



Health Systems Digest

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ABOUT THIS DIGEST: The NCSL Health Program works in collaboration with professional researchers and writers across the nation. They often publish and post material on current state events that are valuable but may be hard to find for busy legislators and legislative staff. This digest pulls together a concise list that may be of interest or use for your legislative research, hearings, briefings or other events. A special thanks to The Commonwealth Fund for supporting this resource.

Highlights from NCSL's Capitol Forum 2018 in Washington D.C.—Changes Affecting the Health Insurance Market

NCSL hosted its annual Capitol Forum in December where the session, “Changes Affecting the Health Insurance Market,” featured national experts. They discussed the effect that short-term-limited-duration plans, association health plans and the repeal of the individual mandate penalty have on state marketplaces, as well as options states have to respond. The full Health and Human Services track agenda with links to resources is online—click on individual sessions to access handouts and PowerPoint presentations (or you can choose “expand all” to see details for all sessions held).

[SEE THE FULL HHS AGENDA](#)



States Look to Reinsurance to Lower Health Insurance Costs

Health insurance coverage and affordability continues to be a top issue across the country, with states increasingly taking the lead in helping more residents obtain insurance at affordable rates. Federal waivers are one approach states can take to address the topic. One of these options, Section 1332 waivers—or State Innovation Waivers—allows states to pursue a variety of strategies, including establishing a reinsurance program. [READ THE NCSL LEGISBRIEF](#)

Assessing the Effectiveness of State-Based Reinsurance: Case Studies of Three States' Efforts to Bolster Their Individual Markets

To date, three states have implemented their own reinsurance programs using the ACA's Section 1332 State Innovation Waivers, while a number of others are in the process of doing so. Alaska, Minnesota and Oregon were the first to gain approval and federal funding to operate programs under a 1332 waiver. Researchers at the Georgetown Center on Health Insurance Reforms assess the state reinsurance programs' progress in accomplishing their goals and outlines the lessons they have learned so far. [VIEW THE BRIEF](#)

The Number of Enrollments Through Federal Exchange Decreases

The Centers for Medicare & Medicaid Services (CMS) released the weekly enrollment snapshot through the Dec. 15, 2018 deadline for the 2019 open enrollment period, and the preliminary data show enrollment decreased. Open

enrollment for 2019 coverage ended with approximately 8.5 million people enrolled compared to 8.8 million people at the same time last year. These numbers are preliminary and do not represent final 2019 Exchange open enrollment figures. [READ THE CMS REPORT](#)

Court Decision to Invalidate the Affordable Care Act Would Affect Every American



In February 2018, in *Texas v. Azar*, 19 attorneys general and governors argued that when Congress reduced the individual mandate penalty amount to \$0 in the 2017 Tax Cut and Jobs Act, it rendered the mandate unconstitutional and the remainder of the ACA invalid. In April, the plaintiffs asked the judge to enter an injunction, or court order, blocking the operation of the ACA. California's attorney general and 16 other attorneys general then intervened to defend the law in its entirety. In the Commonwealth Fund's blog, *To the Point*, expert Timothy Jost discusses how on Dec. 14, 2018—the eve of the final day of the 2019 open-enrollment period—a Texas

federal court judge delivered a judgment purporting to invalidate the Affordable Care Act. [READ THE BLOG](#)

Healthy Marketplace Index

Health care prices have grown rapidly across the United States. But focusing on the national picture doesn't capture how these rising prices have affected local areas differently. An analysis by the Health Care Cost Institute shows that over the last five years, price levels and growth rates varied widely for different types of health care services both across and within metro areas. In short, each locality had a different experience. [SEE THE INTERACTIVE GRAPHIC](#)

Health Care Industry Publishes Balance-Billing Guide as Senators Pose Legislation

As momentum builds on Capitol Hill for legislation to curb outsize or surprise medical bills, provider and insurance trade groups have released a consumer guide on balance billing. Balance billing is when a provider bills the patient for the difference between their charge and the amount covered by the patient's insurer. The federal proposals follow multiple actions on the state level to rein in balance bills. However, states don't have the authority to regulate large employer plans—a significant limitation as balance bills become more common for people with insurance. Major industry stakeholder groups have yet to weigh in publicly on these recent legislative proposals. America's Health Insurance Plans, American Hospital Association and the Healthcare Financial Management Association released a 15-page guide on the issue, starting with detailed explanations of how provider and insurance network negotiations work.

[SEE THE GUIDE](#)



Feds Dramatically Relax Section 1332 Waiver Guardrails

On Oct. 22, 2018, the Department of Health and Human Services (HHS) and the Department of Treasury (Treasury) released new guidance on Section 1332 waivers that supersedes and replaces Obama-era guidance from 2015. The new guidance makes dramatic changes to the departments' approach to reviewing and approving Section 1332 waivers, and to prior interpretations of the law's "guardrails." Rescinding the old guidance had long been expected, but the changes are greater than expected in key areas. In addition, the new guidance may conflict with the language of the Affordable Care Act, so legal challenges are likely. [READ HEALTH AFFAIRS](#), [READ KAISER FAMILY FOUNDATION](#)

What's Next for Medicaid Expansion?

States are considering the costs and benefits of expansion, and whether or not to pursue expansion through innovative Section 1115 waivers. Recent changes may affect enhanced federal financing for expansion populations, conditions for eligibility, and enrollment and renewal procedures. View the status of expansion categories on the map, which was updated Nov. 6, 2018. Click on the state to see health insurance coverage for the total state population by coverage category. [VIEW THE NCSL WEBPAGE](#)

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