Bringing Balance to the Market: A Roadmap for Improving Health Insurance Affordability Through Rate Review

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Peterson-Milbank
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ABSTRACT

Unsustainable increases in health care costs are leading to high rates of medical debt, sapping the vitality of small businesses, straining state budgets, and dampening wage growth.[1,2,3] States have the power to help reduce health care costs, and several are pursuing policies to do so. However, when attempting to target the root cause of the affordability problem — high and rising provider prices — states have faced two primary challenges: (1) enforcing industry adherence, and (2) ensuring that savings are passed on to consumers.

An "enhanced" form of health insurance rate review can help solve both problems. Rhode Island, the first state to implement enhanced rate review to ensure premium rates are fair for consumers, has documented savings for insurer members, as has Colorado.[4,5,6] Delaware has adopted a similar program, and Vermont, Massachusetts, and New Jersey are considering doing so.[7,8,9]

This report provides a roadmap for states to take control of unsustainable health care cost increases and deliver direct premium relief to consumers by leveraging the rate review process.

Policy Points

- Health care providers have become increasingly consolidated, with hospitals and health systems using their market power to demand ever-higher reimbursement rates from commercial health plans.
- Employer-sponsored health insurance, the primary source of coverage for people under age 65, has come under increasing strain in the face of rising costs.
- States can use an enhanced form of health insurance rate review to counter the monopolistic power of hospitals and health systems, reduce cost growth, and provide premium relief to consumers and employers.
- This report provides a step-by-step roadmap for states to design, build support for, implement, and maintain a successful and effective enhanced rate review program.

EXECUTIVE SUMMARY

In a small number of states, the DOI has authority to conduct enhanced rate review, during which regulators can focus on, and hold insurers accountable for, the underlying factors driving premium rate increases.

High and rising health care costs for commercial insurance in the United States are attributed in large part to the high and rising prices for hospital care. These high prices are a result of increasing consolidation among hospitals and health systems, which use their market power to demand higher reimbursement rates from commercial health insurers.

States have pursued a range of strategies to try to constrain health care prices. Two challenges for states seeking to constrain rising provider prices in the commercial insurance markets have been (1) enforcing industry adherence and (2) ensuring that savings are passed on to consumers. An "enhanced" form of premium rate review addresses both challenges. This report provides a roadmap for states to design, build support for, implement, and maintain a successful enhanced rate review program.

In traditional rate review, state departments of insurance (DOIs) conduct an annual assessment of proposed rates to determine if they are *adequate, excessive, or discriminatory*. They do not typically assess whether the insurer has secured the best possible prices from its contracted providers. In a small number of states, the DOI has authority to conduct enhanced rate review, during which regulators can focus on, and hold insurers accountable for, the underlying factors driving premium rate increases.

A Tale of Three States: Enhanced Rate Review in Rhode Island, Delaware, and Colorado

In Rhode Island, the Office of the Health Insurance Commissioner examines whether insurers' proposed rates have met an affordability standard that includes a cap on the rate of growth in hospital prices. Between 2010 and 2016, this initiative resulted in savings of $55 per enrollee, per quarter.

In Delaware, the DOI has implemented a rate review affordability standard that includes limits on the rate of growth for hospital services. At this time, no data have been published on whether the program has generated savings.

In Colorado, "Colorado Option" plans in the individual and small-group markets must meet annual premium reduction targets. If they fail to meet those targets, after a public hearing and review process, the DOI may require adjustments to hospital reimbursement rates. In 2024, the DOI reported that Colorado Option plans would save consumers an estimated $235 million. Outside researchers also estimate that Colorado Option plans have resulted in monthly premiums for lowest- and second-lowest-cost silver plans (including those that are not public option plans) that are $100 per member per month lower than premiums for these plans in similar states.[10]

State Roadmap: Key Steps in Planning, Implementing, and Maintaining an Enhanced Rate Review Program

Whether or not a state DOI needs legislative authority to pursue enhanced rate review, proponents of such a program should take two preliminary steps:

STEP 1: Decide on the Program's Goals and Approach

Policymakers and state officials should understand the factors driving cost growth in the state, and the range of tools available to constrain it. State policymakers should have a clear vision for what they want an enhanced rate review program to achieve and how it will complement other cost containment strategies.

STEP 2: Socialize the Program with Stakeholders

Prior to any legislative effort to authorize an enhanced rate review program, members of the public, payers, providers, consumer advocates, and employers need to understand the problem the program is trying to solve and its expected impacts.

