NCSL
NATIONAL CONFERENCE OF STATE LEGISLATURES

# State Strategies for Prescription Drug Access, Cost and Pricing

*Colleen Becker, Project Manager*

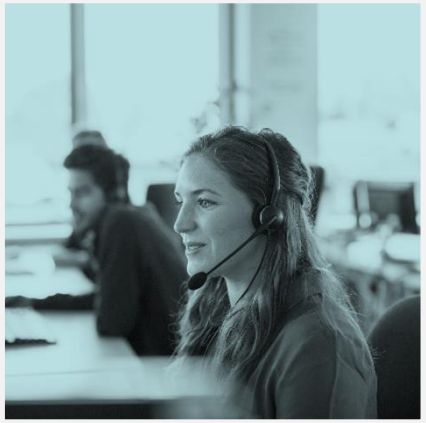
# Who is NCSL?

## Policy Research

NCSL provides trusted, nonpartisan policy research and analysis

## Connections

NCSL links legislators and staff with each other and with experts



## Training

NCSL delivers training tailored specifically for legislators and staff

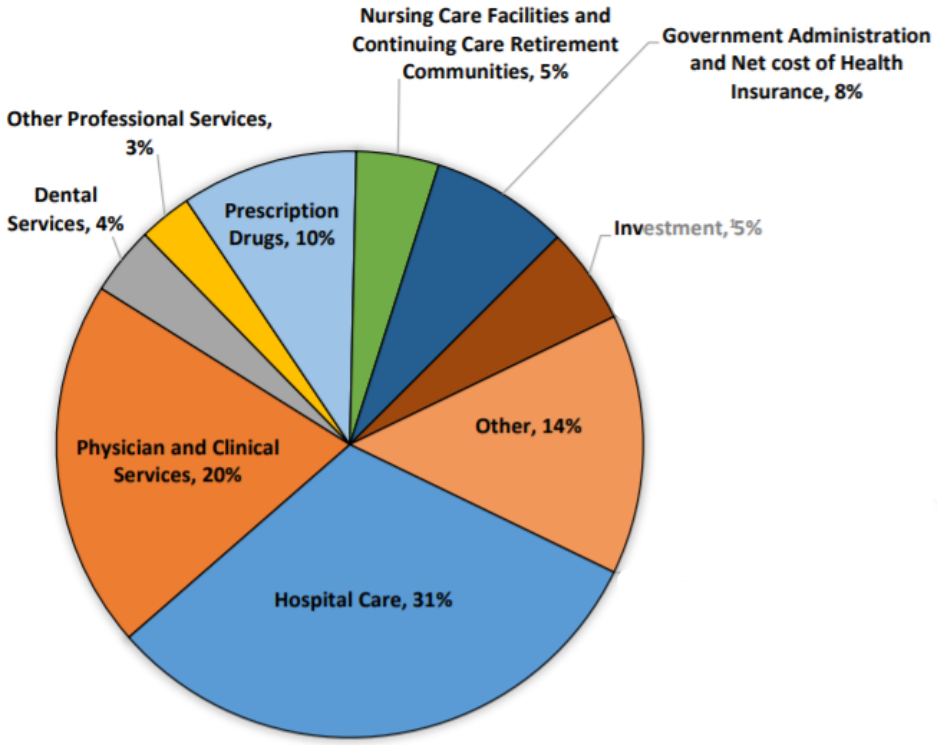
## State Voice in D.C.

NCSL represents and advocates on behalf of states on Capitol Hill

## Meetings

NCSL meetings facilitate information exchange and policy discussions

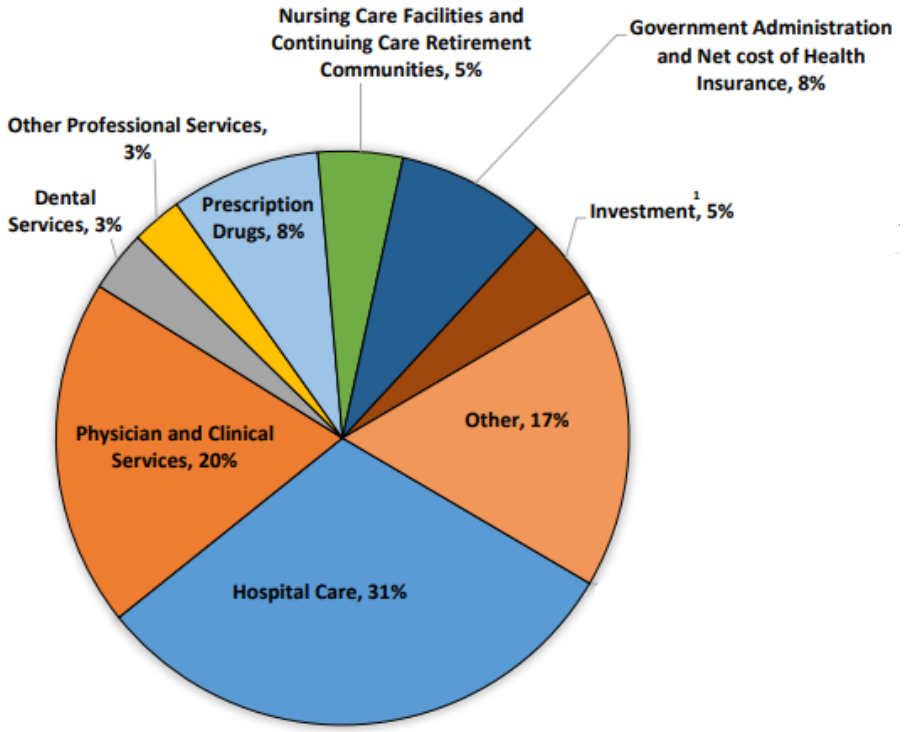
## 2019 ($3.7 trillion)




[1] Includes Noncommercial Research and Structures and Equipment.
[2] Includes expenditures for residential care facilities, ambulance providers, medical care c
centers, senior citizens centers, schools, and military field stations), and expenditures for
Note: Sum of pieces may not equal 100% due to rounding.

