



### Recommended legislative action:

**1) Improve access to health coverage in Texas**

- a) Expand Medicaid to cover uninsured, low-wage adults
- b) Provide 12 months of continuous eligibility for children in Medicaid
- c) Extend Medicaid coverage for eligible mothers from 60 days to 12 months after childbirth

**2) Strengthen consumer protections and ensure coverage provides real value**

- a) Ensure strong state protections for people with pre-existing conditions
- b) Make comprehensive coverage more affordable using a “1332 reinsurance waiver”

**3) Improve outreach and supports to help Texans get and stay enrolled**

- a) Revitalize the state’s marketing, outreach, and application assistance efforts
- b) Fund and require robust HHSC outreach to mixed-immigration-status families
- c) Align the state’s health insurance outreach with the realities of COVID

**4) Protect health care from budget cuts during the pandemic.** Ensure adequate funding for state health programs and its eligibility system as Texas weathers the ongoing pandemic and uninsured numbers are on the rise.

**5) Address urgent unmet needs for Texas’ COVID response.** Current conditions indicate that the health and economic recovery of Texans will require systems to control the spread of COVID-19 well into 2021 and possibly beyond.

### Recommended non-legislative steps

**6) Request additional federal health care funding from Congress** in order to meet Texan’s needs while facing a pandemic, economic downturn, and revenue shortfall.

**7) Request that Texas’ Attorney General drop the Health Care Repeal Lawsuit**



*Cover Texas Now is a coalition of health advocacy, public-interest, and faith-based organizations whose mission is to see the state of Texas implement a sustainable health care system and ensure quality affordable health coverage to its citizens. Learn more at [www.CoverTexasNow.org](http://www.CoverTexasNow.org).*

### **1) Improve access to health coverage in Texas**

#### **a) Expand Medicaid to cover uninsured, low-wage adults**

About one in every three uninsured Texans is an adult--with or without dependent children--who could be covered under a Medicaid expansion, with the federal government paying 90% of the costs. Texas could adopt a simple expansion like New Mexico, Oklahoma, and Louisiana, or an approved federal alternative like Arkansas or Indiana.

Numerous studies show that children do far better when their parents have coverage: they are more likely to be insured, and to get both preventive care and medical treatment. But only a tiny handful of Texas parents of the more than 3.2 million Texas kids on Medicaid are also covered. Too many lawmakers are unaware that those parents (and other adults without dependent children at home) are excluded from both Texas Medicaid and insurance subsidies from the ACA. This is the biggest reason for Texas' worst-in-nation uninsured number and percentage.

Huge Texas job losses (over 3.8 million filed for unemployment since March 2020) have left large numbers of newly uninsured. By January 2021, there will be an estimated 2.2 million uninsured Texas parents and other low-wage or newly unemployed workers who could gain Medicaid expansion coverage, making it the single most powerful policy tool to reduce the number of uninsured Texans that the Legislature can use. Medicaid expansion coverage would help the adults covered and their families recover from the economic harm caused by the COVID-19 pandemic.

Texas leaders' decision until now to remain one of just 12 states without Medicaid expansion also disproportionately harms Texans of color, especially Hispanics. Hispanic adults account for 39% of all Texans age 19-64, but they make up 57% of the uninsured adults in the potential Medicaid Expansion. Adding in Black Texans and others who do not identify as white, fully 74% of the uninsured Texans who could be covered are Texans of color. Expanding Medicaid coverage is the single most effective step Texas policy makers could take to reduce today's structural inequality in access to health care coverage for Texans of color.

**b) Provide 12 months of continuous eligibility for children in Medicaid**

The best time to review eligibility and move children from Medicaid to CHIP is at renewal. This ensures a smooth transition and avoids eligible children losing coverage altogether. Texas currently uses a flawed process to review children’s Medicaid eligibility a few months after a robust review found them to be eligible. That process has resulted in the state mistakenly removing thousands of eligible children from health coverage every month. Data show that as many as 50,000 children a year are losing access to healthcare coverage as a result of inaccurate mid-year reviews.

Currently, family income could be checked multiple times a year (per child), in addition to the income verification that occurs at application and yearly renewal. This flawed system is applied to Texas’ lowest-income families, who are more likely to be within communities of color, contributing to racial disparities for children within Texas’s healthcare system.

**c) Extend Medicaid coverage for eligible mothers from 60 days to 12 months after pregnancy in order to support maternal health during the critical first year of a baby's life**

Maternal deaths and pregnancy complications remain a significant concern in Texas, resulting in tragedy and long-term health issues for many mothers and children and higher financial costs for the state. Between 2012 and 2015 in Texas, the majority of maternal deaths occurred more than 60 days postpartum. Texas is one of the only states where Medicaid health insurance is typically not available to women with jobs below the poverty line, except during their pregnancy and 60 days after childbirth. Before the COVID-19 pandemic, 1 in 4 Texas women of reproductive age was uninsured, the worst rate in the nation -- and now many more Texans have become uninsured. The Texas Maternal Mortality & Morbidity Review Committee’s number one recommendation to improve maternal health is “extending access to healthcare coverage for 12 months following delivery to ensure that medical and behavioral health conditions can be managed and treated before becoming progressively severe.” Improving access to Medicaid insurance has been associated with increased use of postpartum outpatient care, particularly for women who have had pregnancy complications.

