



Policy Snapshot: Public Health Insurance Option Plans

November 2021

Introduction

In an effort to lower the costs of health care and insurance in the US, more than a dozen states have considered a public health insurance option (“public option”). As more states have introduced and passed legislation related to a public option, this document may be helpful as other states consider the issue. This Policy Snapshot provides an overview of a public option and details recent public option related state activity (2018 to 2021).

What is a Public Option?

A public option is a health insurance plan administered by the state or federal government that competes with private plans and policies in the Affordable Care Act (ACA) marketplaces and aims to offer enrollees an affordable alternative to commercial insurance. There is a variety of design considerations associated with a public option – including payment rates, provider participation, funding, geographic scope, and administrative activities – that would affect the premiums of the public option as well as premiums among private plans and policies through competition on insurance marketplaces (Hanson et al., 2021).

Different public option designs include an entirely government-run program, a Medicaid buy-in program that incorporates private insurers with Medicaid managed care contracts, and a public-private program that involves government-set rates, other parameters, and contracts between the government and private insurers (HI, 2021). A public option has traditionally been defined as a publicly funded plan that may or may not rely on existing private entities for the provision of administrative functions. In recent years, a private plan or policy established pursuant to state law and subject to requirements that aim to increase value and achieve state goals, such as cost containment, has also been classified as a public option (Monahan et al., 2021).

States Exploring a Public Option

Between 2018 and 2021, there was legislative activity involving a public option in thirteen states. State activities generally fall in one of three categories: 1) studying potential designs of a public option; 2) establishing state-contracted public-private partnerships; or 3) creating a state-sponsored plan administered through a third party (Boozang and Ellis, 2021).

Studying Public Option Designs

Oregon enacted a public option initiative in 2021 that requires the Oregon Health Authority (OHA) to recommend an implementation plan for a public health insurance plan for enrollees in the individual market as well as small business employers by the beginning of 2022. The bill also requires OHA to provide recommendations on the structure and governance of the plan, possibilities to leverage existing state-sponsored plans, and options for reducing costs and other barriers to care (Boozang et al., 2021).

New Mexico passed legislation in March 2019 to study a Medicaid buy-in plan that would operate similarly to its Medicaid program. The plan would be offered separately from the exchange and would include state subsidies for low-income enrollees. The state estimated that the plan would see around 16,000 enrollees with premiums 15-28% lower than plans on the individual market (Andrews, 2019). There has been no further legislative action related to a public option in the state since.

Delaware and Massachusetts have conducted studies that evaluated different public option plans built upon currently existing state programs such as Medicaid and state employee health insurance plans (Meyer, 2019). Massachusetts introduced a bill proposing a public option at the start of 2019 with no further action since (see the *Creating a State-Sponsored Plan* section below). There has been no additional action within Delaware's Legislature following the publication of the Study Group's report on various public option plans.

California, Minnesota, New Hampshire, New Jersey, and Wisconsin have contemplated proposals for a public option or buy-in legislation since 2019, but no public option legislation has been enacted (Meyer, 2019).

Establishing State-Contracted Public-Private Partnerships

In 2019, Washington was the first state to enact public option legislation, which requires the Washington Health Care Authority to contract with private insurers to offer qualified health plans, called Cascade Select plans, on the state's health insurance exchange starting in 2021 (Wynne, 2019).¹ Provider reimbursement rates in these plans are capped at 160% of Medicare reimbursement rates for all services except pharmaceuticals, compared to an average of 174% among other plans on the state's exchange, and these plans are required to pay a minimum of 101% of allowable costs to rural hospitals as well as a minimum of 135% of Medicare rates for primary care (Carlton et al., 2021). Final enrollment figures for the 2021 Open Enrollment Period show that of the 222,000 total enrollees that signed up for coverage through Washington's health insurance marketplace, 1,900 enrolled in a Cascade Select plan (Washington Health Benefit Exchange, 2021). Of Washington's 39 counties, 20 did not have a Cascade Select plan available in 2021 (Santos, 2021). Washington has since enacted new legislation in 2021 to strengthen the public option by adding state-financed premium and cost-sharing subsidies for certain qualified enrollees, requiring certain hospitals to participate in at least one Cascade Select plan, and authorizing state regulators to issue fines to enforce this requirement (Boozang et al., 2021).

Nevada became the second state to enact public option legislation, in June 2021, which requires the Department of Health and Human Services to contract with Medicaid managed care organizations as well as commercial plans to offer a public option plan on the state's health insurance marketplace starting in 2026. Premiums for the public option are required to be at least 5% lower than the benchmark premium in each zip code and are prohibited from increasing by more than the Medicare Economic Index each year. Providers that participate in Medicaid, the public employees' benefits

¹ Cascade Select plans are a subset of Cascade Care plans, which have a standardized benefit design that varies by metal tier and features lower deductibles. Every insurer on the state's exchange must offer a Cascade Care gold and silver plan. Insurers are not required to offer bronze plans, but any that do offer a bronze plan must also offer a Cascade Care bronze plan.

program, and state workers’ compensation programs are required to participate in at least one public option plan, and reimbursement rates must not fall below Medicare reimbursement rates (Boozang et al., 2021).

Colorado enacted a public option bill in 2021 that requires insurers to offer a standardized plan that achieves annual premium reductions of 5%, 10%, and 15% from 2023 to 2025, and starting in 2026, insurers will be prohibited from increasing annual premiums at rates greater than medical inflation (Boozang et al., 2021). The bill also requires federal pass-through funding to be used in order to make the public option more affordable for unsubsidized enrollees.

