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HEALTHCARE VALUE HUB

2022 Healthcare Affordability State Policy Scorecard

A Case Study on Oregon

Polling data repeatedly shows that healthcare affordability is a top issue—often the number one issue—that state residents on both sides of the political aisle want their policymakers to work on. To inform policy conversations and support policymaker responsiveness, the Altarum Healthcare Value Hub's Healthcare Affordability State Policy Scorecard ranks states' performance on a broad set of policies to make healthcare more affordable, within the following four policy domains:

- Curbing Excess Prices in the System;
- Reducing Low-Value Care;
- Extending Coverage to All Residents; and
- Making Out-of-Pocket Costs Affordable.

Oregon was one of the states that saw the most healthcare affordability policy progress in 2021. While we strongly discourage comparing scores and ranks between iterations of the Scorecard, we also want to highlight states that have undergone substantial healthcare affordability policy progress during this time, such as Oregon.

Oregon has a long history of working to address healthcare value and curb high healthcare costs for consumers. During the 2021 legislative session, the Oregon state legislature held public hearings for numerous healthcare-related policy measures; including those focused on access, affordability and health equity.[1] The Oregon state legislature has been majority-Democrat[2] since 2006, during which time many of the states' healthcare affordability policies were passed.

This report provides a deep dive into the specific policies that Oregon implemented in 2021, which focus on the domain, "Curbing Excess Prices in the System." Within this domain, Oregon implemented the following policies: Healthcare Cost Growth Benchmarks and a Prescription Drug Affordability Board.

Healthcare Cost Growth Benchmarks

Oregon has a history of using benchmarking to reduce healthcare spending. In 2012, the state's Medicaid waiver limited Medicaid spending to a 3.4% annual cost growth benchmark over ten years.[3] The state later extended this benchmark to 300,000 state employees and teachers, to include one-third of the state's population.[4] In 2019, the state continued this benchmarking tradition, passing Senate Bill 899, which directs the Oregon Health Authority (OHA) to work with stakeholders and consumers to establish a Sustainable Health Care Cost Growth Target.[5] The law stipulates that the growth target would apply to insurance companies, hospitals and healthcare providers to prevent healthcare costs from outpacing wages or Oregon's economy. Oregon also established an Implementation Committee for the Cost Growth Target, whose members were selected by Governor Brown, to operate under the supervision of the OHA.

Two years later, following the OHA's recommendations, Oregon's legislature passed Senate Bill 2081 to create accountability mechanisms for providers and insurers whose overall costs remain high, strengthening the Health Care Cost Growth Benchmark Program.[6] Shortly thereafter, in February 2021, Oregon's Cost Growth Target went into effect. The target is set at 3.4% for the first 5 years, then 3.0% for 2026-2030. Comparatively, the average annual growth in healthcare expenditures per capita in Oregon from 1991-2015 was 5.1%; the OHA estimates that the Cost Growth Target could save $16 billion in healthcare expenses through 2028.[7] While this benchmarking experiment is exciting, it's worth noting that the OHA sees these targets as one useful tool in the state's efforts to expand coverage, contain costs and drive value.[8]

Support for implementing cost growth targets is increasing, as more states undertake this policy, but evidence of the effectiveness of these policies continues to develop as more states gather data. The effectiveness of these cost growth targets seems to rest on the policies implemented to hold payers and providers accountable.[9] For instance, a 2022 study of the Massachusetts cost growth targets revealed that the Health Policy Commission deployed its accountability tools effectively during its initial years of operation – the benchmark influencing contract negotiations between payers and providers, increasing providers' willingness to participate in accountable care organizations.[10] This is reflected in the success the benchmark has at containing cost growth during the first five years of the initiative, although the rate of growth exceeded the updated benchmark (3.1%) in 2018 and 2019.[11]

As such, policies to hold payers and providers accountable appear crucial to the success of cost growth benchmarks, and Oregon seems to have taken this into consideration in deploying their own policy. Indeed, Oregon was the first state to give the power to levy financial penalties on plans and provider organizations, for exceeding the target with statistical certainty and without good reason in three of five years.[12] Any entity that unreasonably exceeds the benchmark is also required to undergo a performance improvement plan.[13] Fines are also levied for late or incomplete submissions of data and/or performance improvement plans. With the strongest enforcement mechanism to date among states with these cost growth benchmarks, there is hope that Oregon is well-appointed for success at curtailing healthcare costs.

In terms of the legislative and policy process for passing these benchmarks laws, Oregon saw sizable support among policymakers and industry stakeholders. The 2019 legislation was passed near unanimously in the Senate, with just a few Republican House members voting against the bill. Similarly, the 2021 follow-up legislation received near unanimous approval from both the House and Senate, with a few Republican dissenters. Although there was some Republican opposition to each of these bills, it's important to note that there was an overarching consensus across both sides of the political aisle on this cost growth benchmark legislation.