**2) Strengthen consumer protections and ensure coverage provides real value**

**a) Ensure strong protections for people with pre-existing conditions.**

- 1. Add protections ushered in by the Affordable Care Act to state law, to help prepare for any ruling on Texas’ health care repeal (ACA) lawsuit.*

Texans strongly support protections for people with preexisting conditions contained in the Affordable Care Act (ACA). Those protections and more are at risk because of Texas' lawsuit to strike down the ACA. The Supreme Court ruling on the case is expected during or just after the 2021 Legislative session.

One way Texas lawmakers can prepare for any ruling is to put the ACA's preexisting condition protections into state law in 2021, including: you can't be denied coverage or charged more; coverage for preexisting conditions can't be limited or excluded; no lifetime or annual limits, insurance must comprehensively cover essential benefits, and policies must have a cap on a person's total annual out-of-pocket costs.

No policy that has been proposed to replace the ACA has come close to its level of protections for people with preexisting conditions. Texas should not consider a return to its pre-ACA high-risk pool - which was inadequate, unaffordable, and served very few people - as an appropriate substitute.

*2. Improve consumer protections in non-traditional health plans that continue to discriminate against people with preexisting conditions.*

Many types of non-traditional health plan arrangements are marketed to consumers as a substitute for traditional, comprehensive health insurance, but lack standard consumer protections and/or adequate coverage. They include short-term plans, indemnity-only plans, health care sharing ministries, and other limited-benefit plans. Their premiums are often cheaper because they do not cover basic health needs including maternity care, prescription drugs, and mental health care, and can expose patients to extremely high costs in the event of an emergency or new diagnosis.

A growing body of evidence shows that these plans use aggressive, misleading, or deceptive sales tactics with alarming frequency, putting consumers at risk of buying a plan that will not meet their needs. Lawmakers should reconsider loopholes that leave these plans subject to fewer standards and crack down on inappropriate and deceptive sales practices.

**b) Make comprehensive coverage more affordable for middle and upper income Texans using a "1332 reinsurance waiver," while maintaining coverage in comprehensive and affordable subsidized Marketplace plans that 1 million Texans rely on today.**

Texas should pursue a well-designed 1332 reinsurance waiver – a step already taken by 14 states – to lower premiums and cover more people with comprehensive health insurance. This should be just one step of a comprehensive plan to reduce the uninsured population that includes policies like Medicaid expansion that would cover substantially more people.

A 1332 reinsurance waiver would allow Texas to pull down federal funds to pay some of the costs for people with high health care spending in the individual health insurance market. Reducing an insurer's risk of high cost claims allows them to lower premiums. The people who will primarily benefit are middle and upper income consumers who do not qualify for Marketplace subsidies.

A Texas 1332 waiver should support clear and unbiased information on comprehensive health plan options for consumers, as is available through HealthCare.gov, as well as robust enrollment assistance. It should also extend quality coverage, with affordable premiums and out-of-pocket costs, comprehensive benefits, and strong protections for people with pre-existing conditions.

### **3) Improve outreach and supports to help Texans get and stay enrolled**

Many uninsured Texans are eligible for either Medicaid, CHIP, or Marketplace subsidies, but not enrolled. The state's outreach and enrollment efforts aimed at reaching these families are not as robust as they once were or nearly strong enough to meet the heightened need during a pandemic. A decline of over 237,000 covered children in Texas Medicaid and CHIP from December 2017 to February 2020, paired with an increase in uninsured Texas children, signals the urgent need for steps to get our eligible children enrolled. The Legislature should boost funding and take other steps to improve outreach, including:

#### **a) Revitalize the state's marketing, outreach and application assistance efforts to connect more eligible children to health coverage.**

- i) Texas HHS should focus efforts and funding on community-based initiatives to enroll the most hard-to-reach populations. Outreach efforts should seek to connect with community-level stakeholders to best reach historically uninsured children, including:
  - Increase outreach funding, with a portion of the funding allocated for community-based organizations (CBOs) to perform outreach and enrollment assistance activities at the community level.
  - Reinvigorate the Community Partners Program with increased agency staff support and increased case management capabilities.
  - Increase the number and capacity of outstationed eligibility workers at FQHCs and hospitals.
  - Work with schools, child care centers and CBOs and public schools to systematically identify uninsured children and connect them with outreach assistance.
  - Work with businesses who don't traditionally offer health insurance, to reach working parents who may assume that their children don't qualify for Medicaid or CHIP.

