



NGA Health Overview & Pharmaceuticals Work with States

**Ohio Prescription Drug Transparency and Affordability Advisory
Council**

**National Governors Association
February 26, 2020**

National Governors Association



Conference of Governors at the White House, 1908

Over **100** years of serving our nation's governors

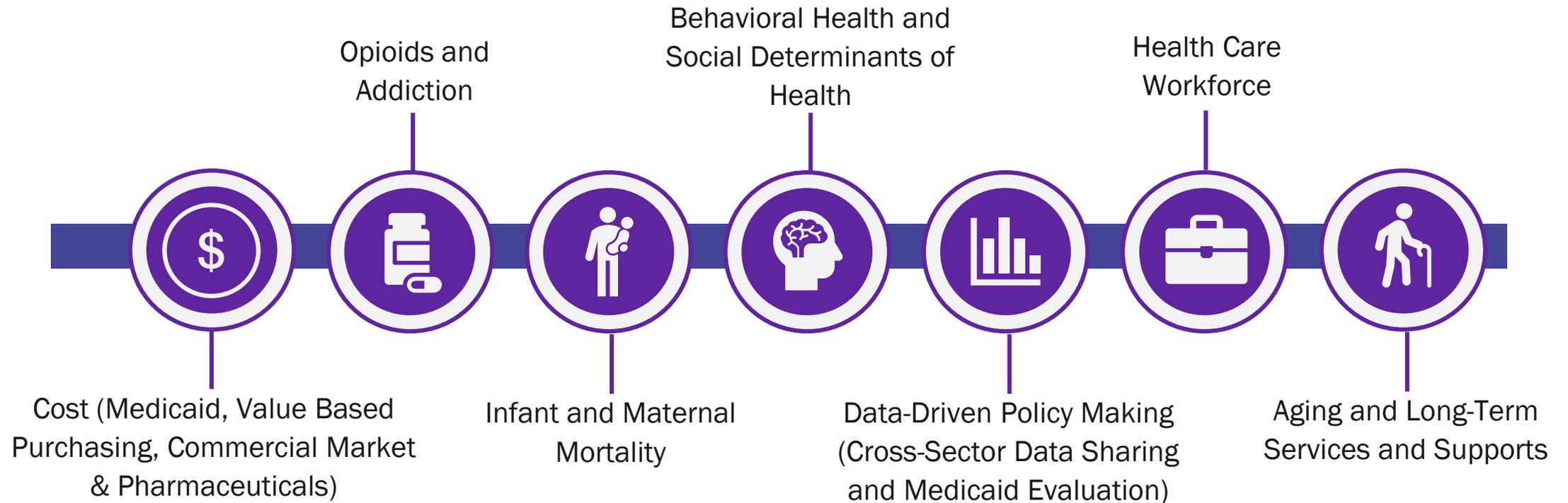
Founded in 1908, the National Governors Association (NGA) is the nonpartisan organization of the nation's 55 governors. Through NGA, governors share best practices, address issues of national and state interest and share innovative solutions that improve state government and support the principles of federalism.

Organizational Structure

The NGA Center for Best Practices is a 501(c)(3) and part of our larger organization.



NGA Health – 2020 Focus Areas



NGA Health – Recent Work on Pharmaceuticals

NGA Health

- ***Pharmaceuticals and Public Health Crises*** (2017 – 2018)
 - Identify strategies to address public health crises (e.g. opioids, hepatitis C) by increasing access to pharmaceuticals while ensuring fiscal sustainability of public programs
 - Collaborative work with 10 states (Delaware, Louisiana, Massachusetts, New Mexico, New York, Ohio, Oregon, Rhode Island, Virginia and Washington)
 - Publication released August 2018: [Public Health Crises and Pharmaceutical Interventions: Improving Access While Ensuring Fiscal Sustainability](#)
- ***Pharmaceuticals Learning Collaborative*** (2019 – 2020)
 - Webinar series and multi-state meetings open to all states
 - Technical assistance with 6 states (Kentucky, Louisiana, Nevada, Ohio, Oregon, Wisconsin)

NGA Office of Government Relations

- [2019 Principles For Federal Action To Address Health Care Costs](#)



State Action Addressing Prescription Drug Access and Affordability

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States are pursuing a variety of strategies that have broad impact on pharmaceuticals access and costs across public, commercial, and self-insured markets:



Transparency



Importation



Regulation of Pharmacy Benefit Managers (PBMs)



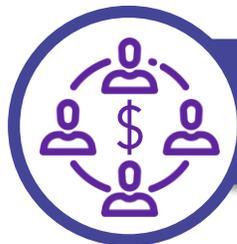
Public-Private Group Purchasing



Regulation of Insurers



Pay for Delay

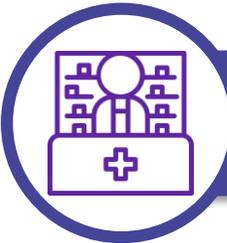


Affordability Boards



Price Gouging

In addition to broader market strategies, states have been very active in advancing strategies to improve purchasing and manage access and affordability for public programs:



