

# 2024 Health Care Affordability State Policy Snapshot

# DELAWARE

CURB EXCESS PRICES IN THE SYSTEM	PREMIUM RATE REVIEW	HEALTH CARE SPENDING BENCHMARKS	HOSPITAL PRICE REGULATION	PUBLIC OPTION
	HEALTH SPENDING OVERSIGHT ENTITIES	ALL-PAYER OR MULTI-PAYER CLAIMS DATABASE	PRICE TRANSPARENCY	MEDICAL DEBT COLLECTION REGULATIONS
IMPROVE OVERSIGHT, ACCOUNTABILITY AND TRANSPARENCY	CONOLIDATION ASSESSMENT AND AUTHORIZATION	BALANCE BILL PROTECTIONS	FACILITY FEE LIMITS	ANTI-COMPETITIVE CONTRACT PROVISIONS
ADDRESS CONSOLIDATION AND PROMOTE COMPETITION	REDUCED COST-SHARING: PRESCRIPTION DRUGS	REDUCED COST-SHARING: HIGH VALUE SERVICES	MEDICAL DEBT PREVENTION	EXPANDED COVERAGE
MAKE OUT-OF-POCKET COSTS AFFORDABLE				

State Has Active Legislation 

State Does Not Have Active Legislation 

The Health Care Value Hub (“the Hub”) is proud to launch the 2024 Health Care Affordability Policy Snapshot (“Affordability Snapshot”) which replaces the annual Healthcare Affordability Scorecard (“Scorecard”). The Affordability Snapshot provides legislators, consumer advocates, regulators and other stakeholders a tool to compare their state’s health policies across other states.

The categories examined in this resource explore a variety of policy options that have previously appeared in the Scorecard, as well additional policies that impact health care affordability. Policies were selected based on whether they have the potential to impact health care affordability or access to health care at the state level, whether a reputable source was available for review, and whether evidence was current within the past ten years.

Policies were examined for whether they were active, implemented to a limited degree, or not active as of July 1, 2024. Sources for this information can be found in the downloadable Data and Source Document available on the [Dashboard](#) page.

The Hub offers both online and hands-on support, with a staff dedicated to monitoring, translating, and disseminating evidence and connecting advocates, researchers, and policymakers to build communities and galvanize action around creating a patient-centered, high-value healthcare system. As a research-based organization, the Hub takes a comprehensive approach to improving affordability through policy analysis, translation, visualization, and collaborative engagement. We encourage advocates, legislators, and other stakeholders to share our findings to improve consumer health care affordability across the states.

# Curb Excess Prices in the System

## Premium Rate Review

States can control excessive health insurance premium increases through premium rate review, where state insurance regulators scrutinize proposed rate hikes for the upcoming year to ensure that the increases are based on accurate data and realistic projections of health care costs and utilization. The Affordable Care Act (ACA) set standards for these efforts, and states meeting these standards are recognized by the Centers for Medicare and Medicaid Services (CMS) as having an effective rate review process. States may also establish the authority to approve or deny rate increases and incorporate affordability criteria into their evaluations. This section examines whether a state has an effective rate review program, as defined by CMS, the power to approve or deny rate increases, and if affordability criteria are integrated into the rate review process.

## Health Care Spending Benchmarks

Health spending benchmarks aim to limit annual health care spending growth by establishing a maximum limit, or “benchmark.” Benchmarks may examine overall spending or spending for specific hospitals or insurers. If the benchmark is surpassed, the overseeing state entity will often collaborate with providers to curtail spending, and some states authorize the entity to mandate performance improvement plans or impose penalties. This section examines whether a state has established a benchmark, and if so, whether the state has statutory authority to enforce the benchmark.

## Hospital Price Regulation

This section assesses state efforts to reduce hospital service costs through reference-based pricing, global budgets, or a comparable program that regulates hospital pricing. Unlike reference-based benefits, which set a maximum allowed benefit for specified drugs or services, reference-based pricing establishes set service costs based on a predetermined reference rate. As of publication, each state that has implemented this model has set reimbursement as a multiple of the Medicare reimbursement rate.

