



ADVI

# TxSCO Update

May 11, 2023



# Overview: Notable Updates

## Federal

- PHE expires today, May 11<sup>th</sup>
  - In-office dispensers and mail order drugs
  - Telehealth
- Medicaid enrollment drop
- USPSTF Recommends Biennial Mammograms at age 40
- ACS CAN Report: Cancer deaths by congressional district
- EOM: the latest

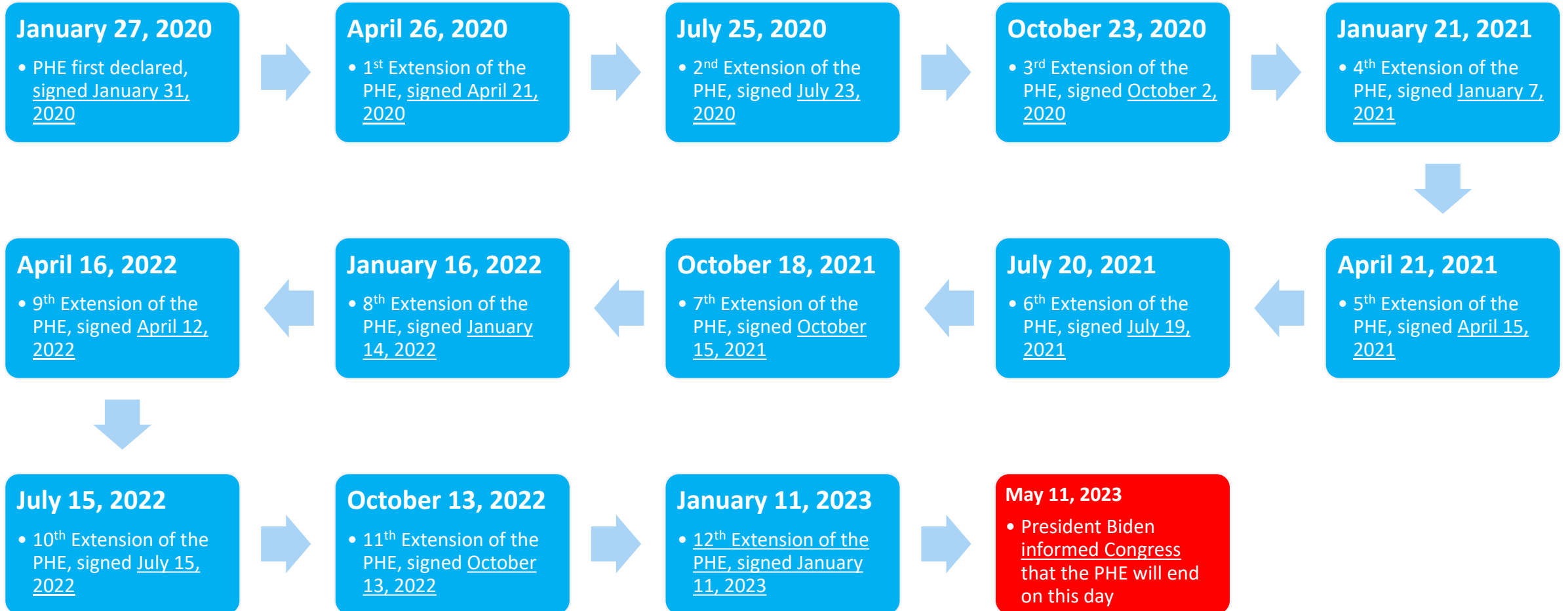
## State

- Update on white bagging legislation
- Testing legislation update
- Other priority bills

# Federal Update



# PHE Expires May 11, 2023



# PHE Expires May 11, 2023



Jan. 30, 2023: Pres. Biden [informed Congress](#) that he will end the national emergency and public health emergency (PHE) declarations on May 11, 2023. **The ending of the PHE will not affect existing COVID-19 Emergency Use Authorizations (EUAs).**