SOURCE: Centers for Medicare & Medicaid Services, Office of the Actuary, National Health Statisti

## 2020 ($4.1 trillion)

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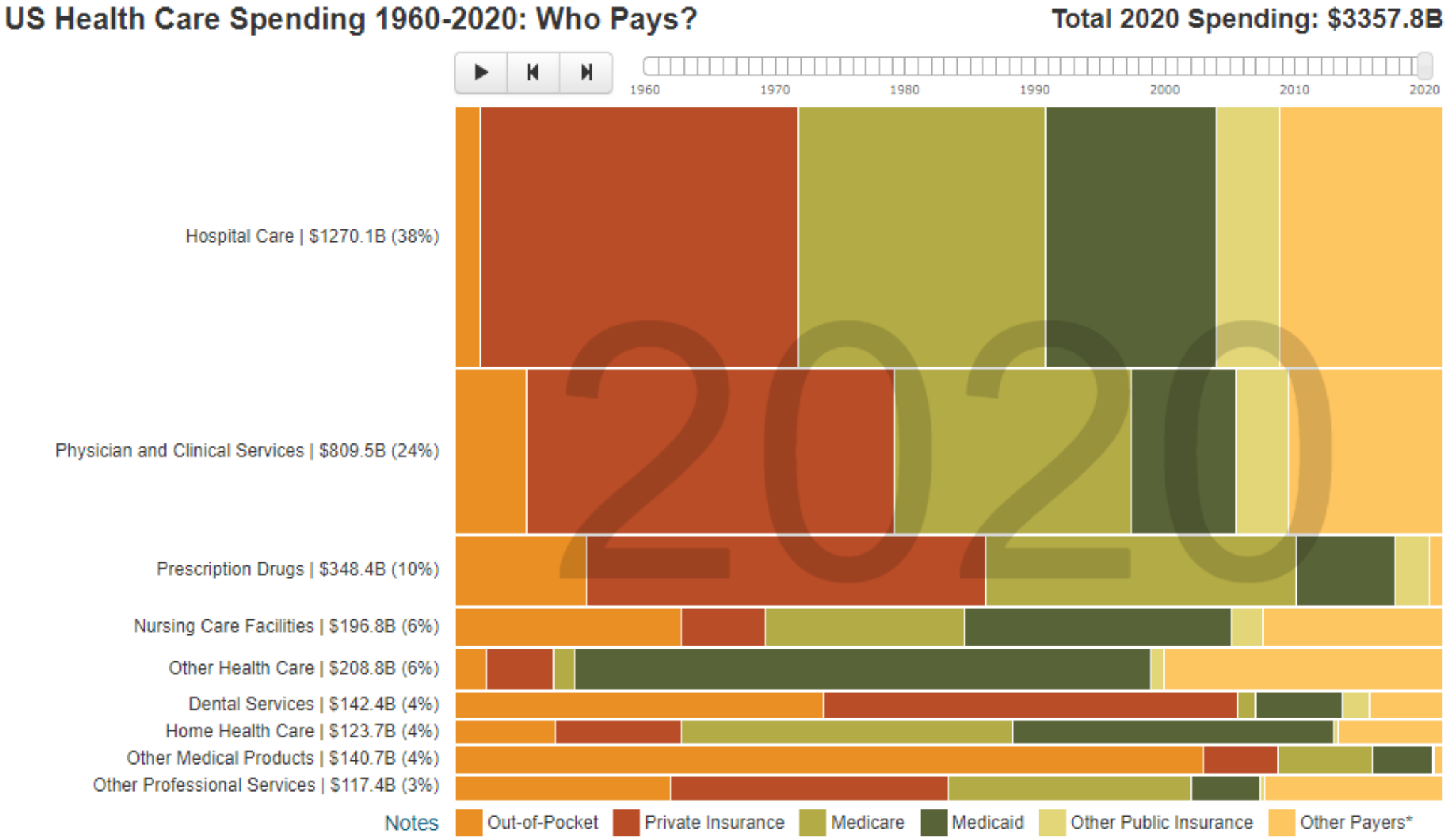
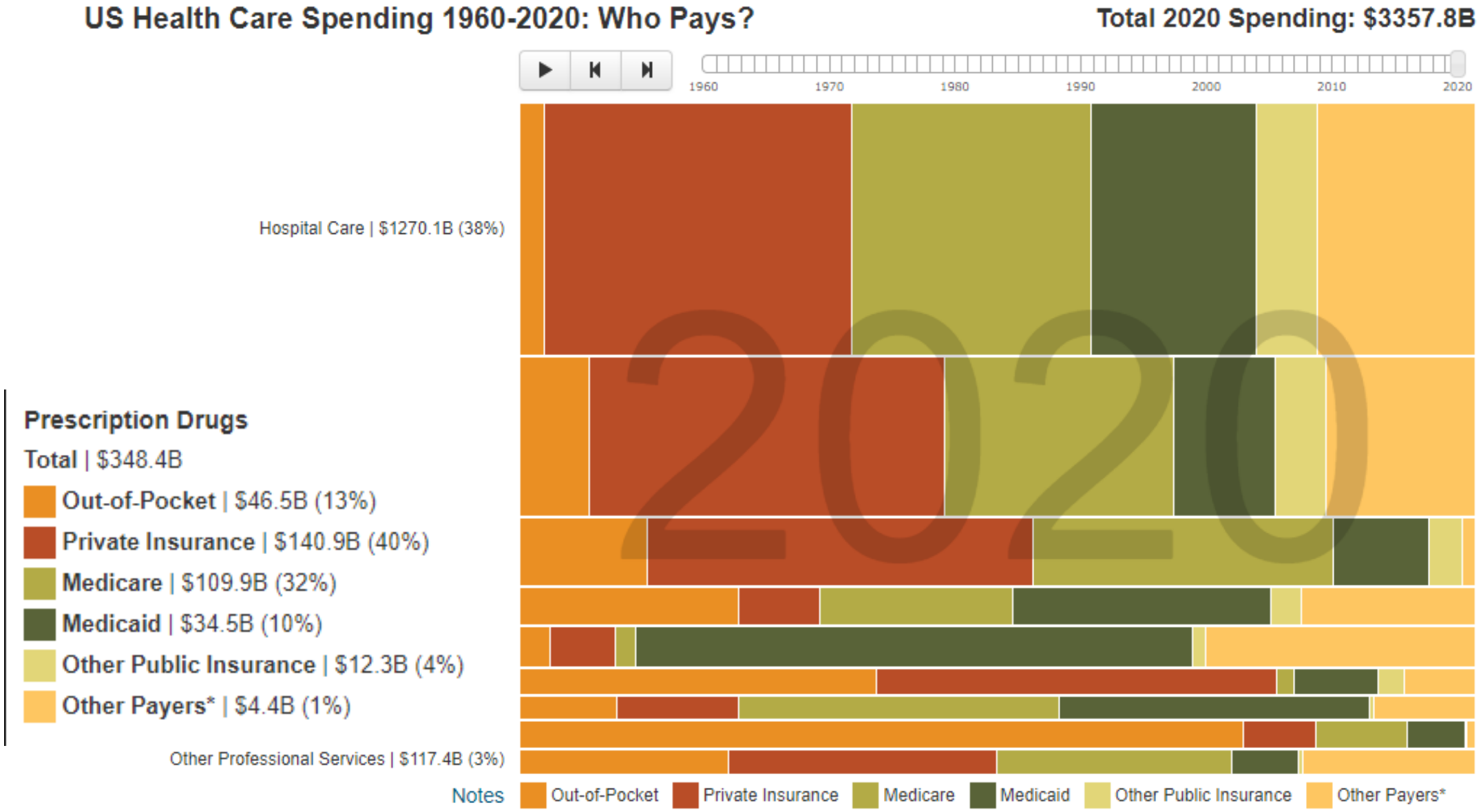