Similarly, global budgeting involves setting a fixed prospective payment for a specified range of services over a defined period, rather than being paid for each service. By establishing a limit on annual spending, this model shifts the financial responsibility to providers and payers and encourages managing service delivery within the set budget. Some states have established state-specific insurance models which mirror select aspects of these strategies, which are also highlighted under “alternative hospital price regulation strategies.”

## Public Option

A Public Option is a state-managed health insurance model designed to enhance competition and control costs through negotiated rates. States possess a degree of flexibility in designing these coverage options, resulting in variations in cost-containment measures and provisions related to network adequacy and reimbursement. This section highlights states that have an active Public Option and those with provider participation mandates to ensure consistent access to in-network providers.

Policy	Status as of July 1, 2024	Summary
<b>Premium Rate Review</b>	<ul style="list-style-type: none"> <li><span style="color: green;">●</span> Has an effective rate review process.</li> <li><span style="color: green;">●</span> Has the authority to modify or reject premium rate increases.</li> <li><span style="color: green;">●</span> Incorporates affordability criteria into premium rate review.</li> </ul>	<p>Delaware has the authority to approve or deny proposed premium rate increases in the individual and small group markets, with authority to hold public hearings to solicit stakeholder engagement in the process. For the large group market, the state has the authority to approve or deny proposed premium rate increases for Blue Cross Blue Shield plans only.</p> <p>Delaware has Affordability Standards for health insurance premiums, including increased primary care investment (targets to be set in 2025), decreased unit price growth for certain services, and alternative</p>
<b>Health Care Spending Benchmarks</b>	<ul style="list-style-type: none"> <li><span style="color: green;">●</span> Has health care spending benchmark for providers and/or insurers.</li> <li><span style="color: red;">⊗</span> Does not have enforcement mechanism for healthcare spending benchmark.</li> </ul>	<p>Delaware's statewide cost growth benchmark was established in 2018 by executive order, starting at 3.8% in 2019 and decreasing over time to 3% in 2024. The state measures performance against the benchmark for the state as a whole and for each insurance market including private payers, however individual hospital performance is not measured.</p>
<b>Hospital Price Regulation</b>	<ul style="list-style-type: none"> <li><span style="color: green;">●</span> Has implemented hospital reference-based pricing or rate-setting.</li> <li><span style="color: red;">⊗</span> Has not implemented hospital global budgets.</li> <li><span style="color: red;">⊗</span> Has not implemented alternative hospital price regulation strategies.</li> </ul>	<p>Delaware has established a temporary reference-based pricing structure until the state develops the Diamond State Hospital Cost Review Board, which will that will be responsible for reviewing and approving annual hospital budgets starting in 2026. As an intermediary measure to address high hospital costs while the Board is established, hospitals are required to charge no more than 250% of Medicare costs to any payer for hospital services in calendar year 2025 and 2026.</p>
<b>Public Option</b>	<ul style="list-style-type: none"> <li><span style="color: red;">⊗</span> Does not have an active Public Option.</li> <li><span style="color: red;">⊗</span> Does not offer a state-wide Public Option, with or without</li> </ul>	

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✱ No Source, or Limited Information Found

# Improve Oversight, Accountability, and Transparency

## Health Spending Oversight Entities

Health Spending Oversight Entities monitor and track health care spending systematically, offering data and research support to ensure efficient resource use. While many states set population health priorities, few have established oversight entities with enforcement powers. This section examines whether a state has a health spending oversight entity reviewing primary care, hospital, or prescription drug spending, and if upper payment limits for prescription drugs have been implemented.

## All-Payer or Multi-Payer Claims Database

All-payer claims databases (APCDs) compile diverse health care data, that may include health, dental, and pharmacy claims from private insurers, state employee health programs, Medicare, and Medicaid. In instances where a database includes only some of these payers, it is referred to as a multi-payer claims database. Typically created through legislation, APCDs are often subject to state oversight and regulation. However, some claims databases have been voluntarily developed by independent entities, limiting oversight.


















