

A State Universal Healthcare System

As the cost of healthcare rises faster than incomes and insurance coverage becomes skimpier, many states are pursuing legislation that would create a state-based universal healthcare system. While this is laudable, one mistake that states are making is to label their systems “single payer” and/or “Medicare for All.” A true single payer Medicare for All healthcare system can only be achieved at the national level due to numerous federal policies and laws that stand in the way of state systems.

Major downsides of mislabeling state systems as single payer are: 1) they are actually multi-payer systems, 2) multi-payer systems forego most of the savings of a single payer system, and 3) due to the much smaller savings and the restrictions on state budgets not seen at the federal level, state plans are likely to fail because of the cost and then the public will believe that single payer systems don’t work. Historically, state multi-payer, universal healthcare systems failed because they became too expensive.

A description of what state efforts are trying to achieve and the barriers that they face.

A State Universal Healthcare System (SUHS) attempts to integrate multiple federal health programs into a seamless “one pipe” system in which the state collects all federal healthcare dollars into a trust, processes provider claims and reimburses providers. The programs include Medicare, Medicaid, the Children’s Health Insurance Plan (CHIP), Military Healthcare (VA and Tricare), the Federal Employee Health Benefits Program (FEHBP), the Indian Health Service (IHS), the Affordable Care Act (ACA), and state workers’ compensation programs. While a state might be able to integrate Medicaid and CHIP, it is not possible to integrate other health programs completely into the state system without a federal law.

Medicaid – A state would need an 1115 waiver from the Center for Medicare and Medicaid Services (CMS) to integrate federal funds into the SUHS. This has not been tested.

CHIP – CHIP is currently integrated with Medicaid in most states. A waiver from CMS to include federal CHIP funds would also be necessary, but it is untested.

Medicare - Pooling Medicare funds into SUHS would require a change in federal law. Changing the law would open the door for states to privatize Medicare as another alternative.

Medicare Advantage Plans – These private HMO plans cannot be eliminated. States could apply to become a Medicare Advantage plan, but it would be one more plan in the multi-payer Medicare system.

VA – The VA owns its facilities and employs the providers. The VA could not be integrated into a SUHS.

TriCare - The military’s health insurance system, which includes multiple private plans, could not be integrated into SUHS

FEHBP - Federal employees choose their health insurance from a list of 200 plans. A SUHS plan could possibly be added to the list of plans; but even if it were, a state could not force residents to choose it over the other plans.

IHS – The IHS could not be included in a SUHS without changes in federal law.

ACA – A state would have to be granted a section 1332 waiver to receive federal dollars currently used to pay insurers in their health insurance exchanges. To qualify, a new plan must be as comprehensive and affordable as current private plans and must not increase federal spending (revenue neutral). The ERISA law is a significant barrier for the ACA waiver.

Employee Retirement Income Security Act of 1974 (ERISA) is a federal law preventing states from regulating employer-provided benefits, including healthcare. States can regulate local health insurers except for the insurance plans of businesses that self-insure, which includes 60% of employers that offer health insurance.

Specific ERISA roadblocks for SUHS: A state

- Cannot prevent employer-sponsored plans from competing with the SUHS.
- Cannot regulate benefits in employer-sponsored plans.
- Cannot refer to ERISA plans directly in the new state law.
- Cannot force employer plans into a single-pipe payment scheme.
- State payroll taxes are not likely to be allowed under ERISA. Insurers/employers will argue payroll taxes are an economic burden that coerces employers to drop their benefit plans and join the SUHS.
- States might be able to use income and sales taxes to fund a system, but this is untested.