## What changes when the PHE expires?

Vaccine OOP Costs	Cost of tests and antivirals	Telehealth	Medicare coverage requirement waivers	Part D 90-day supply	Hospitals' Medicare payments for COVID patients	Controlled substance prescribing flexibilities
<ul style="list-style-type: none"><li>• Insurers may charge cost sharing for vaccines provided by out-of-network providers</li><li>• While not tied to the PHE, the federal supply of vaccines is <a href="#">expected</a> to run out by Summer – Fall 2023</li><li>• Once vaccines are commercialized, the uninsured will have to pay OOP</li><li>• <a href="#">Pfizer</a> and <a href="#">Moderna</a> have stated they will charge as much as \$130 per dose</li></ul>	<ul style="list-style-type: none"><li>• Medicare, Medicaid, and CHIP beneficiaries could face higher cost sharing for tests and some COVID antivirals</li><li>• No more free at-home COVID tests</li></ul>	<ul style="list-style-type: none"><li>• Employers will not be able to offer telehealth access as a premium, tax-free benefit separate from other plans</li><li>• Note: the <a href="#">Consolidated Appropriations Act of 2023</a> (Dec. 29, 2022) extended telehealth flexibilities implemented during the PHE through Dec. 31, 2024</li><li>• <b>May 9, 2023:</b> DEA extends rule allowing doctors to prescribe controlled substances via telemedicine, without meeting patients in person.</li></ul>	<ul style="list-style-type: none"><li>• Medicare coverage requirements that were waived during the PHE will now resume</li><li>• E.g., the requirement for a 3-day prior hospitalization for coverage of a skilled nursing facility (SNF) stay will now resume</li></ul>	<ul style="list-style-type: none"><li>• Part D plans no longer must provide up to a 90-day (3 month) supply of covered Part D drugs to enrollees who request it</li></ul>	<ul style="list-style-type: none"><li>• Hospitals will lose the 20% increase in Medicare payments they've received for treating COVID patients</li></ul>	<ul style="list-style-type: none"><li>• Flexibilities end unless the DEA moves to keep the eased rules for prescribing controlled substances without an in-person doctor's visit</li></ul>

See subsequent slides for –  
**In-office dispensers** and mail-order issues  
**Medicaid enrollment** drop looms

# In-Office Dispensing: Mail-Order Prescriptions

March 30, 2020:

- CMS issued blanket waivers of sanctions under the physician self-referral law for COVID-19 Purposes.

Sept. 2021:

- CMS issued an [FAQ](#) related to the blanket waivers that suggests **mail-order prescription drugs** could violate the Stark Law once the waivers expire (when the PHE ends).
- COA believes that CMS' interpretation could also be used to prohibit a spouse or any caregiver from picking up a patient's drug(s) from the patient's medical practice.

May 11, 2023:

- PHE ends, along with the blanket waivers.

What can practices do when the blanket waivers expire?

- Require patients to pick up medications in person or
- Refer them to third-party mail-order pharmacies

## References

[COA letter to HHS](#) (April 4, 2023)

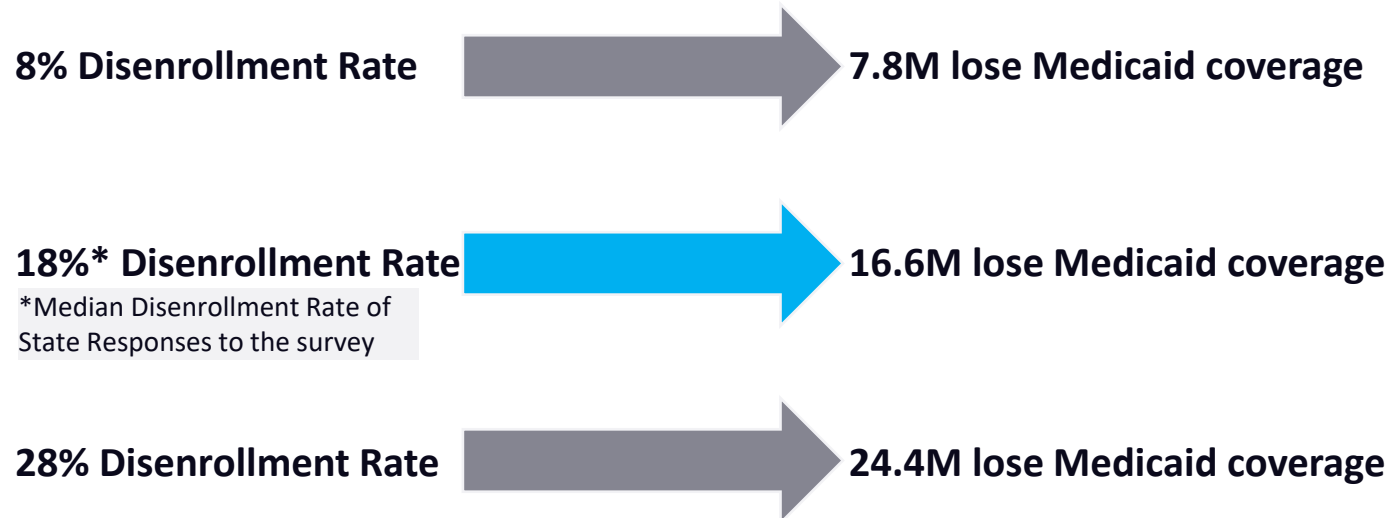
[OBR article](#) (May 8, 2023)