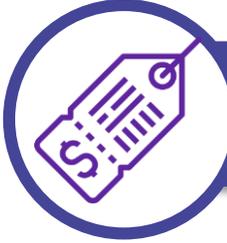
Pharmacy Benefit Manager (PBM)
Contracting and Management



Alternative Payment Approaches



Reverse Auction Procurement



Affordability Approaches



Benefit Management



340B Oversight



Multi-Agency Purchasing



340B for Corrections



Regulation of PBMs and Insurers

Regulation of PBMs has been the most prominent areas of action across states in recent years (40 bills addressing PBMs were enacted in 2019 across 27 states):

- Prohibiting gag clauses in pharmacy contracts
- Imposing stronger disclosure and reporting requirements for PBMs
- Requiring PBMs to obtain licensure from the state
- Requiring PBMs to act as a fiduciary
- Regulating or prohibiting spread pricing
- Requiring that rebates and discounts received from manufacturers be fully passed on to the insurer
- Ensuring fair auditing of pharmacies by PBMs
- Prohibiting pharmacy copay clawbacks
- Regulating PBMs Maximum Allowable Cost (or MAC) lists
- Prohibiting PBMs from exclusively requiring mail-order pharmacies

States are pursuing a variety of approaches to regulate insurer benefit design and limit consumer cost sharing (32 bills addressing insurance design were enacted in 2019 across 24 states):

- Cap copayments for select drugs or drug classes
- Restrict charging more than retail price at the point of sale
- Limit coinsurance percentage for specialty tier drugs
- Require prorated daily cost sharing rates for drugs dispensed by network pharmacies
- Limit the number of tiers on a formulary
- Establish step therapy protocol and override processes
- Restrict mid-year formulary changes, with certain exceptions



Price Transparency

Transparency has been a big focus in recent years regarding both drug prices (launch and increases) and PBM behavior (gag clauses and spread pricing):

- 2017 – 2019, 121 bills introduced across 33 states; 17 bills enacted across 11 states
- Transparency has also been implemented in conjunction with other strategies in some states (e.g., MA, NY)

Price transparency laws have typically included the following elements:

- Require manufacturers to report on and provide justification for drug launch prices and price increases over a certain threshold
- Require health plans to report on which drugs are driving plan spending
- Impose penalties for failure to report
- Publicize information ([California](#), [Nevada](#), [Vermont](#) have all released initial reports)



Benefit Management

- Many states are evaluating or pursuing strategies to improve management of the pharmacy benefit in Medicaid or state employee programs, specific approaches include:
 - Full or partial carve out from managed care
 - 4 states fully carve out their Medicaid pharmacy benefit (MO, TN, WI, WV)
 - California is in the process of carving out
 - Several other states are considering carving out
 - Establishing a uniform preferred drug list (PDL) across plans
 - In 2018, 14 states reported having a uniform PDL in place for at least one drug class
 - Several states are considering or in the process of establishing a uniform PDL



Multi-Agency Purchasing

- States are looking to leverage purchasing power across agencies (Medicaid, state employees, corrections, and others)
- Attempts to increase market leverage by aggregating covered lives of more than one state program
- Notable examples:
 - Massachusetts
 - Oregon
 - Washington
 - California
 - And many others exploring possible pathways



Alternative Payment Approaches

- **Outcomes-based arrangements** – Link payment to an agreed upon performance metric
 - Oklahoma
 - Colorado
 - Michigan
- **Finance-based arrangements** – Finance-based arrangements link payment to financial measures and utilization
 - Louisiana
 - Washington



Affordability Approaches

- Strategies that recognize access needs while also addressing budget constraints
- Approaches to date:
 - Spending caps or thresholds (New York and Massachusetts)
 - Affordability boards or councils (Maryland and Maine)
 - Rate-setting or ceiling prices



340B

- 340B Oversight
 - Enhance enforcement of 340B billing through provider network contracts
 - Ensure that states are being billed at actual cost and recognizing savings where appropriate
- 340B for Corrections
 - Obtain 340B pricing for state corrections through targeted partnerships
 - State university model
 - Hybrid model
 - Sexually transmitted disease (STD) subgrantee model



Importation

- Food and Drug Administration proposed rule to allow importation of certain prescription drugs shipped from Canada
 - Comments close March 9
- A number of states pursuing or considering
 - Colorado
 - Florida
 - Maine
 - Vermont



Reverse Auction Procurement

- Strategy to enhance competitive bidding for PBM services
- Utilizes technology platform to analyze bids against actual claims
 - PBMs input proposed discounts
 - Which are analyzed on a claim-by-claim basis to give a more accurate proposal
- Multiple rounds of bidding
- Continual contract performance monitoring
- New Jersey is projected to save more than \$2.5B on their pharmacy benefit by 2022



Thank You

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