*Source: National Health Expenditure historical data (1960–2020), Centers for Medicare & Medicaid Services. Adapted by California Health Care Foundation*




*Source: National Health Expenditure historical data (1960–2020), Centers for Medicare & Medicaid Services. Adapted by California Health Care Foundation*

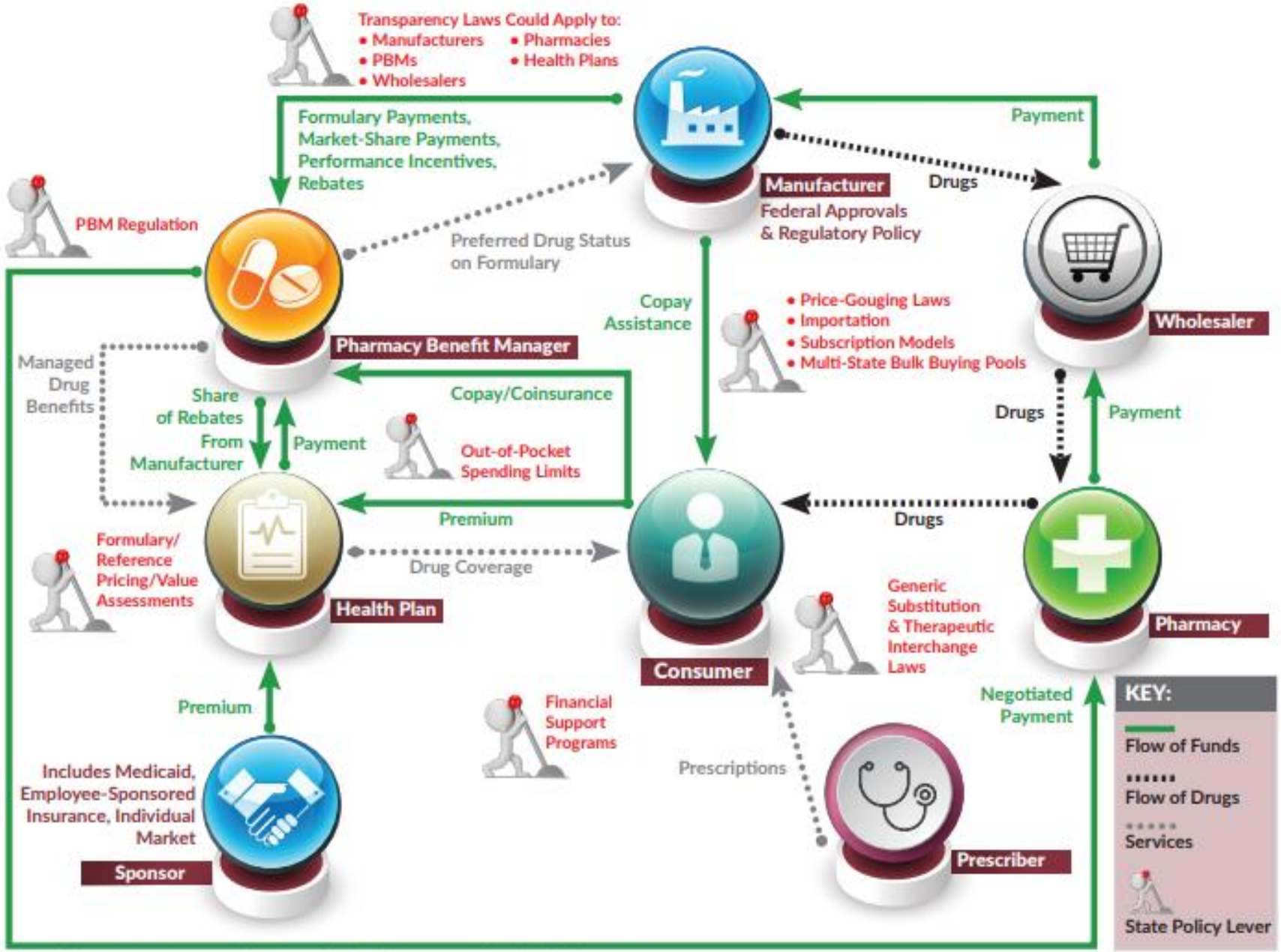
# Spending

- 5-10% of state Medicaid dollars spent on prescription drugs.
- States purchase drugs for:
  - State employee health plans/Retirees
  - Teachers/Universities
  - Corrections
- States regulate plans for:
  - Fully insured
  - Marketplace
- Overall personal health care spending on prescription drugs averages 12-15%.
- Average patient spend = $1200/year
- 53% of retail spending on specialty drugs

# Products

- 20,000 US Food and Drug Administration (FDA) approved prescription drug products (dosages; delivery method) 400 FDA-approved biologics products
  - Includes insulin, vaccines
- Prescriptions filled:
  - Generics = 90% = 18% of spending
  - Brand = 10%
    - 3% are specialty = 56% of spending
      - Defined as $670/mo.
    - Treatments for complex or chronic conditions, rare diseases
    - Require special administration, handling and storage
    - 35 FDA-approved biosimilars
- First biosimilar insulin approved July 2021, more to come in 2023!
- Analysis often does not account for increased hospitalizations, nursing facility utilization, societal and individual costs

*Figure 1.* **State Policy Levers in the Retail Prescription Drug Supply Chain**




Note: Model represents non-specialty prescription drugs covered by health insurance.
*Source: Adapted by the Kansas Health Institute from "Follow the Money: The Flow of Funds in the Pharmaceutical Distribution System," Health Affairs Blog, June 13, 2017.*

# NCSL Prescription Drug Policy Database

- Spans six years and tracks legislation in all 50 states, D.C. and the territories.
- Search over **7,000 pieces of introduced and enacted** legislation in 13 categories.
- More than **430 bills** tracked across 47 states, D.C. and PR in 2022!
  - 59 enacted in 23 states.


https://www.ncsl.org/research/health/prescription-drug-statenet-database.aspx

# Prescription Drug Policy in New Mexico

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| DOES |
| --- |
| Biosimilars (2017) |
| Step-Therapy (2018) |
| PBM Reform (2016 and 2018) |
| Uniform Prior Authorization (2019) |
| New Mexico Intra-agency Purchasing Council (2019) |
| Limitation on Insulin Copays (2020) |
| Importation (2020) |
| Prescription Drug Task Force (2022) |
| |

| DOES NOT HAVE |
| --- |
| Bulk Purchasing |
| Copay Accumulators |
| Insulin |
| Copay on Non-Insulin Drugs |
| Non-Medical Switching |
| Prescription Drug Affordability Board (PDAB) |
| PBM Reform (Fiduciary, Patient Steering, Reverse Auction, Spread Pricing) |
| Transparency |
| 340B |