This section examines whether a state has an active all-payer or multi-payer claims database, if the database is facilitated and managed by the state or by third-party entities, if the data is free and accessible without institutional review board approval, and if the database is required to capture race and ethnicity demographic information.

## Price Transparency

This section evaluates state efforts to provide access to health care price data through a publicly available and easily accessible tool. To be credited, the tool must show negotiated prices for various services and be accessible without fees, IRB approval, or legislative restrictions. Additionally, this section reviews whether a state requires prescription drug price data to be reported to a state entity and if a state has another form of price transparency regulation.

## Medical Debt Collection Regulations

This section examines how a state regulates providers' ability to collect medical debt once it has been incurred. It reviews whether a state: prohibits providers from sending debts to collections while a patient is actively pursuing efforts to address the bill (e.g., appealing to insurance, applying for financial assistance, negotiating the bill, in a payment plan); prohibits spouses or other persons from being held liable for another adult's debt; limits collections' ability to garnish wages; prohibits collections from initiating home foreclosure; prohibits collections from initiating actions that would lead to an individual's arrest due to medical debt; prohibits collections from seizing a bank account.

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<b>Health Spending Oversight Entity</b>	<ul style="list-style-type: none"> <li> Does not have a Prescription Drug Affordability Board reporting on prescription drug prices.</li> <li> Does not have a Prescription Drug Affordability Board, with or without Upper Payment Limits.</li> <li> Monitors and reports on hospital spending.</li> <li> Monitors and reports on primary care spending.</li> </ul>	Delaware's Economic and Financial Advisory Committee and Health Care Commission, established in 2018, reviews hospital spending. The Primary Care Reform Collaborative and Office of Value-Based Health Care Delivery reviews and reports on primary care spending.
<b>All-Payer or Multi-Payer Claims Database</b>	<ul style="list-style-type: none"> <li> Has a(n) all-payer or multi-payer claims database.</li> <li> Database is operated by the state.</li> <li> Database does not include access restrictions.</li> <li> Database is required to capture demographic information.</li> </ul>	Delaware Health Information Network manages the Delaware Health Care Claims Database. Age and sex are demographics included in the APCD.
<b>Price Transparency</b>	<ul style="list-style-type: none"> <li> Has a price transparency tool showing negotiated rates.</li> <li> Does not have a Prescription Drug price transparency reporting requirement.*</li> <li> Does not have any other price transparency regulation.*</li> </ul>	Delaware's CostAware contains average negotiated costs for 11 common outpatient and 2 inpatient services.
<b>Medical Debt Collection Regulations</b>	<ul style="list-style-type: none"> <li> Prohibits providers from sending debts to collections while patient is actively pursuing means to pay the bill.</li> <li> Prohibits other persons being held liable for another adult's medical debt.</li> <li> Prohibits collections from initiating home lien or foreclosure due to medical debt.</li> <li> Exceeds federal wage garnishment protections.</li> <li> Prohibits actions that would lead to an individual's arrest due to medical debt.</li> <li> Prohibits collections from initiating bank account seizure due to medical debt.</li> </ul>	Delaware prohibits foreclosure, wage garnishment, and the attachment of disability insurance, workers' compensation, unemployment benefits, bank accounts, pensions, annuities, or retirement accounts to collect medical debts. It also bars actions that could result in an individual's arrest, including writs of body attachment or capias, for unpaid medical debts.

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# Address Consolidation and Promote Competition

## Consolidation Assessment and Authorization

This section examines whether relevant parties are required by law or statute to notify the state of hospital consolidation transactions beyond the federal requirements, and whether the state has the authority to review these transactions; to approve, reject, or modify conditions of the transaction; and if consumer affordability or price growth are included in the review criteria

## Balance Bill Protections

The federal No Surprises Act (NSA) protects patients from balance bills, which are unexpected costs from out-of-network providers. Under the federal legislation, patients receiving emergency care or who are unknowingly treated by out-of-network providers during an in-network procedure are only required to pay the in-network cost-sharing amount for services provided. Effective January 1, 2022, the No Surprises Act applies to most health plans but not all care sites and services. States can legislate additional protections for balance bills not covered under the NSA, such as for ground ambulances, or services provided at urgent care locations, hospice facilities, and birthing centers.