Creating a State-Sponsored Plan

Connecticut has made three attempts at passing a public option bill since 2019, but no legislation has been successful. The 2019 proposed plan was to establish a “Connecticut Option,” a subsidized public option for small companies and individuals that would have been funded through the establishment of a state-level individual mandate. The 2020 and 2021 proposals would have required the state employee health plan to offer coverage to small businesses and nonprofits (Kona, 2021).

Massachusetts introduced legislation in 2019 that would establish a public option to be made available to eligible individuals and small groups on the state’s marketplace. Reimbursement rates for the plan would be based on parts A and B of Medicare, and providers participating in Medicare would also be required to participate in the public option unless they opt out.²

New Jersey introduced legislation in 2020 that would establish a lower cost, state-run, publicly funded public option program and would be implemented by the Commissioners of Health and Banking and Insurance. All New Jersey residents would qualify for coverage, and the plan would compete in the private insurance marketplace (New Jersey Senate Democrats, 2020).

Table 1. 2018-2021 State-Level Public Option Legislative Activity

State	Activity Category	Bill	Year	Description	Status
California	Studying public option designs	Assembly Bill (AB) 2472	2018	Requires the Council on Health Care Delivery Systems to prepare a feasibility analysis of public health insurance option	Passed and enacted; council required to submit the feasibility analysis to the Legislature and Governor by October 1, 2021 ³
Colorado	Establishing state-sponsored public-private partnerships	House Bill (HB) 21-1232	2021	Establishes a standardized health benefit plan to be offered by commercial plans in the individual and small group markets	Passed and enacted; plan will be offered on the marketplace at the start of 2023
Connecticut	Creating a state-sponsored plan	Senate Bill (SB) 134	2019	Creates a state-sponsored public option plan and re-establishes an individual mandate	Suspended in Senate

² Senate Bill 697, 2019.

³ The feasibility analysis is not publicly available as of November 2021.

		SB 346	2020	Allows small businesses and nonprofits to join the state employee health plan and creates a public option on the state's marketplace	Suspended amid the COVID-19 pandemic
		SB 842	2021	Re-attempts establishment of a public option plan	Suspended in Senate
Delaware	Studying public option designs	Senate Concurrent Resolution (SCR) 70	2018	Establishes a study group for Medicaid buy-in options	Died in House
Massachusetts	Studying public option designs	SB 697	2019	Establishes a public health insurance option	Suspended in Senate
Minnesota	Studying public option designs	House File (HF) 11	2021	Establishes an implementation plan for a public option	Suspended in House
Nevada	Establishing state-sponsored public-private partnerships	SB 420	2021	Establishes a public option plan through Medicaid MCO and commercial partnerships	Passed and enacted; plan will begin operating at the start of 2026
New Hampshire	Studying public option designs	HB 277	2019	Establishes a commission that studies public option programs	Died in chamber
New Jersey	Creating a state-sponsored plan	SB 1947	2020	Establishes a public health care option	Suspended in Senate
New Mexico	Studying public option designs	HB 548	2019	Establishes a study group to study Medicaid buy-in options	Passed and enacted ⁴
Oregon	Studying public option designs	HB 2010	2021	Requires the Oregon Health Authority to create an implementation plan for a public option available to	Passed and enacted; authority must report on the implementation plan to the Legislature by the start of 2022

⁴ Under the directive of HB 548, Health Action New Mexico and the New Mexico Center on Law and Poverty partnered with Manatt Health to conduct a Medicaid buy-in study, available here: https://www.nmlegis.gov/Entity/LFC/Documents/Health_Security_Act_Procurement_Library/Reports%20and%20analyses/New%20Mexico%20Medicaid%20Buy%20in%20Options%20-%20Manatt,%202018.pdf.

				individual and small group enrollees	
Washington	Establishing state-sponsored public-private partnerships	SB 5526	2019	Creates a public option to be offered on the Washington State Health Benefit Exchange	Passed and enacted; Cascade Select public option plans offered on the marketplace at the start of 2021
		SB 5377	2021	Aims to increase the affordability of public option plans on the individual market	Passed and enacted
Wisconsin	Studying public option designs	SB 363	2017	Establishes a study group to study and propose a Medicaid buy-in option	Suspended in the Senate

Source: California Health Benefits Review Program, 2021. Search of legislation conducted via Politico Pro and state-specific databases. Current as of October 11, 2021.

Conclusion

A public option is a government sponsored and administered health insurance plan that aims to compete with private insurers in ACA marketplaces by offering enrollees a lower cost alternative to private plans or policies. Between 2018 and 2021, there has been varying levels of legislative activity regarding a public option in thirteen states, three of which have recently enacted bills that establish public option plans.

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ABOUT CHBRP

The California Health Benefits Review Program (CHBRP) was established in 2002. As per its authorizing statute, CHBRP provides the California Legislature with independent analysis of the medical, financial, and public health impacts of proposed health insurance benefit-related legislation. The state funds CHBRP through an annual assessment on health plans and insurers in California.

Detailed information on CHBRP's analysis methodology, authorizing statute, as well as all CHBRP analyses and other publications are available at <http://www.chbrp.org/>.

CHBRP Staff

Garen Corbett, MS, Director
John Lewis, MPA, Associate Director
Adara Citron, MPH, Principal Policy Analyst
Sabrina Woll, Policy Associate
Karen Shore, PhD, Contractor*
An-Chi Tsou, PhD, Contractor*

California Health Benefits Review Program
MC 3116
Berkeley, CA 94720-3116
info@chbrp.org

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