# Alternative Payment Models (APMs)

**Performance-Based**

- Five states approved by CMS for state plan amendments: CO, MA, MI, OK, TX, WA
  - Ties payment to certain metrics, outcomes
  - Oklahoma has contracts with four manufacturers

**Spending Targets/Caps**

- Maine, Massachusetts, New York
- May be linked to medical rate of inflation, spending targets
- If projected spending exceeds cap, drugs identified for additional supplemental rebates

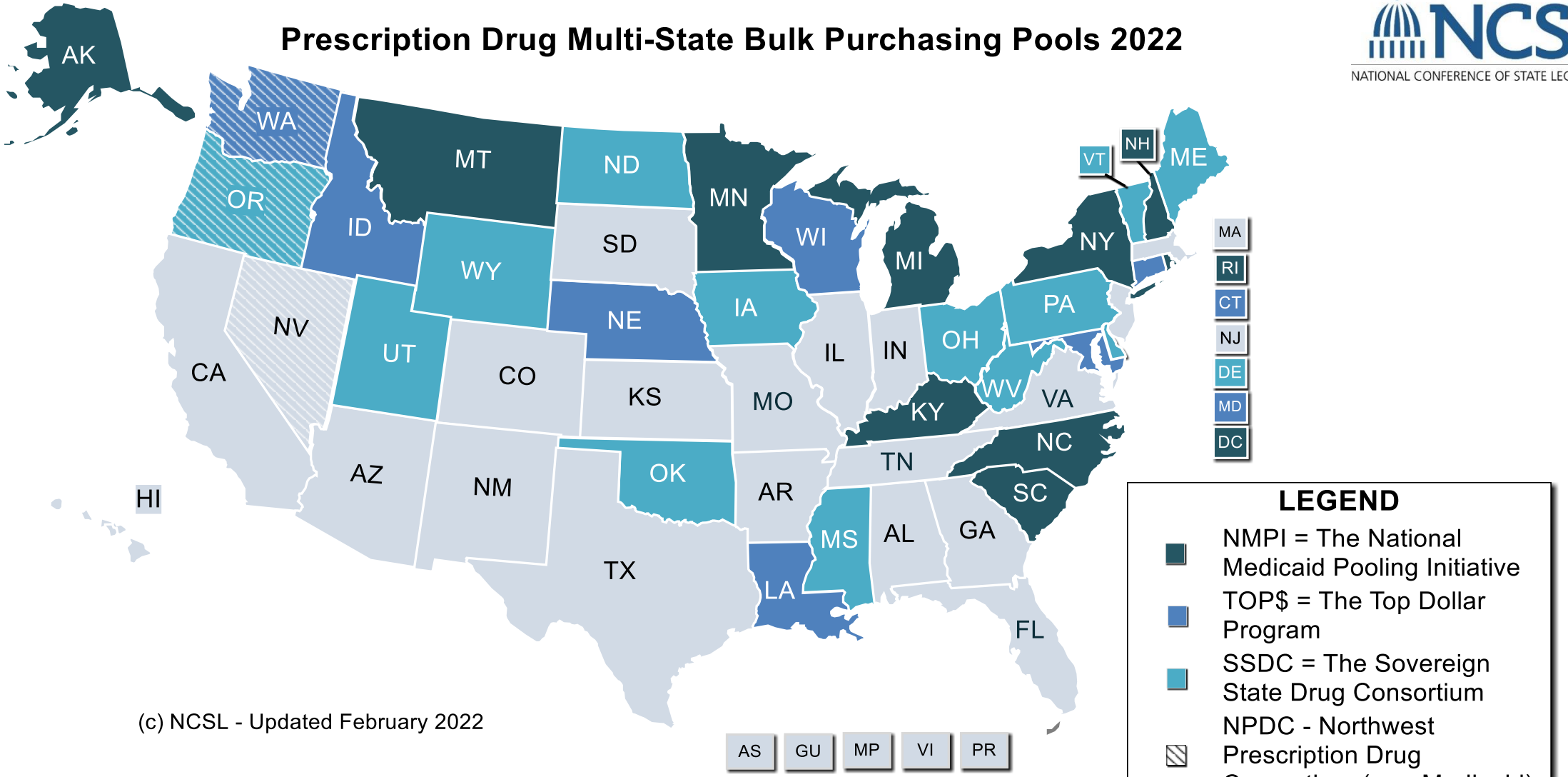
**Subscription-Based**

- Three states approved by CMS: LA, MI, WA
  - Broader state strategies to eliminate Hepatitis C
  - Multi-year contract; state receives a certain amount of drug for a flat fee, then receives doses over this amount for discounted rate.

**Annuity**
**Reinsurance**
**Risk-Pools**

- Medicaid will have to cover cell and gene therapies in pipeline.
- Massachusetts and Michigan have pay-over-time+performance
- Tennessee waiver for closed formulary approved Oct 2021

# Prescription Drug Multi-State Bulk Purchasing Pools 2022




(c) NCSL - Updated February 2022

All 50 states participate in MMCAP = The Minnesota Multistate Contracting Alliance for Pharmacy (non-Medicaid)

*https://www.ncsl.org/research/health/bulk-purchasing-of-prescription-drugs.aspx*