Taking It to the Legislature: Statutory Authority, Stakeholder Engagement, and Resources

Most state DOIs will require statutory authority to enable a review of insurers' efforts to constrain provider price growth. Whether the necessary authority is broad or prescriptive will depend on each state's legislative history, agency culture, and case law. At a minimum, DOIs will need to be able to operate programs free from political interference and with flexibility to adjust to market conditions.

To maximize benefits and more effectively counter the market power of health systems, the legislature's grant of authority should apply to all state-regulated health insurance markets. Many DOIs will also need clear authority to direct or oversee the prices negotiated between commercial payers and health systems. Legislators may also want to establish a formal channel for stakeholder input, create authority for the DOI to collect necessary data, prescribe whether and how often the DOI publishes information about the program, and ensure the DOI has the requisite staff and analytic capacity.

STEP 3: Plan for Challenges

Advocates of enhanced rate review will need to anticipate stakeholder opposition as well as internal resistance from those who perceive the focus on premium affordability as a risk to insurer solvency.

Stakeholder Opposition

Insurers may resist assuming greater responsibility for reducing provider prices. Hospitals and health systems will likely object to policies that could lower their revenue growth. Large, self-funded employers may fear that providers will shift more costs onto their health plans. However, for all three stakeholders, there are tactics and arguments that can help neutralize, or at least soften, opposition.

Solving for Solvency

DOIs are primarily responsible for ensuring carrier solvency, which can be in tension with efforts to make rates more affordable. However, a program that requires insurers to pay less for hospital services over time would not negatively impact solvency.

Once authority and resources for the program are in place, implementation will require several additional steps:

STEP 4: Ensure Cross-Agency Coordination

In some states, an enhanced rate review program will require or benefit from coordination with another state agency. This could include the agency responsible for oversight of a health care cost growth target or the attorney general or other agency responsible for monitoring market transactions.

STEP 5: Build and Maintain Sufficient State Capacity

Implementation of a successful enhanced rate review program will require expanded DOI capacity, although the resources needed will depend on program complexity, data needs, and staff expertise.

STEP 6: Sustain Post-Launch Communications and Stakeholder Engagement

Once an enhanced rate review program is up and running, the DOI will need to engage in proactive communications and stakeholder engagement strategy. This serves to educate the public about the program's impacts, identify and solve for unanticipated challenges, and maintain support among lawmakers.

Although some efforts have been made to increase the transparency of the prices that result from the imbalance in market power, there is little evidence that transparency alone, particularly in highly consolidated markets, can constrain cost growth and its effects on coverage affordability.

BACKGROUND

Health care spending growth in the United States regularly outpaces inflation in the general economy. Most increased spending is attributed to high and rising prices for inpatient and outpatient hospital care.[11,12] This spending growth has afflicted all payers, but has been particularly high in commercial insurance plans. Price increases are driven, in part, by ongoing vertical (e.g., hospitals buying provider practices) and horizontal (e.g., hospitals buying other hospitals) provider consolidation. Approximately 97% of metropolitan areas are now considered highly concentrated for the delivery of inpatient hospital services.[13] Commercial payers therefore may have no choice but to contract with the dominant health systems in their service areas, while these providers leverage their market power to demand higher reimbursement rates, which are then passed on to consumers and employers in the form of higher premiums and cost-sharing.[14,15]

Although some efforts have been made to increase the transparency of the prices that result from the imbalance in market power, there is little evidence that transparency alone, particularly in highly consolidated markets, can constrain cost growth and its effects on coverage affordability.[16] However, states are employing several tools to systemically constrain health care prices and improve health care affordability. Notable efforts include all-payer rate setting and hospital global budgeting, such as in Maryland, Delaware, and Vermont.[17,18,19] Eight states have created cost growth targets tied to income and/or economic growth to guide annual health care spending growth.[20] The data collection and analysis that inform reports on state performance against these targets also identify statewide cost drivers, pointing the way to policy changes with potential to reduce spending growth.

States may also leverage their antitrust laws to reduce the risk of price increases in the wake of provider mergers, particularly by placing conditions on merger approvals and post-merger oversight. Some states have gone further by reviewing — and rejecting or placing conditions on — proposed mergers or acquisitions that could result in higher provider prices.[21] Finally, some states have leveraged their responsibility for reviewing annual health insurance rates to confront price increases for hospital services.

