

Post-Convention Recap

Milbank Memorial Fund

STATE LEADERSHIP NETWORK

Medicaid and Behavioral Health Policy with the National Conference of State Legislatures: Virtual Convening of Milbank State Leadership Network

February 20, 2025

PANELISTS

Kathryn Costanza, JD

Health Program Principal
NCSL

Karmen Hanson, MA

Health Program Senior Fellow
NCSL

Tahra Johnson, MPH

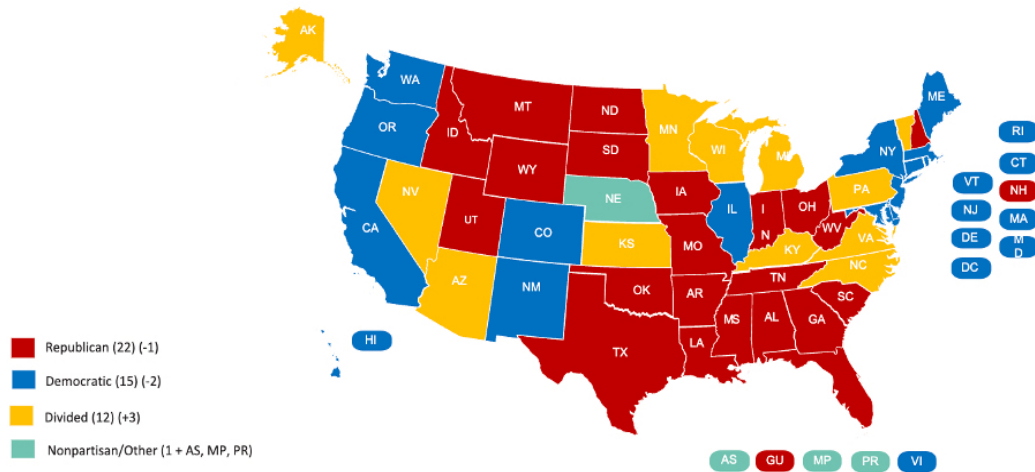
Health Program Director
NCSL

Charlie Severance-Medaris, MPH

Health Program Project Manager,
NCSL

The Milbank State Leadership Network hosted experts from the National Conference of State Legislatures (NCSL) to discuss state legislative approaches to Medicaid and behavioral health policy during the 2025 state legislative season. The conversation explored bipartisan approaches to strengthen coverage, address rising costs amid severe budget constraints, and improve access to substance use disorder treatment and suicide prevention.

Post Election State Control (2025) – Legislators and Governors



Source: NCSL Presentation, Health Policy Priorities in State Legislatures

Medicaid

Kathryn Costanza, JD, Health Program Principal, National Conference of State Legislatures

Recent Legislative Trends

In 2024, state legislative sessions led to expansions in Medicaid eligibility and benefits, parity for behavioral health, and a rise in rates for home- and community-based services, behavioral health providers, and dental care providers. Some legislatures also focused on coverage for justice-involved individuals upon reentry into the community and coverage of non-medical drivers of health. In 2025, discussions on reentry and non-medical drivers of health have continued, but the overall context for Medicaid policy has shifted dramatically. In addition to funding uncertainty at the federal level, states are facing economic pressure from health care rate increases and higher spending due to benefit and eligibility expansions. Most states have decreased enrollment since Medicaid unwinding began in March 2023, yet the cost per capita for those remaining in the program continues to rise.

Section 1115 Waivers

Many states have pursued Section 1115 waivers as opportunities for innovation in state Medicaid agencies. [Recent waivers](#) focus on multi-year continuous coverage for children under the age of six, addressing non-medical drivers of health such as housing and food insecurity, and reentry programs for justice-involved individuals. Reentry waivers can be used to [provide benefits](#) to incarcerated adults and youths up to 90 days prerelease. So far,

- 19 states have approved reentry waivers;
- 8 states and Washington, DC, have pending waivers.

States that have pursued waivers have often sought synergies between them, particularly to address the non-medical drivers of health for people recently released from incarceration. (On March 4, a [CMS bulletin](#) rescinded prior guidance on health-related social need and current waivers are under review.)

Post-Convention Recap

Medicaid Coverage for Immigrants

Medicaid and the Children's Health Insurance Program (CHIP) coverage for immigrants is complex. For example, states can receive federal funding to cover pregnant women regardless of immigrant status, and "lawfully residing" pregnant women and children who are otherwise subject to a 5-year wait. Independent of federal funding, states can self-fund health coverage for children, adults, and older adults, regardless of immigration status. Likewise, states have significant flexibility on which conditions, locations of care, and eligibility rules they allow in the administration of [Emergency Medicaid](#), which can cover specific instances of care.

States also have significant discretion in how they administer disproportionate share hospital (DSH) payments and uncompensated care pools, which are supplemental payments made to hospitals to offset costs of patient care for uninsured patients or those covered by Medicaid. Unlike state-funded coverage, these payments cover emergency care and inpatient services but do not include primary or preventive care services. They are also not insurance and do not reduce billing or costs to patients.

Example: In 2023, the Utah state legislature passed [SB 217](#) to extend coverage to children who don't meet traditional eligibility criteria under the state's CHIP program. To ensure sustainability, the Utah legislature included a sunset provision and data review, permitted the Utah Department of Health and Human Services to create a waiting list, and capped spending at \$4.5 million.

