

**Joint Task Force on Affordable, Accessible Health Care**  
**October 28, 2021**

**Policy Option: Public Option**

**Description**

A public option is an insurance coverage program that is designed to leverage the state's position as a purchaser/regulator to create coverage options for state residents. A public option is generally offered alongside commercial, individually purchased (e.g., through the marketplace) and other public insurance plans as a means to either broaden coverage options or enhance competition among carriers.

Approaches to a public option typically vary along a continuum of government intervention:

- At one extreme would be a program where government intervention and control would be maximized, e.g., creating a new government administered insurance offering.
- At the other extreme would be a program implemented in partnership with private plans, where private plans administered and delivered benefits subject to oversight and guidance by the state.
- In the middle would be a program by which existing state programs were offered or made generally available to a broader section of state resident's, e.g., a Medicaid or state employee benefits buy-in program.

**Who Will It Affect, and How?**

A public option would affect all stakeholders in the health care system, although the structure and approach to implementation will determine stakeholder reaction:

- Insurers. Where the public option lands on the "government intervention" continuum will generally determine insurer support. A strictly government run plan designed to compete with insurers in existing markets is likely to run into opposition. On the other hand, a partnership where insurers are given the opportunity to compete for new customers in a lightly regulated market will obviously be more welcome.
- Providers. Providers are generally supportive of the goal of a public option, which is to increase access by providing coverage to patients who might currently be driving provider uncompensated care and bad debt. However, using a public option to decrease costs, either via premium reductions or out of pocket limits, necessarily requires a source of funding. Provider support may be limited in relation to provider payment limitations being utilized as a source of funding.
- Consumers. Consumers are likely to support public option initiatives, particularly if the benefit of reduced cost and increased access are felt broadly. At the same time, some advocates may leverage consideration of a public option to drive resolution of equity and access issues for otherwise marginalized populations, or to press for greater government control of health care generally (e.g., as a substitute for a single payer).

## Expected Outcomes/Policy Considerations

- **Broad Policy Considerations.** A public option is typically considered to advance one or several public policy goals:
  - **Reducing Costs.** By reducing premiums or cost sharing either through regulation or some combination of regulation and market competition.
  - **Increasing Access.** Existing commercial, marketplace or public programs are leaving certain populations uncovered.
  - **Addressing Market Weaknesses.** There are limited coverage options geographically; risk pools statewide or in particular counties are weak.
- **Financing-Specific Considerations.** If reducing costs is a consideration, some infusion of funding will be needed to drive reductions to consumers, for example:
  - **Provider reductions.** Recouping state expenditures through provider rate limitations would generate an estimable level of savings, although at the risk of provider participation and potential access issues
  - **Competition.** It is theoretically possible, although hard to estimate, that through benefit design and by stabilizing the risk pool (by increasing consumer participation) it is possible that increase competition alone could reduce costs.
  - **New appropriations/state-only dollars.**
  - **Federal dollars.** It is possible to craft a public option initiative leveraging federal 1332 demonstration waiver authority that could allow the state to re-capture APTC and cost sharing subsidy savings accruing to the federal government as the result of the program in the form of federal pass-through payments
- **The Role of the State.** Another key policy consideration is the state's appetite for government intervention, i.e., where on the continuum of options should a public option proposal land? As noted, there will be tension in stakeholder reaction, with consumer advocates likely to favor more aggressive state intervention in a public option while providers and insurers will view government intervention through a different lens.
- **Detailed Policy Considerations.** In addition to the broad policy considerations around financing and general structure, there are a number of technical details that would need to be assessed and addressed in moving forward, such as: plan benefit design, resident eligibility, operating agency, and additional cost containment mechanisms (if any).
- **The Role of the Federal Government.** Under the Affordable Care Act (ACA) HHS has the authority to approve demonstration waivers ("1332 Waivers") to experiment with market-place coverage if doing so provides equivalent coverage at the same or lower cost. Notably, states could use this authority to recapture savings that would otherwise accrue to the federal government if the changes they are proposing reduce federal payments for APTC and cost sharing subsidies (i.e., "pass-through funding"). This pass-through funding creates an opportunity for states to advance a public option and use federal dollars to help pay for it, assuming the demonstration is structured appropriately.

## State Activities

To date, states have only requested 1332 demonstration waivers to finance reinsurance waivers: no state has made a request for pass-through funding to finance a public option. Further, the Biden

administration has not articulated any priority or strategy related to 1332 authority (as they have for similar authority for Medicare and Medicaid demonstrations). On the other hand, it is likely that the Administration would look favorably on a public option given the President's campaign position on a federal public option.

#### Washington State

- Description: Public private partnership ("Cascade Care") designed to increase access to affordable coverage in the individual market. Financed with provider rate reductions.
- Status: Authorized in 2019, in operation for 2021.

#### Oregon:

- Description: Legislatively authorized plan considers three options (a state-run insurance plan, a buy-in and a public private partnership) for stakeholder consideration with the goal of increasing access to affordable coverage. Legislation requires zero net state costs and consideration of 1332 pass through funding.
- Status: Plan released, legislation under consideration.

#### New Mexico

- Description: Medicaid buy-in with the goal of providing a low cost health insurance choice for New Mexico residents. Financed with state dollars.
- Status: Legislation stalled since 2019.

#### Nevada

- Description: Legislation called for the study of a public employee plan buy in and a QHP option on the marketplace with the goal of access to affordable coverage and stabilization of the market.
- Status: Study released and legislation under consideration.

#### Colorado

- Description: Proposed public private partnership offering QHPs on and off the exchange with the goal of making coverage affordable. Financed with federal subsidies and potential pass-through funding.
- Status: Legislation stalled.

#### Connecticut

- Description: Proposals to allow small businesses and individuals to enroll in state employees program (failed in 2019) and create a public option for small businesses and non-profits (2021).
- Status: Legislation under consideration.

#### Further research:

- Vermont coverage context (e.g., insurance coverage, marketplace dynamics, public program penetration, public employee coverage).
- Detailed state comparison/description table by policy consideration.
- Pass through funding analysis.
- 1332 process and guardrail analysis.