States may adopt one or more of these strategies to reduce health care spending, depending on each state's market dynamics and policy opportunities. Regardless of which strategies states pursue, they will need to overcome several challenges — such as stakeholder opposition, a lack of resources, a need for new cross-agency coordination, and technical obstacles — to ensure that consumers realize meaningful benefits from these policies. However, enhanced rate review, especially if combined with a cost growth target and smarter hospital budgeting, holds the potential to both reduce overall health system cost growth and directly benefit consumers.

Enhanced rate review can indirectly boost insurers' negotiating position by capping the provider price increases that government regulators will approve.

Traditional and Enhanced Rate Review

State departments of insurance (DOIs) serve as the primary regulators for fully insured, state-licensed health insurance. A major aspect of this role is the annual review of health plans' proposed rate changes. In most states, DOIs determine whether proposed rates are *adequate, excessive, or discriminatory* — that is, whether the plan's premium revenue will cover the cost of covered health services, whether the plan's profit margins or contributions to reserves (for nonprofit plans) are reasonable, and whether premiums charged to different insurer members correspond to differences in likely costs. The goal is to ensure that health insurance carriers can pay for covered services and remain solvent; these standards do not consider whether health care premiums are affordable to consumers nor whether the insurance plan has secured the best possible prices from its contracted providers. In some states, the DOI's authority is even more constrained, with regulators lacking the authority to approve or disapprove proposed rates.[22]

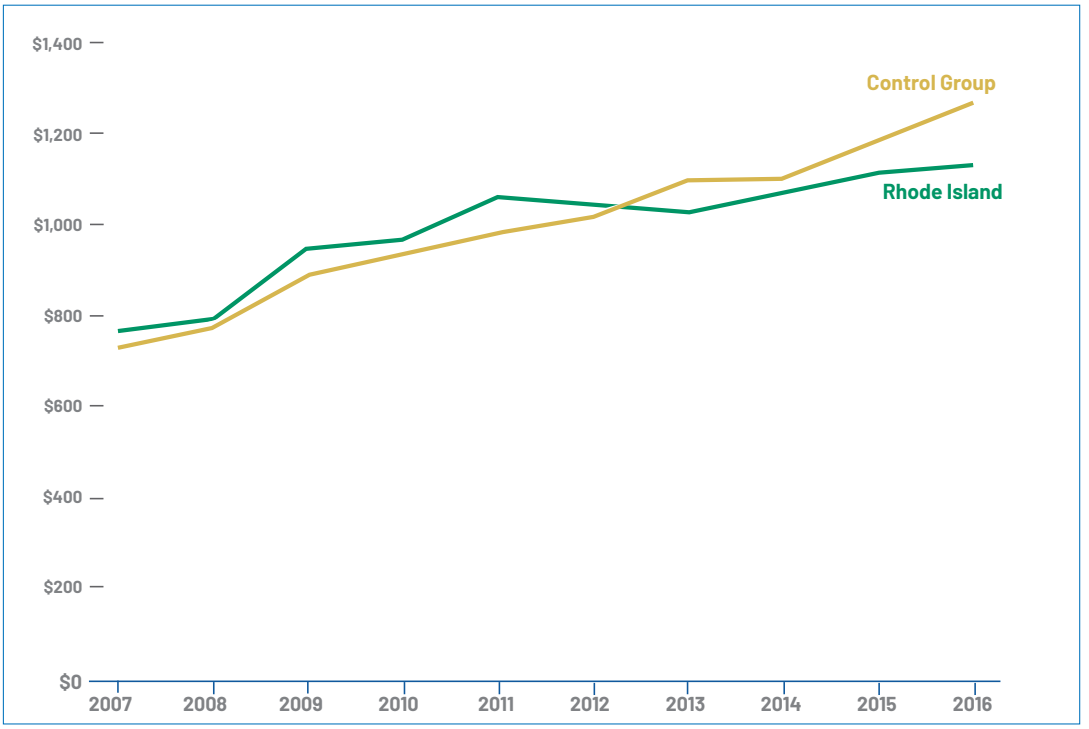
In a few states, regulators have the authority to go beyond traditional rate review to focus on the underlying factors driving premium rate increases. Commercial health insurers are tasked with negotiating reimbursement rates with their contracted providers. In theory, they should be striking tough bargains on behalf of the consumers and employers they serve. However, insurers' negotiating power is often limited by consolidated health systems' market power. Enhanced rate review can indirectly boost insurers' negotiating position by capping the provider price increases that government regulators will approve. This enhanced rate review authority can extend to contracted provider rates, pharmaceutical prices, and plan investments in prioritized services such as primary care and behavioral health services. While only Rhode Island, Delaware, and Colorado regulators have implemented enhanced rate review for at least part of their health insurance markets — with Rhode Island and Delaware also applying cost growth targets — these states' experiences suggest that enhanced rate review can reduce growth in provider prices and, by extension, consumers' health insurance premiums.

