



Inside Drug Pricing

State Drug Pricing Roundup

Welcome to Inside Drug Pricing's State Drug Pricing Roundup -- your go-to source to track developments on innovative drug-pricing policies emerging at the state level. Our daily IDP coverage provides timely breaking news on developments in key states, and the State Drug Pricing Roundup is designed to put those incremental updates into their larger context. With mounting pressure nationwide for action on drug-pricing, looking beyond Congress to the states is essential to figure out what's next.

Stay tuned for further updates as state legislatures sort out their drug-pricing priorities.

Montana's Democratic Governor Vetoes Innovative Bill Targeting PBMs

May 16, 2019

Montana Gov. Steve Bullock, who on Tuesday (May 14) announced a run for the Democratic presidential nomination, vetoed a bill that would have taken a novel approach to regulating pharmacy benefit managers in the state. The bill passed with bipartisan support in the state legislature and was pushed by the state's Republican insurance commissioner, who challenged U.S. Sen. Jon Tester (D) in 2018.

Senate Bill 71 would have [eliminated spread pricing in the individual market](#) and required rebates from drug manufacturers to be passed through to plans and used to lower premiums. It was based on a turnaround of the state-employee health plan, which saved money when it switched to a PBM that used a more transparent pass-through model like the one outlined in the bill.

Bullock's veto letter hewed closely to [complaints noted by the Montana Health Co-Op](#), a small, non-profit insurer. The co-op said it would have trouble complying with some of the bill's requirements to supervise PBMs, keep more records and disclose average wholesale prices. It also said that the co-op already requires PBMs to pass through rebates, so the bill wouldn't save consumers additional money.

The National Academy for State Health Policy adopted Montana's Senate Bill 71 as model legislation. NASHP Executive Director Trish Riley said the group is promoting the bill because of its unusual inclusion of an enforcement mechanism through the insurance commissioner. Big changes at the state level take time, Riley said, and often don't pass the first session an idea is introduced.

"Sometimes it takes legislatures a session to get to understand the issue," Riley said. "We live to fight another year."

Though the bill appears dead in Montana, a similar model is progressing through the Maine legislature, and is being pushed by Sen. Heather Sanborn (D), the chair of the legislature's joint Health Coverage, Insurance and Financial Services committees. The bill has not yet been reported out of committee.

Drug Importation Passes in Florida And Colorado, Gets Trump Support

Wholesale drug importation from Canada is gaining momentum in the states, as both a [Republican legislature in Florida](#) and a [Democratic one in Colorado](#) passed bills to create importation programs in recent weeks.

FDA Law Blog's Serra Schlanger and Alan Kirschenbaum [did a great analysis](#) of the differences between the two programs. They noted that while Florida's imports from Canada will be limited for use by state and county programs, Colorado's version would not have those restrictions. Florida's bill would, however, allow for importation from other countries including potentially European Union

countries, Australia, Japan, Russia and Sweden on a larger scale. The governors of Florida and Colorado are expected to sign the bills.

HHS would still need to approve the importation programs. Clearance by HHS would mark the department's first-ever certification that drug imports can be safe and save U.S. consumers money. The states' chances got a boost when President Donald Trump mentioned his support for importation during a White House event on surprise medical billing.

What To Watch For: Maryland Governor On Payment-Setting Board

The Maryland General Assembly passed a bill that could lead to the creation of a prescription drug affordability board with the authority to set state payment ceilings for high-cost drugs. Gov. Larry Hogan (R) has spoken positively about the bill, but hasn't signed it yet. Hogan has another bill signing ceremony on May 23. If Hogan doesn't sign the bill by Friday, May 31, the measure would automatically become law. The governor let a law allowing the state attorney general to sue generic drug makers for price gouging to become law in 2017 without his signature, though that law was ultimately struck down in the courts.

New Mexico, Delaware Move To Leverage State Purchasing Power

California Gov. Gavin Newsom (D) signed an executive order in January creating a single state payer for prescription drugs, and other states are also moving to consolidate their buying power. NASHP highlighted that New Mexico Gov. Lujan Grisham signed a bill creating a council to explore using public leverage to contain drug costs, and that Delaware's legislature passed a measure to establish a similar study group.

While many details of Newsom's proposal are still unclear, the state Legislative Analyst's Office estimated that simply transitioning the state's Medicaid drug benefit to a fee-for-service model could save California hundreds of millions of dollars annually. Hospitals, providers and community clinics that participate the 340B drug discount program likely would lose revenue, however.

Documents & Resources

Forty-four states filed a lawsuit against Teva Pharmaceuticals and 19 other generic drug makers accusing them of illegally scheming to raise drug prices and divide up markets. More than 100 drugs were affected.

Drug patents have been a big issue in Congress in recent weeks, and South Carolina Department of Health and Human Services Director Joshua Baker weighed in with written testimony to the U.S. Senate. He pointed out that patent and exclusivity protections apply equally to high- and low-value innovations, even though marginal benefits for patients can be very different.

46Brooklyn Research published a magnum opus on PBMs' spread pricing practices in Medicaid managed care that's worth a read. The Iowa State Auditor on May 2 announced a plan to audit PBMs that serve the state's Medicaid program. — *Rachel Cohrs*

See an interesting policy we're missing? Send tips on intriguing, novel and/or contentious state drug-pricing policies to rcohrs@jwpnews.com.

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