[Congressional sign-on letter](#) from bipartisan group of 54 members to HHS urging CMS to retract the FAQ language (April 8, 2023)

# KFF: 17M Could Lose Medicaid Coverage During Unwinding Period



April 26, 2023. Based on a recent survey, KFF [estimates](#) that 17M people could lose coverage as states unwind the continuous enrollment provision.



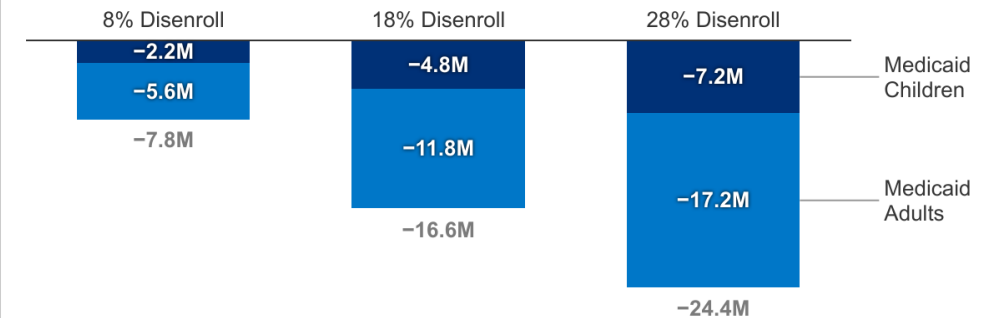
\*Median Disenrollment Rate of State Responses to the survey

- Of the 17M losing Medicaid coverage, 12M would be adults, 5M would be children
  - ASPE [estimated](#) as many as 15M would lose coverage
- In some states, Medicaid disenrollments during the 14-month unwinding period exceed enrollment gains from the 3-year continuous enrollment period

Figure 1

## Between 8 and 24 Million Enrollees Could Lose Medicaid When the Continuous Enrollment Provision Unwinds.

Number of People Losing Medicaid Between March 2023 and May 2024 Under Three Scenarios



NOTE: Excludes all Children's Health Insurance Program enrollees and Medicaid enrollees who were only eligible for partial benefits. Children includes all enrollees under age 19. Analysis assumes that 87.5 million people were enrolled in Medicaid in March 2023.

SOURCE: KFF estimates based on analysis of enrollment data from the Centers for Medicare and Medicaid Services (CMS) Performance Indicator Project (PI data), and the T-MSIS Research Identifiable Files, 2019. See methods of KFF's How Many People Might Lose Medicaid When States Unwind Continuous Enrollment? for more information.



# HHSC Resumes Medicaid Eligibility Redeterminations as Continuous Coverage Requirement Ends

## NEWS RELEASE

### Texas Health and Human Services Commission

April 3, 2023

Tiffany Young, 512-424-6951

[Tiffany.Young@hhs.texas.gov](mailto:Tiffany.Young@hhs.texas.gov)

AUSTIN – The Texas Health and Human Services Commission is resuming eligibility redeterminations for approximately **5.9 million Medicaid recipients** now that the federal Medicaid coverage requirement ended March 31. Federal guidance requires states to conduct a renewal determination for all Medicaid recipients over a 12-month period, and HHSC anticipates it will complete this process by May 2024. HHSC estimates Medicaid caseloads will return to levels in line with historical trends within the next two years.

“We urge Medicaid recipients to update their information and to be on the lookout for renewal notices,” said HHS Executive Commissioner Cecile Erwin Young. “We are committed to redetermining eligibility for our clients as quickly as possible and to continue services to those who still qualify.”

Cecile Erwin Young

HHS Executive Commissioner



## Millions of Texans could be dropped from Medicaid coverage in April. Here’s what you need to know.

A pandemic-era rule gave people consistent access to health care — but that rule is about to expire.