A TALE OF THREE STATES: ENHANCED RATE REVIEW IN RHODE ISLAND, DELAWARE, AND COLORADO

Rhode Island

The Rhode Island Office of the Health Insurance Commissioner (OHIC) is authorized to use a "public interest" standard in its review of proposed rates in state-regulated insurance plans. This examination includes whether the insurer has complied with OHIC's affordability standards. Key elements of these standards include increases in primary care and behavioral health spending and limits on the rate of growth for hospital services equal to one percentage point above the Consumer Price Index (CPI-Urban). For plan year 2025, that rate of growth is limited to 4.2%. Between 2010 and 2016, Rhode Island's affordability standards generated $55 per enrollee per quarter in net savings compared with a control group. (See Figure 1). The savings were driven by reduced hospital prices.[23,24,25]

Figure 1. Quarterly Per Enrollee Fee-for-Service Spending in the Rhode Island and Control-Group Cohorts, 2007-16



Source: Authors' analysis of data for 2007–16 from the Truven MarketScan Commercial Claims and Encounters database. NOTES The cohorts are explained in the notes to exhibit 1. All values were adjusted to a standardized ninety-day quarter. Dollar amounts were inflation adjusted to 2015 dollars. Rhode Island's affordability standards were implemented in 2010.

Reprinted with Permission: Baum A, Song Z, Landon BE, Phillips RS, Bitton A, Basu S. Health Care Spending Slowed After Rhode Island Applied Affordability Standards to Commercial Insurers. *Health Aff (Millwood).* 2019; 38(2):237-245. https://www.healthaffairs.org/doi/10.1377/hlthaff.2018.05164.

Delaware

In 2019, the Delaware legislature created the Office of Value-Based Health Care Delivery within the DOI. The office developed affordability standards that included mandatory minimum investments in primary care, the use of alternative payment models, and caps on provider price increases. As implemented, the DOI's standards limited the rate of growth for hospital services to 5.5% in 2023, 5.76% in 2024, and 6.35% in 2025. Data are lacking on whether Delaware's affordability standards have resulted in system or premium savings, and stakeholders have suggested that the caps on hospitals' price growth were set too high, largely due to advocacy from hospital stakeholders.[26,27]

Colorado

Colorado's legislature created new "Colorado Option" plans in the individual and small-group markets that must meet annual premium reduction targets. The DOI is authorized to hold public hearings and review underlying provider rates for plans that do not meet these targets. Depending on the outcome of this analysis, the DOI is authorized to set hospital reimbursement rates at a level required to meet the premium reduction targets (but not lower than a legislatively mandated floor). In 2024, the DOI reported that Colorado Option plans will be the lowest-cost or second-lowest-cost plans in over 90% of Colorado counties, saving consumers an estimated $235 million. Outside researchers also estimate that Colorado Option plans have resulted in monthly premiums for lowest- and second-lowest-cost silver plans (including those that are not public option plans) that are $100 per member per month lower than premiums for these plans in similar states. [28,29,30]

Whether or not a state has existing statutory authority to implement an enhanced rate review program, the effort to establish one should start with a clear understanding of the state's cost growth drivers and the state's tools for constraining this growth.

STATE ROADMAP: KEY STEPS IN PLANNING, IMPLEMENTING, AND MAINTAINING AN ENHANCED RATE REVIEW PROGRAM

Below, we describe the steps state officials should take before, during, and after implementation of enhanced rate review to help achieve the program's goals and ensure its sustainability. Additionally, because enhanced rate review likely requires new statutory authority, we discuss important considerations for state lawmakers.

STEP 1: Decide on the Program's Goals and Approach

Whether or not a state has existing statutory authority to implement an enhanced rate review program, the effort to establish one should start with a clear understanding of the state's cost growth drivers and the state's tools for constraining this growth. State policymakers should also have a clear vision of their goals for an enhanced rate review program and how it will complement other cost containment strategies.

State policymakers may have additional goals. Those with cost growth targets may want to leverage an enhanced rate review program to hold insurers accountable to the targeted rate of growth. States may also want to use enhanced rate review to push insurers toward greater investment in primary or behavioral health services or the use of risk-based contracting that incentivizes providers to deliver higher-quality, lower-cost care.