## Facility Fee Limits

Facility fees are charges for services provided in outpatient and physician office settings that hospitals own. These fees increase the out-of-pocket costs for care and are becoming increasingly more common as the rate of health system consolidation has accelerated. This section explores whether a state prohibits facility fees under certain circumstances, if they have imposed regulations to protect consumers against out-of-pocket costs from facility fees, and if they require hospitals to report facility fee data.

## Anti-Competitive Contract Provisions

Anti-competitive contracting is a pattern of contracting between health care providers and insurers where one party gains unfair advantages over potential competitors. States can enact regulations that limit dominant health systems from abusing their market power in ways that increase prices. This section evaluates whether states prohibit four types of anti-competitive contracting practices in the health system:

- **Most Favored Nation Clauses:** Health systems agree not to offer lower prices to competing insurers, preventing them from offering the same service at a lower price. These provisions may allow insurers and providers to collude to raise prices.
- **All-or-Nothing Clauses:** Health systems require plans to contract with all providers in their system or none of them, even if those providers are low-value or high-cost.
- **Non-Compete Clauses:** Doctors are prohibited from working at competing hospitals within a certain distance for a certain period of time.
- **Anti-Tiering or Anti-Steering Clauses:** Insurers must place favored providers in higher tiers regardless of cost or quality (anti-tiering) and restrict directing patients to higher value care from competitors (anti-steering).

Policy	Status as of July 1, 2024	Summary
<b>Consolidation Assessment &amp; Authorization</b>	<ul style="list-style-type: none"> <li><span style="color: green;">●</span> Requires certain healthcare providers to notify the state of consolidation transactions.</li> <li><span style="color: green;">●</span> Has authority to approve, set conditions, or disapprove consolidation transactions.</li> <li><span style="color: green;">●</span> Includes consumer affordability and/or price growth in review criteria or approval conditions.</li> </ul>	Delaware has approval authority for transactions involving nonprofit hospitals. Through the Certificate of Need Process, the state has the authority to approve or disapprove acquisitions of nonprofit health facilities. Criteria include the anticipated effect of the proposal on the costs of and charges for health care.
<b>Balance Bill Protections</b>	<ul style="list-style-type: none"> <li><span style="color: green;">●</span> Prohibits balance billing for out-of-network ground ambulance services.</li> <li><span style="color: red;">⊗</span> Does not prohibit balance billing for out-of-network services at specific facilities not included in the NSA.</li> </ul>	Delaware's balance bill protections extend to both public and private ground ambulance services, but do not apply to services provided by volunteer fire departments. Delaware also prohibits balance billing insured residents for services that are not available through network providers, or are not available within a reasonable period of time, if the resident has a referral from their primary care provider.
<b>Facility Fee Limits</b>	<ul style="list-style-type: none"> <li><span style="color: red;">⊗</span> Does not prohibit facility fees for specified procedures and/or care settings.*</li> <li><span style="color: red;">⊗</span> Does not have codified protections against out-of-pocket costs from facility fees.*</li> <li><span style="color: red;">⊗</span> Does not require hospitals to report facility fee data.*</li> </ul>	
<b>Anti-Competitive Contract Provisions</b>	<ul style="list-style-type: none"> <li><span style="color: red;">⊗</span> No law restricting Most Favored Nation contract provisions.</li> <li><span style="color: red;">⊗</span> No law restricting all-or-nothing contract provisions.</li> <li><span style="color: red;">⊗</span> No law restricting anti-tiering or anti-steering contract provisions.</li> <li><span style="color: green;">●</span> Non-competes generally unenforceable or prohibited.</li> </ul>	Delaware prohibits including noncompete agreements in a physician's employment contract. However, other provisions that require payment of damages upon termination may be enforceable.

