

# The Public Option

Broadly, a public option is a government-run health insurance plan that competes with other commercial products. There have been several public option models that have been proposed on both the state and federal level. Who can enroll in a public option, rates paid to providers, and benefits covered vary by proposal. To date, two states, Colorado and Washington, have passed a public option proposal.

## Colorado's Public Option

In 2019, the Colorado General Assembly passed HB1004, which directed the Colorado Department of Health Care Policy and Financing (HCPF) as well as the Colorado Division of Insurance (DOI) to make a recommendation to the Legislature on the design of a public option. On Nov. 15, 2019, the HCPF and the DOI released the agencies' recommendations for a public option. Many provisions of the plan need to be approved by the Colorado General Assembly prior to implementation.

Under this proposal, the public option will be a new, standardized, plan that will be sold by commercial insurers on Colorado's individual market place as well as by private brokers. The public option will be offered alongside other products on the market starting in 2022.

All hospitals will be required to accept the public option, but the same is not true of independent physicians and other providers. Insurance companies are also required to participate, but only if they sell products on the individual market. If there's a county where only one carrier is offering a plan on the individual market, the DOI requests the authority to require at least one other insurer to sell a product. The specifics on how the state would exercise this authority are unclear.

Any Colorado resident will be eligible to buy a plan, and those that qualify for federal subsidies will be able to use them towards the public option plan. The public option will operate as a qualified health plan and will cover the essential health benefits that are mandated by the Affordable Care Act. The public option will also include additional benefits that can be used pre-deductible, though those benefits have yet to be defined.

Under this proposal, hospital reimbursement rates will be set by a public and transparent formula. The formula will account for variability across hospitals such as the hospital's payer mix, patient margins, and whether the hospital is critical access, rural, urban independent, or part of a larger system. The formula will be applied on a hospital-by-hospital basis.

Minimal state funding is needed to implement this plan and insurance carriers will bear the financial risk. It will cost about \$750,000 to launch the public option, with an additional \$1 million annually needed to fund the state agencies that would be responsible for managing the public option. The plan does not require the state to cover any of the costs of care.

## **Washington's Public Option**

In 2019, the Washington legislature passed H-3076, a bill which established a public option. The new public option will be sold on Washington's individual marketplace starting in 2020. The bill requires the Washington State Health Care Authority to contract with private insurers to offer public option plans. Plans will be standardized and will offer the same benefit set on the bronze, silver and gold level.

Individuals who do not have access to employer-based insurance or do not qualify for any other public plan such as Medicaid or Medicare are eligible to purchase the public option.

Beneficiaries who qualify for federal subsidies may use them to purchase the public option plan.

The bill caps each plan's average reimbursement rates at 160 percent of Medicare levels, but primary care providers must be paid at least 135 percent of Medicare rates. Drug benefits are not subject to these caps. Rates for certain rural hospitals are capped at 101 percent of allowable costs to comply with existing federal law. The law also prohibits carriers from requiring providers to accept the public option plan rates as a condition of participation in other plans offered by that carrier.

The payment caps may be lifted under three scenarios:

1. If premiums would not increase (though this option is only available starting in 2023)
2. If a carrier is unable to form an adequate network for a public option plan, they do not need to comply with the law. They must, however, prove to the Washington State Health Care Authority that they are unable to do so.
3. If the carrier can achieve actuarially sound premiums that are 10 percent less than the previous plan year

The bill does not require participation from insurance companies or providers. Starting in 2021, all carriers offering plans on Washington's individual market will be required to offer at least a silver and gold level product, as well as a bronze plan if they currently offer one at that tier. Insurance companies may continue to offer non-public option plans on the individual market, though the actuarial value of the public option plan may not be less than the non-public option plan, to prevent steering consumers non-public option plans.