- Partner with churches and faith-based organizations, as they are often trusted messengers at the community level.
- ii) Texas should identify potential outreach and enrollment opportunities through state agency collaboration.
  - The Texas Workforce Commission should continue to build on recent steps taken to provide information and referrals about health coverage options and other services to meet basic needs to applicants for unemployment insurance on their website and through their interactions with Texans seeking unemployment relief.
  - Texas HHS should actively facilitate outreach and enrollment into Medicaid and CHIP for families receiving services through DFPS Prevention and Early Intervention programs, workforce services through TWC, and services at local public health departments in collaboration with DSHS.
- iii) Strengthen messaging for outreach to pregnant women for Medicaid and CHIP Perinatal. Texas should work to improve enrollment of pregnant women to increase on-time prenatal care in Texas and improved birth outcomes. Texas HHS should adopt stronger messaging on availability of Medicaid and CHIP perinatal, with an emphasis on the fact that these are available for free to low-income women without co-pays. The top two reasons women are late in seeking prenatal care are being uninsured and an inability to pay for care.

**b) Fund and require robust HHSC outreach to mixed-immigration-status families to reverse the loss of eligible kids from Medicaid and CHIP.**

Texas HHS should conduct an outreach campaign which clearly articulates terms of eligibility for non-citizens and their citizen family members. The current language on the Form H1010 regarding immigration status and public charge is clear and understandable but is hard to locate. Language like what is now included on the Form H1010 should be more prominent in public-facing outreach materials, given the climate of fear in accessing government services in the immigrant community. This fear factor is likely the largest single cause of the 237,000 decline in covered children in Texas Medicaid and CHIP from December 2017 to February 2020.

**c) Align the state’s health insurance outreach with the realities of COVID and remove barriers to remote enrollment in Medicaid and CHIP.**

Texas HHS should ensure that community-based organizations are able to provide client-centered application assistance to Texans remotely. To accomplish this we recommend the following:

- i) Utilize flexibility provided by the Centers for Medicaid and Medicare to allow application assisters to accept verbal consent to access a client's personal identifying information (PII) and submit an application for Medicaid and CHIP on behalf of the client as their authorized representative.

- ii) Utilize flexibility provided by the Food and Nutrition Act regarding telephonic signature and collect telephonic signatures from clients applying for SNAP over the phone via 2-1-1, Option 2.
- iii) Allow community-based organizations (CBOs) acting behalf of the state agency to collect telephonic signatures from clients applying over the phone.
- iv) Request a federal waiver to allow the state and third parties acting on behalf of the state agency (such as CBOs) to document in writing that a client verbally attested to the information provided on the application, instead of requiring an audio recording of the verbal attestation to constitute a valid telephonic signature. This waiver would allow CBOs to immediately begin collecting telephonic signatures during the current public health emergency, while they implement systems capable of recording telephonic signatures to be used after this waiver expires.

#### **4) Ensure adequate funding for state health programs and its eligibility system as Texas weathers the ongoing pandemic and uninsured numbers are on the rise.**

During the pandemic and economic downturn, Texans need well-funded state health services more than ever. Protect Medicaid and CHIP and prevent cuts to eligibility, benefits, provider rates, or to critical staff including eligibility workers. Also, ensure continued funding for the successful administration of Texas’ women’s health care programs – Healthy Texas Women and Family Planning Program. Between Economic Stabilization Fund balances (ESF or “Rainy Day” Fund), billions in federal Medicaid relief, and options to raise additional revenues, our Legislature can keep services whole to meet Texans’ unprecedented needs.

#### **5) Address urgent unmet needs for Texas’ COVID response**

Current conditions indicate that the health and economic recovery of Texans will require systems to control the spread of COVID-19 well into 2021 and possibly beyond. Priority issues for Texas legislative action include:

- a) Reversing the recent pandemic decline in children’s well-child, treatment, and immunization rates;
- b) Establish clear consistent statewide guidance for all Texans on COVID-19 testing access:
  - Availability of free tests for the uninsured statewide, including for non-U.S. citizens
  - That Texans with private insurance have coverage of testing with no out-of-pocket costs, and how to avoid being overcharged;
  - Clear oversight of workplace exposure and lines of accountability for intervention in outbreaks, including in counties without a health department.
- c) Ensure all Medicaid-funded home health workers and Personal Attendants have access to PPE, and neither beneficiaries nor attendants must purchase with their personal funds.

**6) Request additional federal health care funding from Congress in order to meet Texan's needs while facing a pandemic, economic downturn, and revenue shortfall.**

Push Congress for more federal health funding to states (Medicaid FMAP). Congress increased Medicaid FMAP funding to states as part of the coronavirus relief passed this spring, but it is now clear that states need a greater increase and that the increase should remain in place for the duration of this crisis. The funding will help meet the health care needs of Texans during the pandemic and recession. In the midst of decreased state revenue, increased federal funding is also one of the main tools that state leaders can use to help fully fund critical services in the state budget — services that Texans particularly need during our public health and economic crises.

**7) Request that Texas' Attorney General drop the Health Care Repeal Lawsuit**

The Texas Attorney General is attempting to eliminate protections for pre-existing conditions and other health benefits provided by the Affordable Care Act (ACA). That's a terrible idea under any circumstances, but especially during a pandemic and recession. Texas leaders should drop the lawsuit, which is now before the U.S. Supreme Court.