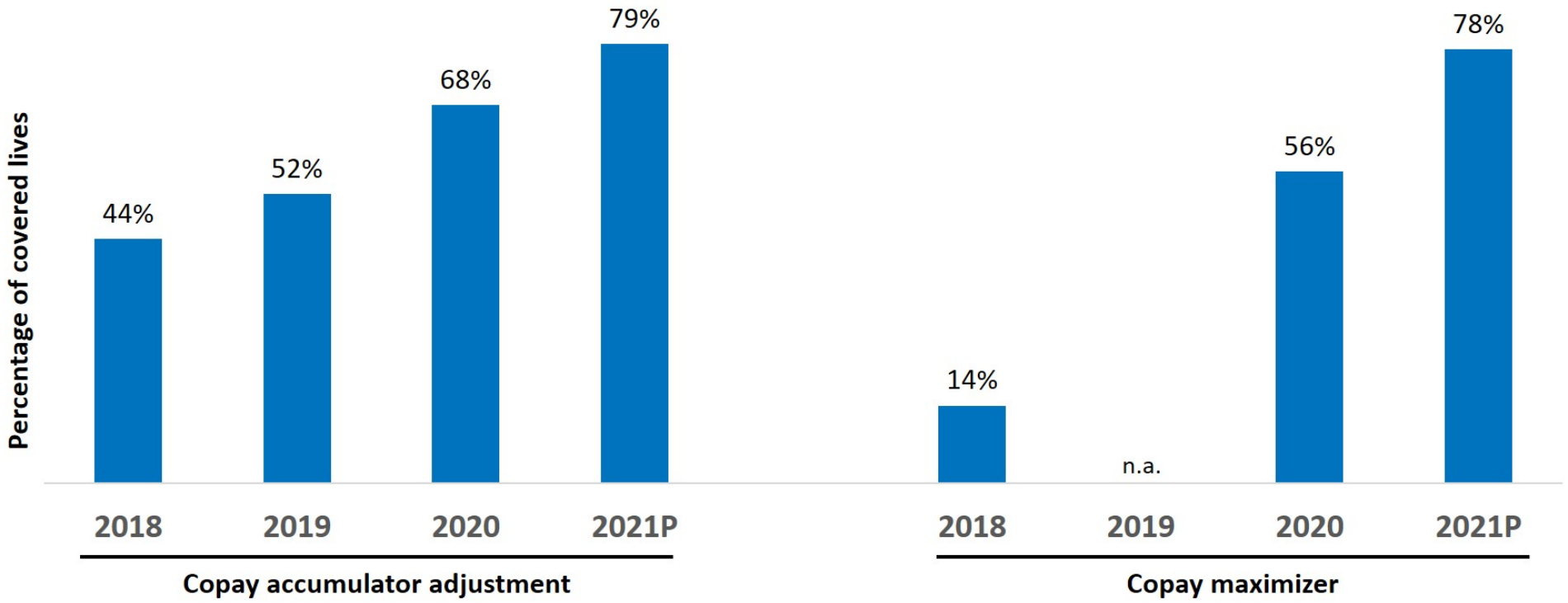
# Maximizer vs. Accumulator

| ASSUME: | Annual cost of medication: $24,000 | Patient coinsurance: 25% ($500/month) | Copay assistance: Pay $0 monthly copay | Copay assistance annual max: $16,000 | Patient annual max OOP: $6,000 | Patient Deductible: $2,000 |
|---|---|---|---|---|---|---|

| | No Accum. Nor Max | With Accumulator | With Maximizer |
|---|---|---|---|
| Copay Assistance Pays | $6,000 | $6,000 | $16,000 |
| Patient Pays | $0 | $2,000 | $2,000 |
| Payer Cost Share† | $18,000 | $16,000 | $6,000 |

*†Possible rebates not included*

# Copay Accumulator Adjustment and Copay Maximizers, Prevalence in Commercial Insurance, 2018 to 2021

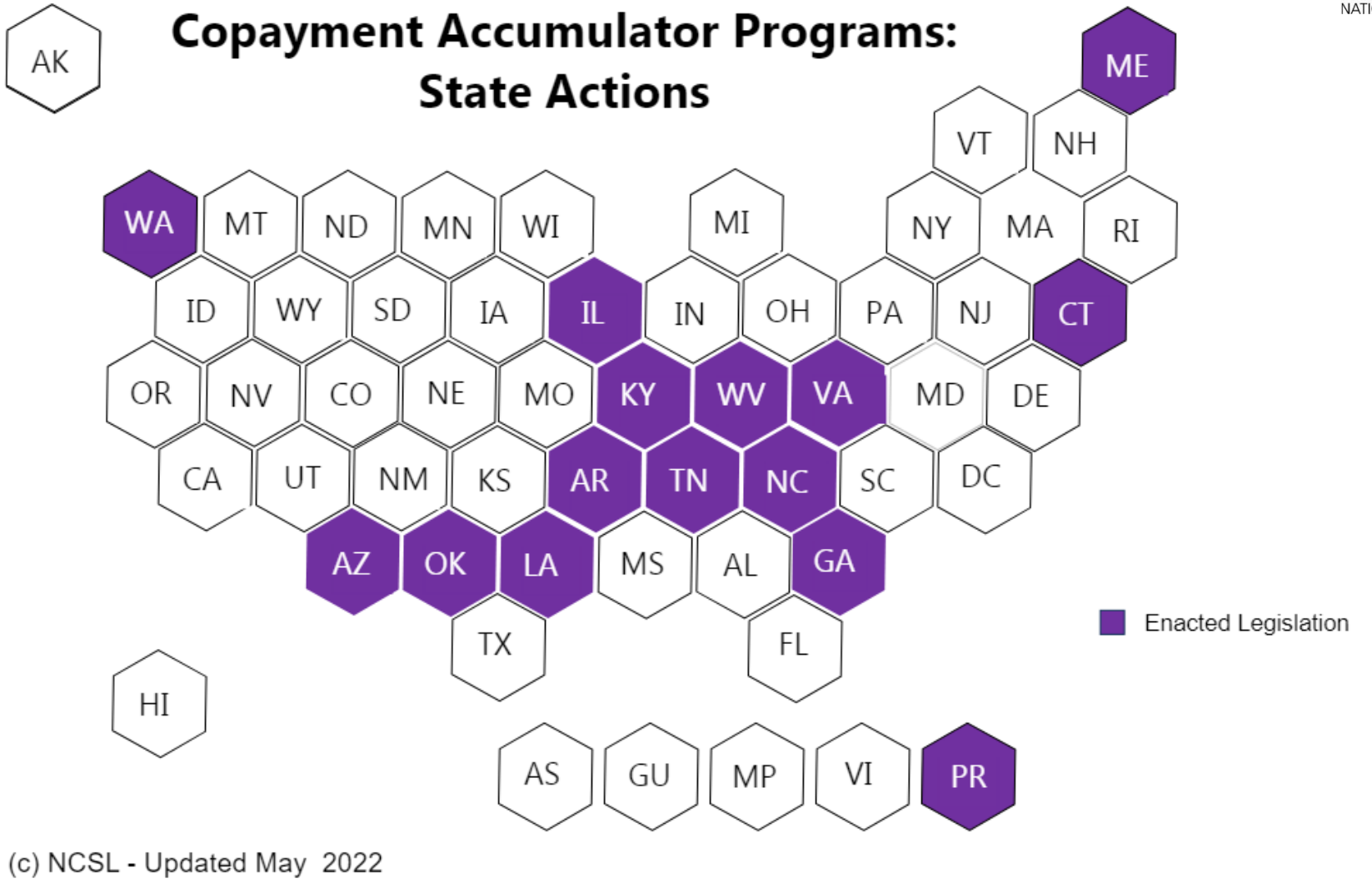



Source: Drug Channels Institute analysis of MMIT data. Sample for 2018 and 2019 includes 49 managed care plans representing 147 million commercially insured covered lives. Sample for 2020/2021P includes 50 managed care plans representing 127.5 million commercially insured covered lives. Data show the share of covered lives in plans that have accumulators and maximizers as part of the benefit design. However, individual plan sponsors can choose not to implement these options.

