition cost is changed above certain threshold (NJ, NY, OK)

5. Surprise Billing

- Violation of federal laws considered deceptive trade practice
- Limitation/cap on actual charges exceeding estimates, other than in emergency situations
- Require plans to reimburse transport by a non-participating ambulance provider
 - Other states placing prohibition on ambulance balance billing
- Prohibition on physician balance billing
- Require providers to specify in patient bill dollar amount provider is willing to accept as payment in full
- Establishing patients' bill of rights
- Repealing pre-existing state laws (e.g., New Mexico)

6. Tax-Exempt Hospitals/Community Benefits

- Limitations on hospital expenditures
- Redefining community benefits to include unreimbursed cost of services reported in federal tax filings
- Public presentation of community benefit implementation plan
- Post community benefit report on website
- Report on how community benefit spending relates to community health needs assessments (Illinois)
- Conversion of independent hospital districts to non-profit entities (Florida)
- Report on hospital (mis)use of tax-exempt status (Texas)

7. Prescription Drug Affordability

- Tracking price increases of top prescription drugs
- Creation of Prescription Drug Affordability Boards to create Upper Payment Limits for prescription drugs (Michigan, Vermont, and Wisconsin)
- Prohibit PBM's from excess cost burdens on insured prescription drug coverage (Oklahoma)
- Prohibition on unsupported price increases
- Provide justifications and circumstances for prescription drug price increases (Massachusetts and New York)
- Reference rates

7. Prescription Drug Affordability (Con't)

- Establishment of Canadian wholesale prescription drug importation programs (Michigan, Illinois, Nebraska, New York, and Ohio)
- State partnerships with drug manufacturers to produce generic drugs (Illinois)
- Studies and state oversight of “preferred pharmacies”
- Annual study of major pharmaceutical companies producing generic drugs and other major drug products that impact statewide health (Massachusetts)

8. Payer Regulation

- Prior authorizations (AMA model legislation)
 - Establish quick response times
 - Allow adverse determinations only by physician licensed in same state/specialty
 - Prohibit retroactive denials if care preauthorized
 - Make authorization valid for at least one year, regardless of dose changes; and for those with chronic conditions, the prior authorization should be valid for the length of treatment.
 - Require public release of insurers' prior authorization data by drug and service
- Coverage mandates
 - Enforcement by state departments of insurance
- Consumer cost-sharing
 - Any amount paid by consumer must be applied to annual cost-sharing
 - Limitation on out-of-pocket costs for prescription drugs, high-value services

9. Telehealth

- Medicaid coverage
 - Expanded list of eligible conditions, services
 - Prohibition on telehealth-only services
 - Physical presence in the state as a condition of Medicaid participation
- Commercial payers
 - Coverage and payment parity
- Licensure
 - Interstate compacts
 - Exceptions to state licensure requirements
- Professional practice standards
- On-line prescribing
- Demonstration programs

Center for Connected Health Policy

<https://www.cchpca.org/>



The screenshot shows the CCHP website homepage. At the top left is the CCHP logo, an orange sunburst icon. To its right is the text 'Look up policy by:' followed by two dropdown menus: 'Topic' and 'State'. Further right are search and menu icons. The main content area is split into two columns. The left column has a dark blue background with a photo of the US Capitol building. It features the heading 'Understanding telehealth policy' and the subtext 'Get to know how the laws, regulations, and Medicaid programs work in your state.' Below this are three circular icons: a person at a desk, a pair of glasses, and a gavel, with labels 'How we work', 'Resources & reports', and 'Ask a policy expert' respectively. The right column has a light grey background with a photo of a doctor on a video call. It features the heading 'Telehealth policy finder' and the subtext 'Know what you're searching for? Find the policies and regulations that impact you.' Below this are three circular icons: a stethoscope, a pill bottle, and a person at a desk, with labels 'All telehealth policies', 'FQHC policies', and 'Pending legislation' respectively.

9. Licensure

- Definition of a hospital
 - Hospital-at-home
 - Rural emergency hospital
- Certificate of need
 - Repeal addressed in numerous states while others look to exemption based on cost of additional services as well as civil penalties for failure to comply with existing CON laws
 - Some states enacting strict timeframes for CON determination letter

10. Licensure (cont'd)

- Ensuring access to primary care – patients presenting in ER with non-emergent condition (Florida)
 - Maintain EMTALA compliance
 - Referrals for care to urgent care centers/FQHCs
 - Development of non-emergency care access plans (NCAPs)
 - Educate patients, help to establish medical home
 - Allows construction of hospital-owned urgent care center co-located within or adjacent to hospital ED; hospital can divert patients to urgent care following medical screening exam, if appropriate

If It's Not One Thing...

- Opioid settlement spending
- Limitations on increases in state's health care spending
- Funding primary care residency slots
- State tax credits for physicians with an ownership interest in a physician practice
- Annual report for hospitals of all capital expenditures
- Single payer systems
 - Establishment of committees to review in MA, CT
 - Failed in IN and RI; carried over in NH, IL, MI, and MN
 - Medicare-for-all – New Jersey

Other Stuff Going On...

- Federal budget negotiations
 - Physician Fee Schedule conversion factor
 - Lower Costs, More Transparency Act
 - Medicaid DSH cuts
 - Off-campus HOPD drug administration
- Supreme Court oral argument on *Chevron* doctrine
- Prior authorization final rule
- MedPAC hearing on Medicare Advantage
- EMTALA enforcement



OUR NEXT HEALTHCARE REGULATORY ROUND-UP

Billing Medicare for G2211: What You Need to Know Now

February 7, 2024

Thank you for attending!

PYA's subject matter experts discuss the latest industry developments in our popular Healthcare Regulatory Roundup webinar series twice each month.

For on-demand recordings of this and all previous HCRR webinars, and information on upcoming topics and dates, please follow the link below.

<https://www.pyapc.com/healthcare-regulatory-roundup-webinars/>



pyapc.com | 800.270.9629

ATLANTA | CHARLOTTE | HELENA | KANSAS CITY | KNOXVILLE | NASHVILLE | TAMPA