States will further need to identify their target for cost reductions. For example, the primary source of savings for Rhode Island's enhanced rate review has been its annual cap on the rate of growth for hospital services.[31] But states could target other unit costs, such as physician services. States will also need to decide on the optimal method for achieving the program's goals. Rhode Island and Delaware chose an annual price growth cap for hospital services; Colorado requires insurers to meet premium reduction targets.

While it is unlikely that any meaningful cost containment strategy, including enhanced rate review, can garner support across all stakeholders, having a forum for all parties to air concerns can help build support among some stakeholders and soften opposition among others.

STEP 2: Socialize the Program with Stakeholders

Prior to any legislation or implementation of an enhanced rate review program, members of the public, payers, providers, consumer advocates, and employers need to understand the problem the program is trying to solve and its expected impacts. To achieve this, relevant state agencies could be tasked with publishing data that identify the causes of health care cost growth and describe the proposed rate review program, as well as any other policies for constraining cost growth. States can assess the experience of other states with enhanced rate review programs and, if possible, commission projections of health care cost or premium growth in their own state, with and without an enhanced rate review program.

It will also be important to establish a multi-stakeholder process, such as an advisory group, comment process, and/or public hearings, to solicit and respond to public feedback. While it is unlikely that any meaningful cost containment strategy, including enhanced rate review, can garner support across all stakeholders, having a forum for all parties to air concerns can help build support among some stakeholders and soften opposition among others. For example, prior to implementing rate review standards, Rhode Island's OHIC established a Health Insurance Advisory Council (HIAC) composed of providers, businesses, and consumers.[32] After reviewing health system cost drivers, the HIAC facilitated a public comment process that helped inform the eventual adoption of affordability standards for health insurance rate review.[33] In Colorado, state officials convened 14 listening sessions across the state and accepted public comments and letters. The process both helped inform the public about the need for the policy and generated input that ultimately shaped the development of the Colorado Option plans.[34]

Taking It to the Legislature: Statutory Authority, Stakeholder Engagement, and Resources

Some DOIs may have existing statutory authority to conduct at least certain aspects of an enhanced rate review program. For example, as many as 10 states and the District of Columbia require or permit their DOIs to review insurers' efforts to constrain provider price growth, meet a cost growth target, or deliver "affordable" premiums.[35] Other state DOIs may have general authority to expand beyond the traditional bounds of rate review, such as in the six states where the regulator is instructed to disapprove a rate if it is "unfair," "unjust," "inequitable," or "contrary to the public interest."[36] (See Table 1.)

Table 1. States with Rate Review Standards Beyond "Adequate, Not Excessive or Unfairly Discriminatory"

State	Applicability
DOI has authority to assess insurers' efforts to constrain provider prices, meet a cost growth target, or deliver "affordable" premiums	
Alaska	Blue Cross Blue Shield plans only
California	Individual and group market
Colorado	Individual and group market
Delaware	Individual and group market
District of Columbia	Individual and group market
Kentucky	Individual and group market
Massachusetts	Individual and group market
Oregon	Individual and small-group market
Pennsylvania	Individual and group market
Rhode Island	Individual and group market
Vermont[a]	Individual and group market
DOI has authority to disapprove a rate if it is "unfair," "unjust," "inequitable," or "contrary to the public interest"	
Alabama	Individual market only
Iowa	Individual market only
Minnesota	Individual market only
Nebraska	Individual and small-group market
North Carolina	Individual and group market
Washington	Individual and group market

[a]Vermont's regulators have authority both to assess whether a rate is affordable and to determine whether it is "unjust, unfair, inequitable, misleading, or contrary to the laws of this State." Vt. Stat. Ann. tit. 8 § 4062.

Sources: Authors' review of state laws, and Corlette S, Raimugia V. *Looking Under the Hood: "Enhanced" Health Insurance Rate Review to Improve Affordability*. Georgetown University Center on Health Insurance Reforms. Published Sept. 2023.

In most states, legislative action will be necessary to determine the scope of authority and resources for an enhanced rate review program. For example, in a recent report on health care affordability, New Jersey's DOI notes that the state's current rate review statute focuses on "solvency considerations" and that "the Department has no authority to directly reduce premium rates to ensure affordability." [37]

Whether the necessary authority to operate an enhanced rate review program needs to be broad or prescriptive will likely vary from state to state, depending on legislative history, agency culture, and case law. However, authorizing legislation should ensure that state DOIs can operate rate review programs free from political interference and with the flexibility to adjust program parameters to meet changing market circumstances.