There was similar support for these benchmarks across industry stakeholders, namely insurers and providers. Manatt Health reports that while there was broad support among stakeholders, differences did exist. For instance, insurers were most interested in targeting specific cost drivers, such as hospital cost variation, drug spending and facility redundancy, while not viewing consolidation at a cost driver.[14] Providers uniformly preferred benchmarking over other cost containment strategies, believing it would bring everyone to the table and push "real" improvements rather than "arbitrary caps." Overall, these interviews with providers, insurers and state officials reveals widespread enthusiasm for Senate Bill 899 (2019) as a step to control Oregon's healthcare costs. The widespread support for these policies, both with legislators and stakeholders, undoubtedly helped Oregon pass and implement these cost growth benchmark laws.

Prescription Drug Affordability Board

Prescription drug pricing is of much interest to the Oregon state government. Between July 2020 and June 2021, the Oregon Health Authority spent more than $1.1 billion on prescription drugs for those enrolled in the Oregon Health Plan, which is Oregon's Medicaid and Children's Health Insurance Program ("CHIP").[15] To address high costs, the Oregon legislature passed Senate Bill 844 in 2021, establishing the Oregon Prescription Drug Affordability Board (PDAB). The Board has the authority to review prices for nine drugs and at least one insulin product that create affordability challenges, based on the drugs reported under the state's Prescription Drug Price Transparency Program. When reviewing these drugs, the Board may also consider whether it has led to health inequities in communities of color, giving this legislation an important equity lens.[16]

The Board is required to report to the Health Care Cost Growth Target program annually, no later than Dec. 31, 2022, on drug price trends, drugs reviewed by the Board and recommended legislative changes related to prescription drug affordability.[17] The Board is further required to conduct two separate studies:

- An annual study of the U.S. prescription drug market (reported to the Legislature by June 1 each year); and
- A study of the prescription drug distribution and payment system in Oregon, including policies adopted by other states and countries designed to lower the list price of prescription drugs (including establishing upper payment limits, to be completed and delivered to the legislature by Dec. 31, 2022).[18]

The Board has begun work, although there are already delays. Hiring staff for the Board took longer than anticipated, which delayed Board member appointments.[19] As such, the release of an annual report about the affordability of generic drugs will be pushed back to Dec. 31, 2022. Additionally, the need to draft rulemaking criteria has also pushed other reviews past their annual deadline of Dec. 31, 2022.[20] The Board expects to adopt their administrative rules for their affordability reviews by June 2023, meaning they will not be able to complete the initial review until December 2023.[21]

As more states implement PDABS, evidence about the effectiveness of such policies will come to light. Maine's Board released its first annual report in March 2022, detailing recommendations for the state to lower drug prices for their public payers.[22] One of these recommendations, for the legislature to institute international reference rates for prescription drugs, was undertaken by the Maine legislature later in 2022. Maine also passed a bill directing the Maine Health Data Organization to report annually on the potential savings if certain drugs were subjected to a reference rate (the lowest price available among Canada's four largest provinces and the wholesale acquisition cost).[23]

Clearly, PDABs have the potential to exert influence in the fight to reduce prescription drug costs. However, due to the varied PDAB policies from state-to-state, each state could have very different experiences. A potential challenge of these Boards, that Oregon has already encountered, is that they can be time and resource-intensive to develop and implement.[24] Furthermore, there is currently debate over whether these Boards have the legal authority to address high drug prices in this way; even if states do retain this authority, they may be limited in how they can exercise it.[25]

Compared to the widespread support for its cost growth benchmark legislation, Oregon passed its PDAB legislation along party lines—just one Republican in the House voted in favor of the bill. Unsurprisingly, the legislature heard testimony opposing the creation of a PDAB from pharmaceutical

industry representatives, such as PhRMA, biotechnology companies, the Oregon Pharmacy Coalition and the Pharmaceutical Industry Labor Management Association as well as from organizations and individuals ideologically opposed to increased government involvement.[26] It's likely that this opposition resulted in substantial changes to the bill – originally, the PDAB would have had the power to set upper payment limits, but legislators amended the bill to restrict the Board to making recommendations, with an explicit focus on upper payment limits.[27]

Final Thoughts

These recent pieces of legislation, focused on improving healthcare affordability, show that Oregon continues to be a leader in this space. Though Oregon is not the first state to implement cost growth benchmarks or a PDAB, they remain in the first cohort of states to undertake these newer affordability strategies. Given Oregon's strong consumer advocacy stance and robust healthcare affordability policy landscape, there is hope that the implementation of these cost growth benchmarks and PDAB will lead to lower healthcare costs for state residents.

Notes

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With support from Arnold Ventures, the Healthcare Value Hub provides free, timely information about the policies and practices that address high healthcare costs and poor quality, bringing better value to consumers. The Hub is part of Altarum, a nonprofit organization with the mission of creating a better, more sustainable future for all Americans by applying research-based and field-tested solutions that transform our systems of health and healthcare.

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