Published on *Drug Channels* (www.DrugChannels.net) on November 17, 2020.

DRUG CHANNELS INSTITUTE

# Copayment Accumulator Programs: State Actions




https://www.ncsl.org/research/health/copayment-adjustment-programs.aspx

# Insulin

- Twenty-two states cap consumer copayments ranging from $25-$100 per 30-day supply
  - Insulin manufacturers have program $35-$100 per 30-day supply
- Copay limits on diabetic supplies such as insulin pumps
- States to manufacture insulin:
  - California (2020) S 852
  - Maine (2021) LD 1729
  - Washington (2021) S 5203
- Interchangeable biosimilar approved Aug. 2021

# Limits on copayments for non-insulin drugs

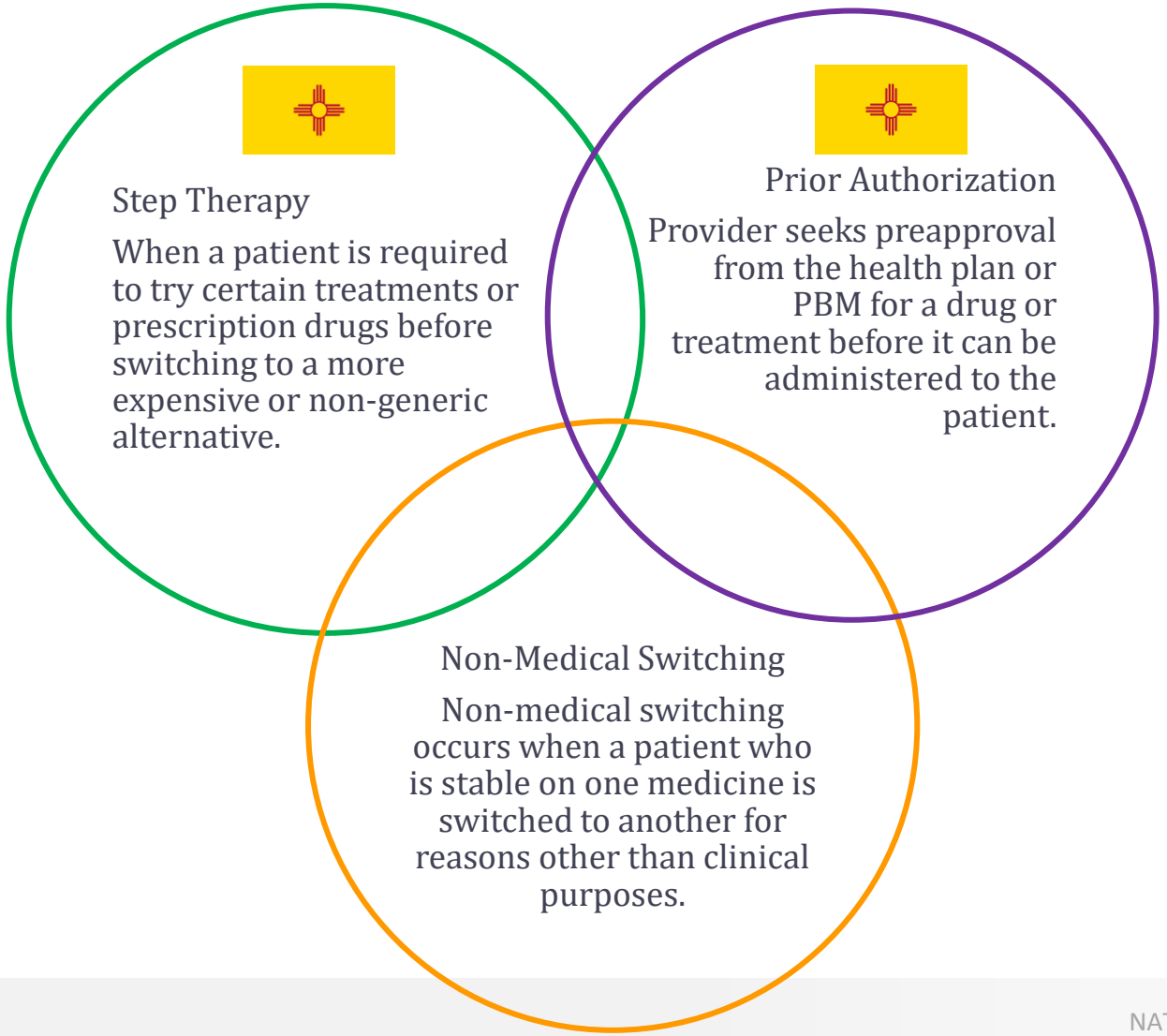
- At least 11 states have limits on patient copayments
- California – Outpatient drugs capped between $250-$500/30-day supply
- Specialty drugs – $150/30-day supply
  - Delaware
  - District of Columbia
  - Maryland
  - Louisiana

Research suggests caps on specialty drugs may ease financial burden on patients who have high prescription drug costs with minimal impact on overall premiums