The legislature will also need to decide which insurance markets should fall under the enhanced rate review program. To maximize the number of consumers that can benefit from enhanced rate review, and to counter hospitals' market power, the grant of authority should apply to all state-regulated health insurance markets (individual, small-group, and large-group). However, not all states have adopted this approach. In Colorado, the insurance commissioner's authority to adjust hospital reimbursement rates covers only the Colorado Option plans in the individual and small-group markets. In Rhode Island, on the other hand, the affordability standards extend to all state-regulated individual and group market plans.

In most states, DOIs have clear authority over companies that issue health insurance products but not over hospitals or other providers.

Another critical question is whether the DOI should be granted authority to direct or oversee the prices negotiated between commercial payers and health systems. In most states, DOIs have clear authority over companies that issue health insurance products but not over hospitals or other providers. One key limitation of Delaware's enhanced rate review program is that the DOI cannot require hospitals to adhere to the cap on annual price growth. Observers in that state report that hospitals "have no incentive to play the game" because the DOI has no direct authority over them. Conversely, Colorado's statute gives the DOI clear authority, within specified parameters, to "establish carrier reimbursement rates…for hospital services."[38] Observers report that Colorado hospitals have been willing to accept lower rates for the Colorado Option plans. In Rhode Island, OHIC's authorizing statute gives the health insurance commissioner authority to "encourage fair treatment of health care providers."[39] In practice, the commissioner has used this authority to communicate to hospitals that insurers' rate agreements must adhere to the annual cap on hospital prices.

Legislators may also want to establish a formal channel for stakeholder input on the program's design and implementation, such as an advisory body or public hearing process. For example, Rhode Island uses both the HIAC and public hearings to educate stakeholders and the public about the drivers of premium increases and elicit feedback. In Delaware, the legislature created the Health Care Commission, a standing body of 11 members that must include appointees representing each county in the state.[40] Colorado established an 11-member advisory board, made up of individuals representing consumers, plan enrollees, small businesses, insurers, hospitals and other providers, and health care workers. The insurance department can also call public hearings if insurers are unable to meet the premium reduction target.[41]

Other critical areas for legislative action might include authority for the DOI to collect the data required to operate the program from insurers and potentially providers. The legislature may also wish to prescribe whether and how often the DOI publishes information about the program and its effects.

Last but not least, an enhanced rate review program requires increased agency capacity to review and analyze insurers' rate submissions and related data. Legislators will need to consider resource levels and whether funds should be appropriated or collected through an insurer and/or provider assessment. (Figure 2.)

Figure 2. Creating an Enhanced Rate Program: Considerations for State Legislators

How much decision-making should be delegated to the DOI?

To which markets should the enhanced rate review program apply?

What authority should be granted over provider behavior?

To what extent should a stakeholder engagement process be required?

What authority should the DOI have to require the submission of necessary data?

What, if any, public reporting of program impacts should be required an at what frequency?

What resources will the DOI need to effectively operate the program?

How should those be generated?

STEP 3: Plan for Challenges

In addition to planning for and solving technical challenges, policymakers and program managers should anticipate two significant hurdles to success: (1) stakeholder opposition, and (2) internal resistance from those who perceive the focus on affordability as a risk to insurer solvency. Both of these dynamics could limit an enhanced rate review program's ultimate impact on health care spending and consumers' premiums.

Stakeholder Opposition

An enhanced rate review program will increase pressure on insurers to drive a better bargain with providers and subject them to greater regulatory scrutiny. Hospitals and health systems will need to accept lower payments for their services. Large employers, whose self-funded health plans are not subject to state regulation, may worry that hospitals will demand payment increases from self-funded plans to make up for lost revenue. In addition to mounting political opposition, one or more of these stakeholders could seek to block the program through litigation. State leaders will need strategies to address and respond to their concerns.

> **Insurers.** Insurers will usually resist assuming greater responsibility for reducing provider prices. However, experiences in Rhode Island and Colorado suggest that enhanced rate review can give insurers more leverage in their rate negotiations with hospitals and health systems. For example, smaller carriers that struggle to secure price discounts in the current market may benefit from the new negotiating dynamic a pricing cap can introduce. In highly consolidated health care markets, many carriers may find that a state-imposed cap on their provider spending strengthens their ability to secure lower price increases from systems with significant market power.

