

Spotlight on State: New Jersey

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New Jersey is active in state market initiatives with a state-based insurance marketplace, [Covered NJ](#), and a state-based reinsurance program that partially reimburses insurers for certain claims. In recent terms, New Jersey lawmakers are also considering legislation that would create a single-payer health plan by expanding Medicare to cover all of the state's residents, as well as a proposal to create a public option that would compete with private insurers.

In price transparency, New Jersey lawmakers imposed limits on surprise medical bills with the enactment of the Out-of-network Consumer Protection, Transparency, Cost Containment and Accountability Act in 2018. Among other mandates, providers would have to tell their patients before scheduling an appointment whether the provider is in or out of the person's insurance network, as well as disclose all the financial liability the patient is likely to have for the given procedure. The measure also puts robust reporting and transparency requirements on carriers, requiring insurers to provide up-to-date provider lists and clear information about out-of-network coverage and costs, and creates an arbitration process to resolve disputes. The legislature is also actively exploring ways to create an all-payer claims database. Bills under consideration would require providers reimbursed by state programs to give the state claims data and create a new Center for the Study of Health Care Billing Data to maintain a

database and analyze claims data.

While many states have scrambled over the course of the COVID-19 pandemic to require insurers to provide parity for telehealth services, New Jersey established protections back in 2017. The state requires insurers to provide coverage, payment, and reimbursement for telehealth services on the same basis as in-person services and prohibits higher cost-sharing for these services.

With respect to market competition, New Jersey law requires non-profit providers to notify the state's attorney general regarding proposed mergers and provides review and approval authority of such transactions. New Jersey also has a certificate of need law on the books. It has long prohibited most-favored nation clauses in healthcare contracts for managed care, and lawmakers are considering a bill that would additionally prohibit anti-tiering clauses. Additionally, lawmakers approved legislation that would allow the state's largest insurer, Horizon Blue Cross Blue Shield, to convert from a nonprofit health services company to a nonprofit mutual holding company—a move that proponents say is needed to allow it to compete with other insurers, while opponents fear could harm enrollees.

On the litigation front, in late 2020, the FTC filed an administrative action and injunction in federal court seeking to block the proposed merger of the state's largest healthcare system, Hackensack Meridian Health, and a nonprofit care system. The FTC claims that the acquisition of Englewood Healthcare would lead to higher prices. Another antitrust suit, *Shire US, Inc. v. Allergan, Inc.*, was dismissed by a federal judge in 2019 who held that the plaintiff failed to define a relevant market that defendant was monopolizing, undermining their Sherman Act section 2 claim.