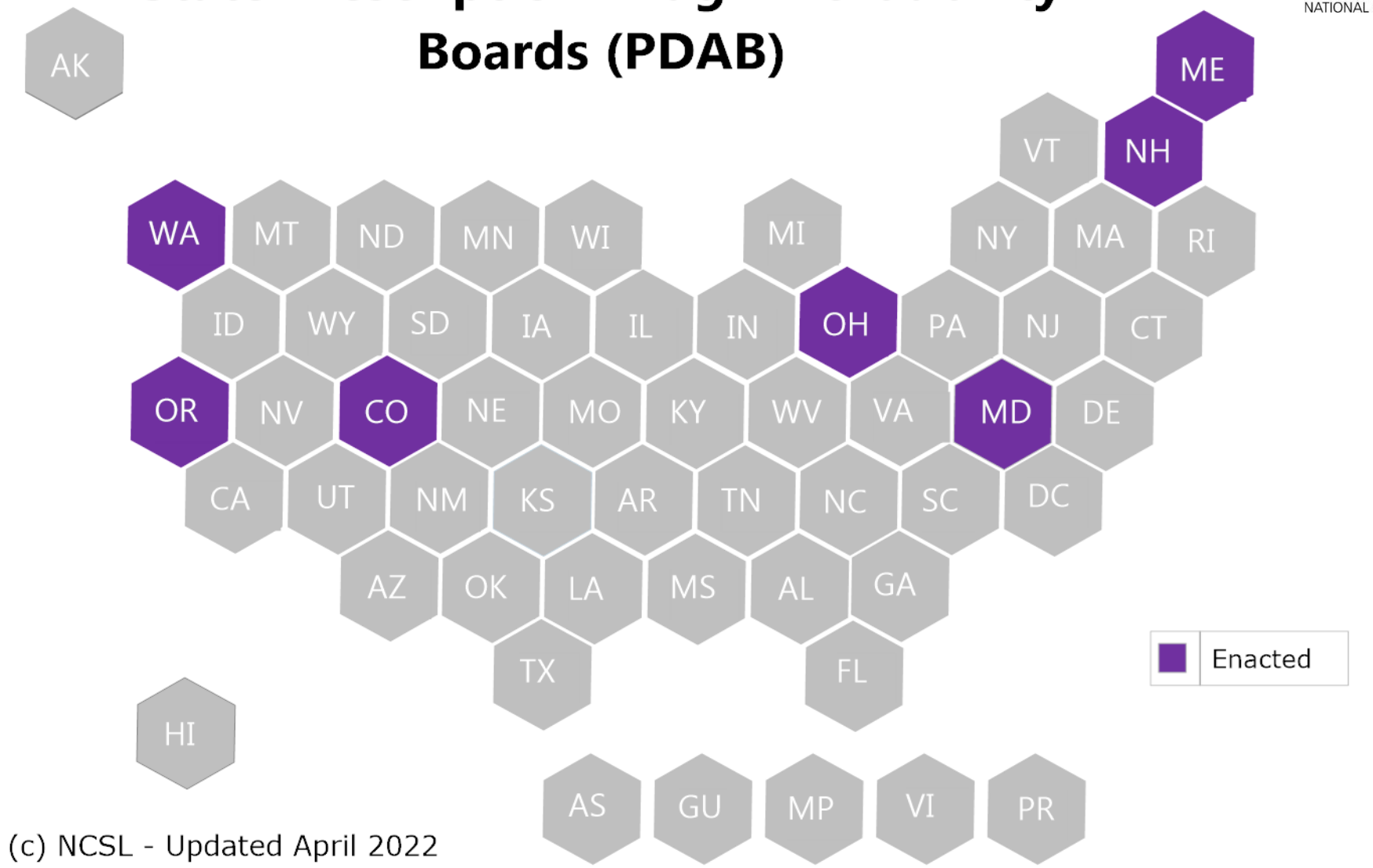
# Utilization Management Processes

Tools pharmacy benefit managers (PBMs), health plans and other payers use to influence patterns of prescribing.

New Mexico has laws on prior Authorization and step-therapy but NOT non-medical switching.



# State Prescription Drug Affordability Boards (PDAB)



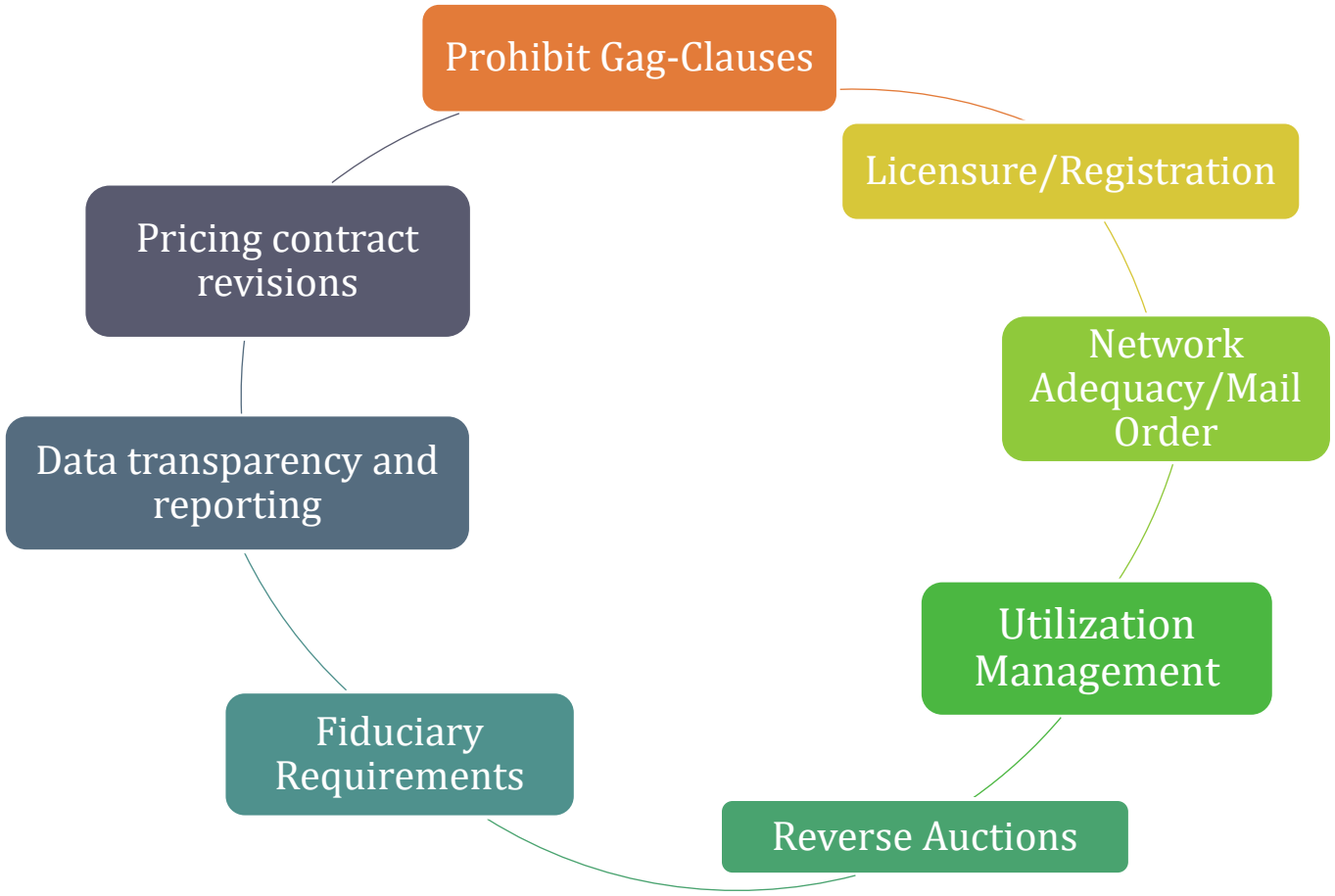

(c) NCSL - Updated April 2022

# State Pharmacy Benefit Manager (PBM) Reform

*147 bills introduced in 38 states!*

*Meaning…*

*34% of prescription drug legislation related to PBMs*




https://www.ncsl.org/research/health/state-policy-options-and-pharmacy-benefit-managers.aspx#/

| New Mexico | |
|---|---|
| Provision | Statute |
| Cost-Disclosure/Gag-Clause | 59A-61-5E(3)(b) |
| Fiduciary | |
| Maximum Allowable Cost (MAC) or Reimbursement Lists | 59A-61-4 |
| Network Adequacy | 59A-61-5(H) |
| Patient Steering | |
| Pharmacy Reimbursement<br>Clawbacks | 59A-61-4(B)<br>59A-61-7 |
| Pharmacy Auditing Standards<br>Appeals Process | 59A-61-4(D)(4) |
| Registration/Licensure | 59A-61-3 |
| Regulatory Agency/Enforcement | 59A-61-3 |
| Reporting/Transparency Requirements | |
| Spread Pricing | |
| Utilization Management Tools | 59A-22B-4<br>59A-22B-5<br>59A-22-53.1 |