A pandemic-era rule that gave millions of Texans consistent access to health insurance is expiring at the end of this month.

Since COVID-19 hit the states in March of 2020, no U.S. citizen was taken off Medicaid. Now, for the first time in three years, Texas will begin removing those who no longer qualify for the program.

**Medicaid enrollment in Texas has grown by nearly two million** since the start of the pandemic. Many could be dropped from the program when this emergency order runs out.



# USPSTF Recommends Biennial Mammograms at Age 40

A draft [recommendation](#), issued by the U.S. Preventive Services Task Force (USPSTF), states that women who are between ages 40 and 74 should have screening mammograms every two years.

## Draft Recommendation

- The Task Force recommends that all women get screened for breast cancer every other year starting at age 40
- The Task Force notes that this change could result in 19% more lives being saved
- Black women are 40% more likely to die from breast cancer than white women
  - The Task Force calls for more research to understand the underlying causes of this health disparity

## Braidwood v. Becerra connection

- This recommendation from USPSTF would fall under Braidwood v. Becerra and would not be covered as the court ruling stands today

# Cancer Deaths on the Decline, but Health Disparities Persist Across Congressional Districts

A study published in the American Cancer Society Journal ([link](#)) reveals that cancer deaths have decreased by 20-45% among males and 10-40% among females in every congressional district over the past 25 years. However, significant health disparities remain, and public policy interventions are necessary to further reduce disparities.

## Key Findings from Cancer Mortality Study

- Researchers used county-level cancer death counts and population data to analyze common causes of cancer death dating back to 1996.
- Lung cancer saw the biggest drop among men, declining by 21-72% since 1996. Districts in the Midwest and South, with weaker tobacco control policies, saw the smallest decline.
- Female breast cancer deaths dropped between 14-58% depending on the district, while prostate cancer deaths dropped between 25-68%.
- However, the study found significant disparities, with the decline in cancer deaths steepest among Black men. **Overall cancer mortality is substantially higher among Black people.**
- The American Cancer Society Cancer Action Network (ACS CAN) stressed that public policy interventions are necessary to reduce persistent disparities nationwide.

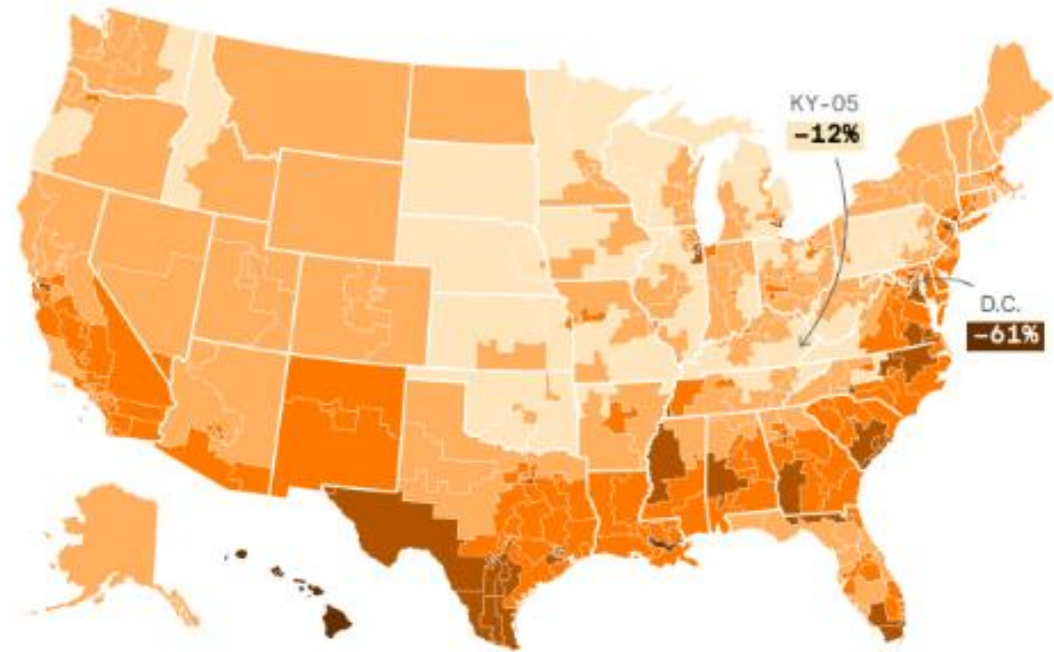
“While the overall declines in cancer death rates show progress against cancer, the study shows how critical public policy interventions are to reduce persistent disparities nationwide,”

