



Bringing Health Care Prices to Light

BY JACK PITSOR

Consumers are often in the dark when it comes to prices for health care services—and they're not the only ones. Policymakers, employers and researchers frequently lack access to robust price data, which can act as a barrier for assessing health care markets and controlling costs.

Several studies have found this lack of transparency contributes to a number of adverse effects. For one, [highly concentrated](#) hospitals and other health care facilities [may charge more](#) for health services, leading to [an overall increase](#) in health care spending—especially by [private health insurers and employers](#). However, as insurers [shift more cost-sharing](#) to health plan enrollees, these higher prices may result in [additional out-of-pocket spending](#) for consumers themselves.

Researchers have also found wide variation in health care prices, where the prices paid for services differ within the same [state, locality](#) or even [hospital](#). And while the relationship between health care costs and quality [is complicated](#), some argue that [higher quality of care alone](#) cannot account for differences in health care prices.

Many health care providers maintain there may be legitimate reasons to set higher and varying prices, such as negotiating higher rates with private insurers to [make up for lower](#) Medicare and Medicaid reimbursements. And [some policy experts question](#) how effective disclosing price information will be at lowering health care costs, since health care is a rather unique and complex economic sector.

With these concerns in mind, federal and state policymakers have pursued price transparency to

Did You Know?

- In 2018, private health insurance plans paid hospitals [an average of 247%](#) of what Medicare would pay for the same health care service in the same health facility.
- [One Colorado study](#) found significant variation in hospital payments across the state, with private insurance reimbursements ranging from 115% to 576% of Medicare rates.
- [At least 10 states](#) enacted over 18 bills relating to health care price transparency during the 2020 legislative sessions.

identify high-cost health care services and providers and reign in price variation. Lawmakers are also looking to empower consumers to seek high-value care at a lower cost.

State Action

Price transparency initiatives vary greatly, but common themes have emerged from the states. This includes collecting health care claims data, providing price information directly to consumers, and pursuing additional oversight for health facilities and insurers.

■ **All-Payer Claims Databases.** State-level All-Payer Claims Databases (APCDs) collect health care claims and quality data from a variety of payers, including Medicare, Medicaid, state employee health plans and some private health plans. Currently, [24 states](#) have an APCD or enacted legislation to establish one.

With the treasure trove of claims data housed in APCDs, state policymakers can gain a more complete picture of marketplace trends and pursue strategies to address the costs of care. For example, [Florida](#) enacted legislation in 2020 requiring its APCD to report annually on health care services with significant price variation both statewide and regionally. Colorado used APCD data to measure spending for [primary care services](#) and implement its [surprise billing law](#).

■ **Consumer-Focused Initiatives.** States are also leveraging APCDs to arm health care consumers with better price information. Nine states currently use APCD claims data for [consumer-facing price comparison tools](#), which allow individuals to compare prices for shoppable health services—such as a CT scan or primary care visit.

However, studies have shown patients are [unlikely to use price comparison tools](#). Instead, they rely on [physician referrals](#) or opt for costlier services [assuming the quality of care](#) is better. Additionally, these tools [may not accurately reflect](#) the actual out-of-pocket costs for health plan enrollees.

Some states have established shared-savings, or [Right to Shop](#), programs to incentivize patients to use price comparison tools and seek out affordable, high-quality providers. Through these programs, private insurers will share a portion of their cost-savings with enrollees—typically through premium rebates, reduced out-of-pocket costs or direct payments—if the enrollee opts for lower-cost care.

At least seven states—[Florida](#), [Georgia](#), [Maine](#), [Nebraska](#), [Tennessee](#), [Utah](#) and [Virginia](#)—have state laws requiring or encouraging private insurers to establish Right to Shop programs for enrollees. [New Hampshire](#), [Kentucky](#) and [Utah](#) established shared-savings programs as part of their state employee health plans.

■ **Provider and Payer Oversight.** Beyond APCDs and consumer price comparison tools, a [number of state laws](#) establish other price transparency requirements for health facilities and insurers. These include barring certain [provider-insurer contract provisions](#) and requiring health facilities or payers to provide [cost estimates](#) to patients.

For example, [Indiana](#) enacted legislation in 2020 prohibiting provider contract provisions that limit an insurer's ability to disclose health care claims data to employers. The bill also requires the state to establish an APCD.

In addition, Indiana lawmakers passed a [separate bill](#) requiring health practitioners to provide patients a good faith estimate of what they intend to charge for non-emergency services. [Maryland](#) addressed transparency by requiring outpatient facilities to provide patients written notice of their fees and offer information on other facilities not charging these fees.

Federal Action

The U.S. Supreme Court ruled in the 2016 case [Gobeille v. Liberty Mutual](#) that the federal Employee Retirement Income Security Act (ERISA) preempts state laws requiring [self-insured employer-sponsored health plans](#) to submit claims data to APCDs.

With more than [60% of the U.S. workforce](#) covered by ERISA plans, this has resulted in APCDs missing claims data for a significant segment of the health care market. In response, several states—including [Colorado](#), [Georgia](#), [New Hampshire](#), [Utah](#) and [Virginia](#)—created voluntary submission processes, where employers can opt to have their self-insured health claims data submitted to the state's APCD.

Federal officials have also pursued price transparency. The Department of Health and Human Services (HHS) issued a [final rule](#) requiring hospitals to release price information for 300 shoppable health services in a consumer-friendly format, as well as release a list of standard charges for all services in a machine-readable format. These hospital transparency requirements were effective as of January 2021.

In addition, HHS released a [final rule](#) in 2020 that requires most private health insurers to provide cost-sharing estimates upon a patient's request and publish negotiated payment rates with in-network providers. Health insurers must release negotiated rates by January 2022 and comply with cost-sharing estimate requirements by January 2024.

Finally, [recent legislation](#) establishing federal surprise billing protections also [created a grant program](#), where states can receive \$2.5 million to start or improve a state-based APCD.

Additional Resources

- [Transparency of Health Costs: State Actions](#), NCSL
- [Health Innovations State Law Database](#), NCSL
- [The APCD Council](#)
- ["Addressing Health Care Market Consolidation and High Prices: The Role of States,"](#) Urban Institute

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