Hospitals and health systems. Hospitals, which may experience lower revenue growth as enhanced rate review and cost growth targets are implemented, will most likely oppose these new policies and may slow implementation if they refuse to make rate concessions or if they pursue legal injunctions. Hospitals are likely to argue that reduced growth rates for hospital service payments will put them in financial jeopardy — an argument that can be hard to refute without independent financial analyses of health systems' viability. Policymakers may want to consider multiple approaches for mitigating hospital opposition and securing participation over time. First, states may consider exceptions or policy adjustments, such as a rate floor for rural hospitals and those with a high proportion of patients insured through public programs. This approach carries little risk of reducing the underlying policy's overall impact on cost growth while ensuring that the current inequities in market power do not carry forward under an enhanced rate review program. Second, states may want to pursue statutory or regulatory authority (as needed) to tie participation in Medicaid or the state's employee health plan to compliance with the enhanced rate review program's rate growth targets. Third, states may want to monitor enrollees' access to provider networks and other measures of access to care over time and make policy adjustments if barriers to access are identified.

Hospitals are likely to argue that reduced growth rates for hospital service payments will put them in financial jeopardy — an argument that can be hard to refute without independent financial analyses of health systems' viability.

Large employers. To allay large employers' concerns about cost-shifting, states could survey insurers that also serve as third-party administrators for self-funded plans to assess whether rates are negotiated across their entire commercial book of business. In Rhode Island, officials report that the dominant insurer in the state was able to leverage the cap on hospital price growth in negotiations on behalf of both its state-regulated and self-funded health plans. If not, states may consider allowing self-funded employers to opt in to the new program, permitting the DOI to assess whether their third-party administrators are able to negotiate the same price for their self-funded clients as they are for their state-regulated products.

Solving for Solvency

Even as DOIs focus on health insurance affordability with enhanced rate review, ensuring carrier solvency will remain a primary responsibility. There can be inherent tension between these two goals. Historically, regulators have had few tools available when they seek to reduce proposed premium rate increases. The most common source of "savings" has been to require insurers to reduce the amount they contribute to reserves, even though these contributions generally represent a small proportion of overall premiums and are not related to underlying cost drivers. Overly aggressive cuts to such contributions could, over time, threaten plan solvency.

Enhanced rate review provides an opportunity to shift regulators' focus toward whether unit prices for hospital services and hospital-based providers fall within a cost growth target or are otherwise reasonable. In developing its affordability standards, Rhode Island's OHIC established solvency targets to guide its rate review decisions. Ultimately, an affordability standard that requires insurers to pay less for hospital services could have a positive effect on solvency, as unit prices consume a smaller proportion of insurers' costs. At worst, the effect would be neutral.

STEP 4: Ensure Cross-Agency Coordination

In some states, an enhanced rate review program will require or benefit from the DOI's collaboration with another state agency. For example, if one goal of the enhanced rate review program is to help enforce compliance with a state's cost growth target or hospital global budget, the DOI will need to partner with the state agency responsible for the cost growth target or budget to conduct the enforcement. For example, the two agencies will need to ensure that cost growth target timelines are aligned with the annual rate review timelines.

The agencies will also need to clearly delineate respective roles and responsibilities. For example, the agency responsible for the cost growth target may have access to health spending data that the DOI does not. Developing an understanding of the data available, crafting data use agreements between relevant agencies, and leveraging existing analytic capacity can help support efforts to operate an enhanced rate review program.

Rate review experts in several states also noted that states will need to develop greater data compatibility across agencies to support an effective enhanced rate review program. The data used to track spending against a cost growth target are different from the data DOIs use to assess an insurer's proposed premium rates. For example, cost growth target data come from both public and commercial market claims, whereas rate review is focused only on the state-regulated commercial insurance market. Additionally, DOI informants argue that the cost growth target data are not sufficiently granular for rate review purposes, where cost trends must be broken down by unit price and utilization.

The marriage of enhanced rate review and merger oversight has great potential. The standards applied in an enhanced rate review program could also be leveraged by a state attorney general or merger oversight body to assess the effects of and/or place limits on a merger or acquisition.

STEP 5: Build and Maintain Sufficient State Capacity

Successful implementation of enhanced rate review will require resources — particularly people and information. State staff, consultants, or a combination of the two will need to collect and analyze data, review plan submissions, and determine compliance with a rate increase target or cap, affordability standards, and other requirements. The DOI may also need prospective information on premiums and provider payment rates, as well as data on actual plan expenditures and hospital costs to monitor adherence and the program's impact on spending trends and the cost growth target. The resources required to operate a successful enhanced rate review program will depend on program complexity, data requirements, and staffing needs.