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# Make Out-of-Pocket Costs Affordable

## Reduced Cost Sharing: Prescription Drugs

This section examines whether states have passed legislation reduce the amount a consumer pays out-of-pocket for select prescriptions drugs including insulin, epinephrine, oral oncology medications and asthma inhalers. This section also examines state-level legislation prohibiting copay accumulator programs, which are payer strategies that limit the impact of manufacturer cost-sharing assistance programs on consumer out-of-pocket costs.

## Reduced Cost-Sharing: High Value Services

This section provides an overview of state efforts aimed at reducing consumer cost burdens for high-value services. Specifically, it identifies states which have enacted legislation mandating coverage without cost-sharing for: primary care services recommended by the United States Preventive Services Task Force (USPSTF); various cancer screening and diagnostic services; and annual mental health exams. It also evaluates state efforts to expand access to affordable maternal and reproductive health care by highlighting the states that mandate private insurers cover in-vitro fertilization, fertility preservation, doula services and abortion care. The section concludes with a review of whether a state has incorporated equity-focused initiatives in their state-regulated insurance design.

## Medical Debt Prevention

This section reviews state laws aimed at preventing medical debt, including mandates for hospitals and health care providers to offer financial assistance policies, screen patients for insurance and charity care eligibility, and inform patients of charity care policies before collecting payment. It also assesses whether states have extended Medicaid benefits retroactively for 90 days; expanded general presumptive eligibility for Medicaid to all adults; prohibited short-term, limited duration health plans; and if the state has established annual reporting requirements on community benefit spending.













## Expanded Coverage

This section evaluates policies aimed at expanding access to and improving the affordability of health insurance, including whether a state has expanded Medicaid eligibility to adults with incomes up to 138% of the federal poverty level (FPL); authorized 12-month continuous Medicaid eligibility for all adults; extended postpartum Medicaid coverage to 12 months following delivery; established a Basic Health Plan; initiated a program providing state-funded premium subsidies for residents ineligible for Medicaid; explicitly authorizes coverage for gender-affirming care under Medicaid; has authorized the provision of Medicaid coverage to individuals transitioning from incarceration; and if the state has extended Medicaid coverage to include dental, hearing, and vision benefits, including eye exams and glasses, beyond what is deemed medically necessary following injury or surgery. Beyond these policy options, this section also reviews state efforts to extend coverage to children, pregnant residents, and non-pregnant adults regardless of immigration status. This includes waiving the five-year required waiting period for immigrant children and legally residing pregnant residents (the "five-year bar"); offering alternative coverage options regardless of citizenship status; and opting into the From-Conception-to-End-of-Pregnancy (FCEP) option under the Children's Health Insurance Program (CHIP), previously known as the CHIP Unborn Child option.