Behavioral Health and State Legislatures

Charlie Severance-Medaris, MPH, Health Program Project Manager, National Conference of State Legislatures

Presenters also highlighted key issues and legislative trends related to substance misuse and overdose, suicide prevention, and mental health treatment.

Substance Misuse and Overdose

In 2023 and 2024, the number of drug overdose deaths in the United States decreased for the first time in over 20 years due to recent law enforcement efforts to intercept fentanyl and other drugs before they enter communities and state innovations, as well as public health and mental health prevention and treatment strategies. State-level evidence-based strategies for preventing opioid overdose include

misuse prevention, overdose prevention, harm reduction, and access to treatment.

- [Alaska](#), [California](#), [Colorado](#), [Illinois](#), [Louisiana](#), [Maine](#), [Virginia](#), and [Washington](#) enacted legislation requiring naloxone in certain school settings, requiring naloxone training for school staff, and limiting liability for administering of naloxone.
- All 50 states have established formal state-wide prescription drug monitoring programs.
- 41 states have legislation limiting opioid prescription through guidelines and prescription limits.

States are also working to transparently allocate opioid settlement funds to ensure they are used effectively for opioid misuse prevention and treatment.

- [Colorado](#) and [North Carolina](#) created public dashboards to show where opioid settlement money is being spent.
- Minnesota added an [opioid manufacturing fee](#) to create funding sustainability for the opioid abatement account.
- Oklahoma was not part of the national settlement but has passed legislation creating [grant programs](#) to ensure settlement money is available at the community level.

Suicide Prevention

Suicide is one of the leading causes of death in the United States. Following the Covid-19 pandemic, suicide rates have risen, and adolescent mental health has declined. Many state legislatures are introducing and enacting bills related to:

Youth Suicide Prevention

- Legislation in Maryland requires firearms owners to [properly store firearms](#) accessible to children.
- Utah requires schools to provide [suicide prevention information](#) to parents of children who have threatened suicide.
- [California](#) and [South Dakota](#) require schools and school districts to provide mental health resources and support after a suicide death in the community.

988 Lifeline

- [Colorado](#) and [Virginia](#) use communications surcharges to support local call centers and mobile crisis teams.
- [Indiana](#) and [Utah](#) use state general funds to support the lifeline and have also applied for 1115 waivers.
- [Nebraska](#) created a study commission through the legislature to look at how to best implement 988.

[Montana](#) and [North Dakota](#) passed legislation to improve data collection by creating suicide fatality review committees to analyze deaths by suicide and make recommendations.

Post-Convention Recap

Mental Health Treatment

Karmen Hanson, MA, Health Program Senior Fellow, National Conference of State Legislatures

Many states have enacted behavioral health parity laws that expand federal laws requiring insurance coverage for mental health and substance use disorder treatment to be comparable to coverage for physical health conditions.

- 37 states have their own parity laws that allow or require compliance tracking by health systems and insurers and to investigate consumer complaints related to accessing behavioral health benefits.
- New Hampshire enacted a process to review [reimbursement rates for mental health providers](#) in comparison to other health professionals.
- Colorado requires the coverage of [annual mental health wellness exams](#).

State Opioid Treatment Programs (OTPs) that provide medication-assisted treatment for opioid use disorders are certified and partially funded by the Substance Abuse and Mental Health Services Administration (SAMHSA) and overseen and funded by the state's opioid treatment authority. Additional treatment access points include mobile medication units that operate under OTPs and emergency departments.

- A pilot program in Massachusetts provides [emergency department-initiated treatments](#) like buprenorphine and naltrexone to patients after an overdose.
- Kentucky legislation mandates that emergency departments [inform patients](#) of the availability of treatment services.

For more resources on state legislative approaches to Medicaid and behavioral health policy and general health legislation databases, please see the list of following resources.

Resources

2024 Medicaid State Legislative Trends: [State Legislatures Address Medicaid Coverage and Payments in the 2024 Legislative Session](#)

1115 Waivers:

- [Medicaid Waiver Tracker](#) | KFF (Feb 2025)
- [New Medicaid Options Can Help Inmates Transition out of the Justice System](#) | NCSL (Nov 2024)
- [New Opportunities for Medicaid Funding to Ease Reentry](#) | NCSL (July 2024)
- [Connecting Recently Released Prisoners to Health Care – How to Leverage Medicaid](#) | NCSL (Jan 2023)

Medicaid Policy for Immigrants:

- [Health Coverage Map](#) | National Immigration Law Center (Feb 2025)
- [State Health Coverage for Immigrants and Implications for Health Coverage and Care](#) | KFF (Jan 2025)

- [States Are Providing Affordable Health Coverage to People Barred From Certain Health Programs Due to Immigration Status](#) (Jan 2024)

NCSL Health-Related Legislation Databases:

- [State Public Health Legislation Database](#)
- [Injury Prevention Legislation Database](#)
- [Substance Use Disorder \(SUD\) Treatment Database](#)
- [Maternal and Child Health Database](#)
- [Prescription Drug State Bill Tracking Database](#)
- [Health Costs, Coverage and Delivery State Legislation](#)
- [Scope of Practice Policy Website](#)
- [EMS Legislative Database](#)
- [State Cannabis Policy Enactment Database](#)
- [Health Workforce Legislation Database](#)