Program Complexity

The scope and complexity of an enhanced rate review program will determine resource needs. A relatively simple enhanced rate review program — perhaps with a small number of carriers and with limited data requirements — may be accomplished with modest resources. Rhode Island, for example, manages enhanced rate review with a single state official plus some consulting assistance. This is possible because OHIC streamlines its requests for plan data, reviews filings for a small number of insurance plans, and off-loads solvency analysis to another state agency. Colorado's more complex program, which requires significant data submissions from several carriers, commands the time of an estimated 3.5 full-time-equivalent employees plus consulting support.

Data Needs and Purposes

State leaders will need to decide what data will be critical to the program and how it will be collected and used. States with existing enhanced rate review programs have developed data templates to streamline the collection and analysis of data. State officials say that payers' unit prices, a clearly defined Medicare benchmark for each service, and actual hospital costs help them understand how provider pricing may be driving premiums. The state may also want to request negotiated rates drawn from provider-payer contracts — state officials report that the compressed rate review time frame does not allow enough time to examine these contracts, but they may use this information at other times, such as during market conduct exams. The state DOI may also want to request additional data to help understand the impact of enhanced rate review on health plan members, including the breadth and adequacy of plan networks and utilization.

Staff Expertise

A key implementation decision will be whether the enhanced rate review program should be integrated into the traditional rate review process, and whether and how to leverage existing staff. This could also involve an assessment of those staff and their expertise. Some state managers have suggested that this work requires specific skills and knowledge, such as a clinical background or experience in hospital financing. Depending on the volume of anticipated, ongoing demand for this expertise, state DOIs may wish to bring an expert onto their staff or secure consulting assistance.

Once the state has determined its resource needs, including whether new staff or consultants are required, the state can project the program budget and work to secure funding and positions.

STEP 6: Sustain Post-Launch Communications and Stakeholder Engagement

Just as states need to engage in proactive communications and stakeholder engagement before program implementation, an ongoing effort to educate and engage key stakeholders will be important after the program is in place. This activity can serve multiple purposes, including educating the public about how the program has influenced premium growth, identifying and solving for unanticipated challenges, and maintaining support among lawmakers.

Public Education Efforts

Public hearings to review plan rate requests, with hospitals as well as health plans among the scheduled witnesses, can publicize the state's efforts to improve premium affordability and bring attention to factors driving premium increases. Other public education efforts may include targeted reports, public posting of proposed and final rates, and media outreach.

Stakeholder Engagement

A regular schedule of stakeholder meetings can elicit useful advice on timing, data requirements and collection strategies, and other operational issues. Stakeholders can also be a critical source of information about market shifts that could require adjustments to the program.

Just as states need to engage in proactive communications and stakeholder engagement before program implementation, an ongoing effort to educate and engage key stakeholders will be important after the program is in place.

Legislator Communications

Agency leaders will need to regularly brief key legislators to ensure they understand the program's goals, operational or regulatory decisions, anticipated challenges, and program impact. A proactive approach to briefing these policymakers can help prevent the legislature from reversing course or softening cost containment targets in the face of industry pushback.

CONCLUSION

Health care costs in the United States are on an unsustainable trajectory. Prices for health care goods and services — particularly hospital services — consume an ever-greater proportion of our health care dollars, and costs in the commercial insurance market are rising faster than in Medicare and Medicaid. As a result, our employer-based system of health insurance coverage — upon which most Americans under age 65 rely — is under increasing stress, burdened by high premiums and deductibles, depressed wages, and reduced competitiveness. Despite the urgent need for action, federal lawmakers are unlikely to enact cost containment measures in the near term.

Enhanced rate review is one of several state strategies to improve affordability for consumers. In states that have established a cost growth target or hospital budgeting process, it could help hold insurers and hospitals accountable to the desired rate of growth. Enhanced rate review has been proven to work in Rhode Island, and it is showing promise in Colorado. However, stakeholder opposition could result in backsliding that renders the program less effective. This roadmap is intended to help states work through the policy and programmatic considerations necessary, within each state's unique market and political environment, to build and maintain an effective and impactful enhanced rate review program.

HOW THIS RESEARCH WAS CONDUCTED

This roadmap is informed by a literature review and legal analysis of state statutes and regulations. It was also informed by structured interviews between July and October 2024 with national experts, insurance plan executives, and officials in seven states, including states that have implemented enhanced rate review programs and states that have established cost growth targets in an effort to reduce overall health care spending.

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