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<b>Reduced Cost-Sharing: Prescription Drugs</b>	<ul style="list-style-type: none"> <li><span style="color: green;">●</span> Prohibits copay accumulator programs.</li> <li><span style="color: green;">●</span> Caps the price of insulin or diabetes supplies.</li> <li><span style="color: green;">●</span> Caps the price of other prescription drugs or medical devices (see notes).</li> </ul>	<p>Insurers in Delaware are required to count any amounts paid by or on behalf of the enrollee for a prescription drug toward their cost-sharing responsibilities. The state also caps the out-of-pocket cost for a 30-day supply of insulin at \$100.00, diabetes equipment at \$35.00, and waives all cost-sharing for medically necessary insulin pumps. Delaware limits the amount residents must pay for prescription drugs used to treat complex, chronic or rare medical conditions by capping cost-sharing for each 30-day specialty drug prescription at \$150.00.</p>
<b>Reduced Cost-Sharing: High Value Services</b>	<ul style="list-style-type: none"> <li><span style="color: green;">●</span> Mandates private insurers cover USPSTF recommended preventive services without cost-sharing.</li> <li><span style="color: green;">●</span> Waives or reduces cost-sharing for an annual mental health exam in private health plans.</li> <li><span style="color: green;">●</span> Provides coverage and/or waives or reduces cost-sharing for select maternal and reproductive health services.</li> <li><span style="color: red;">⊗</span> Does not mandate coverage for cancer screening services without cost-sharing.</li> <li><span style="color: red;">⊗</span> Insurance design does not include cost-saving measures to mitigate health disparities.*</li> </ul>	<p>Delaware requires health insurance carriers provide coverage for an annual behavioral health wellness check pre-deductible. The state does not prohibit the imposition of any other cost-sharing obligations for this service.</p> <p>In 2023, the Delaware General Assembly passed House Bill 80, mandating Medicaid coverage for doula services starting in 2024. Legislation requiring all individual and group health benefit plans to cover doula services by January 2026 has also passed both chambers and is awaiting the governor's signature. Additionally, Delaware requires all individual and group health plans to include coverage for fertility care services, including in vitro fertilization and fertility preservation.</p>
<b>Medical Debt Prevention</b>	<ul style="list-style-type: none"> <li><span style="color: green;">●</span> Mandates hospitals and other health care providers provide free or discounted care with set eligibility criteria for low-income patients (see notes).</li> <li><span style="color: red;">⊗</span> Does not mandate health care providers screen patients for insurance eligibility or charity care.</li> <li><span style="color: green;">●</span> Mandates health care providers notify patients of charity care options before collecting payment.</li> <li><span style="color: yellow;">◉</span> Retroactively extends Medicaid benefits less than 90 days prior to application date or for select enrollees (see notes).</li> <li><span style="color: red;">⊗</span> Has not authorized all qualified entities to provide presumptive eligibility for all adults in Medicaid.*</li> <li><span style="color: red;">⊗</span> Has not prohibited or effectively eliminated short-term, limited duration health plans.</li> <li><span style="color: green;">●</span> Requires transparency in spending for community benefit programs.</li> </ul>	<p>Delaware requires health care facilities subject to a Certificate of Public Review to provide charity care for residents earning up to 350% FPL. Pregnant women and children in the state are provided retroactive Medicaid coverage up to three months and, beginning January 2025, all Medicaid-eligible residents will be offered three months of retroactive coverage.</p>

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<b>Expanded Coverage— Medicaid and Other Options</b>	<ul style="list-style-type: none"> <li> Expanded Medicaid income eligibility to 138% FPL.</li> <li> Does not offer a basic health plan or other affordable coverage option for residents with incomes below 200% FPL.*</li> <li> Has not authorized 12-month continuous eligibility for adult Medicaid enrollees.</li> <li> Includes 12 months of postpartum care in Medicaid benefits.</li> <li> Does not provide select Medicaid services to justice-involved people up to 90 days before release.*</li> <li> Medicaid policy explicitly includes coverage for gender-affirming services.</li> <li> Offers some, but not an extensive amount of dental, vision, or hearing coverage in Medicaid benefits (see notes).</li> <li> Does not offer state-based premium subsidies.</li> </ul>	<p>Delaware Medicaid does not cover eye exams or eyeglasses for adults; does not cover hearing aids and other hearing devices for adults; and offers some dental coverage for restorative (fillings but not crowns), preventive, and diagnostics services, but does not offer coverage for extraction, dentures, and root canals.</p> <p>The regulations governing the Delaware Medicaid program clearly state that the program provides coverage for gender-affirming care, including hormone therapy and gender confirmation surgery.</p>
<b>Expanded Coverage— Immigrant Coverage</b>	<ul style="list-style-type: none"> <li> Offers coverage for lawfully residing immigrant children or pregnant people without a five-year bar.</li> <li> Does not cover pregnancy-related services through the CHIP “From-Conception-to-End-of-Pregnancy” (FCEP) Option.</li> <li> Does not offer an affordable coverage option for undocumented immigrant children.</li> <li> Does not offer an affordable coverage option for undocumented immigrant adults.</li> </ul>	

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