*https://www.ncsl.org/research/health/state-policy-options-and-pharmacy-benefit-managers.aspx*

# Price Transparency

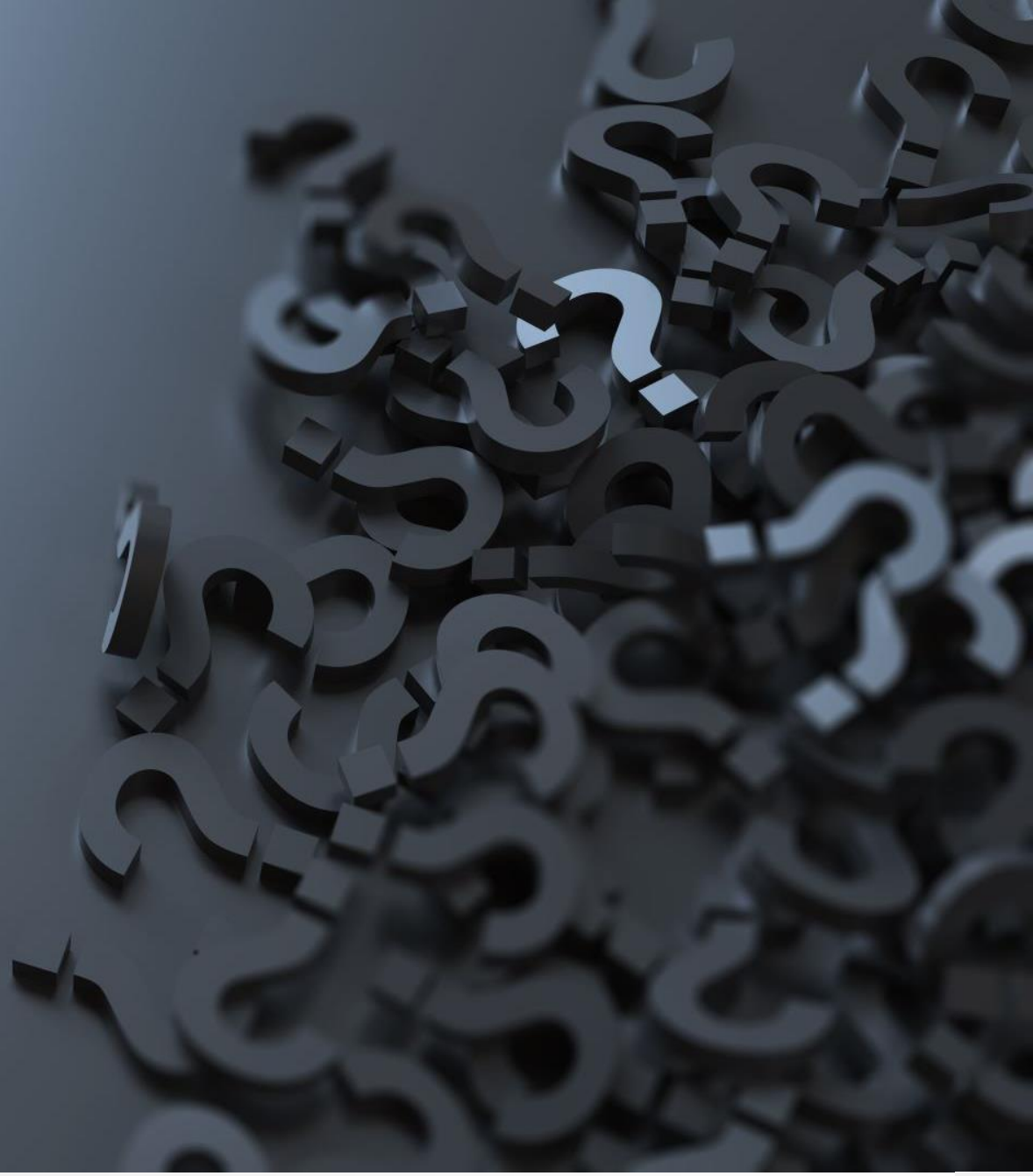
| | Manufacturer Price Increases | Manufacturer Launch Prices | Pharmacy benefit managers (PBMs) | Health Plans |
|---|---|---|---|---|
| California (2018) | ● | ● | | ● |
| Connecticut (2018) | ● | ● | ● | ● |
| Maine (2019) | ● | ● | ● | ● |
| Minnesota (2020) | ● | ● | ● | |
| Nevada (2018 and 2019) | ● | | ● | |
| North Dakota (2021) | ● | | ● | ● |
| Oregon (2018 and 2019) | ● | ● | | ● |
| Texas (2019) | ● | | ● | ● |
| Utah (2020) | ● | | ● | ● |
| Vermont (2018) | ● | ● | | ● |
| Virginia (2021) | ● | | ● | ● |
| Washington (2019) | ● | ● | ● | ● |

*National Academy of State Health Policy, Prescription Drug Pricing Transparency Law Comparison Chart, Nov. 2021*

# The Federal 340B Drug Pricing Program

- Requires manufacturers to sell outpatient drugs at reduced prices to covered entities (CEs)
  - U.S. Government Accountability Office estimates discounts at 20-50% off list prices
- CEs may distribute drugs through contract pharmacies
- Purchases, CEs and contract pharmacies increased:
  - CEs = 8,100 to 50,000 from 2010-2020
  - Purchases = $5.3 billion to $38 billion from 2010-2020
  - Contract pharmacies = 2,300 to 100,400 from 2010-2020
- Ten states prohibit CEs/contract pharmacies from being denied 340B pricing

# What can we expect in 2023?



# NCSL Resources

Webpages

- 340B Drug Pricing Program and States
- Bulk Purchasing of Prescription Drugs
- Copayment Adjustment Programs
- Diabetes State Mandates and Insulin Copayment Caps
- Prescription Drugs and the Approval Process
- Prescription Drug State Bill Tracking Database
- State Policy Options and Pharmacy Benefit Managers (PBMs)

Briefs

- State Options for Managing the 340B Drug Pricing Program
- Prescription Drug Policy Snapshots

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