- Lisa Lacasse, President of ACS CAN



## Change in cancer death rates by congressional district

Change in the number of deaths per 100k residents; 1996-2003 compared to 2012-2020

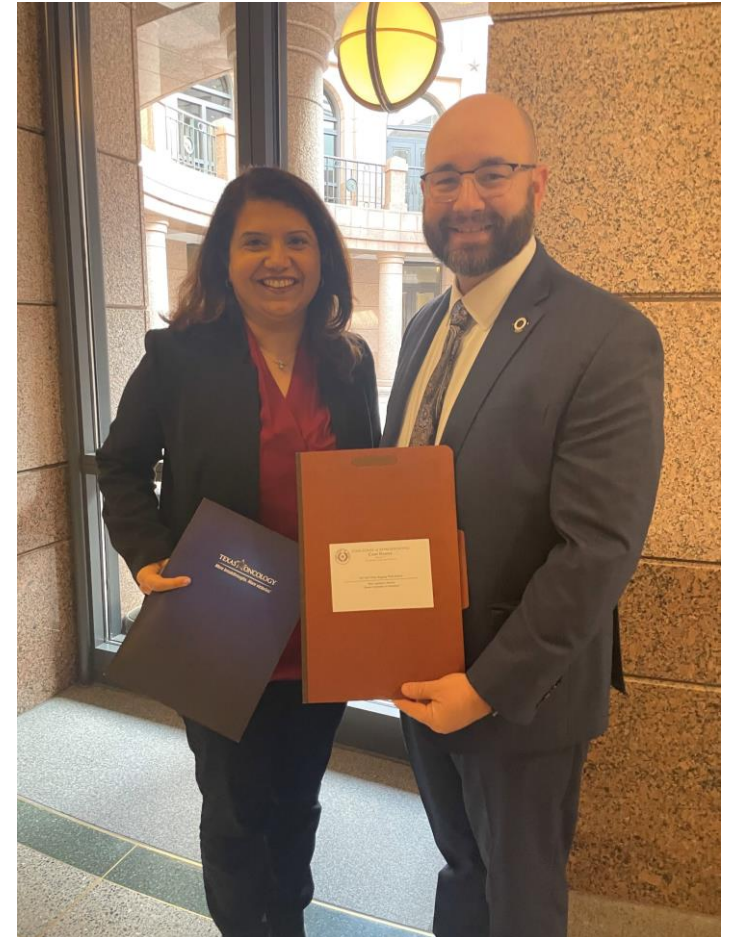


Data: American Cancer Society; Note: Death rate is computed as the average of the male and female rates; Map: Erin Davis/Axios Visuals

# State Update

# Update on Clinician Administered Drugs Legislation

- On April 21, House Bill 1647 by Rep. Cody Harris was voted out of the House. The bill would:
  - prohibit health plans from requiring white-bagging clinician administered drug for a patient with a chronic, complex, rare, or life-threatening medical condition;
  - limits to only those clinician administered drugs provided in a physician's office; hospital outpatient infusion centers and other clinician settings have been removed; and
  - ensures that the prohibition on white bagging applies only if:
    - the patient's physician or health care provider determines that a delay of care would make disease progression probable; or
    - that the use of a health-plan required pharmacy would make death or patient harm probable, potentially cause a barrier to the patient's adherence to or compliance with the patient's plan of care; or timeliness of delivery concerns.
- HB 1647 is set for hearing in Senate HHS on Wednesday, May 10<sup>th</sup>.



# Update on Testing Legislation

- Senate Bill 989 by Sen. Joan Huffman is moving in through the Texas House and is waiting to be set on a calendar for debate. The bill establishes guidelines for health plans on coverage of biomarker testing, which is:
  - When the test is supported by medical and scientific evidence;
  - When the test provides clinical utility, which means the use of the test for the condition is evidence-based, scientifically valid, outcome-focused, and predominately addresses the acute issue for which the test is being ordered.
- House Bill 118 by Rep. Phil Cortez is set for debate by the Texas House on May 9<sup>th</sup>. The bill would prohibit health benefit plans from charging any premium, copayment, deductible, coinsurance, or any other form of cost sharing for a covered benefit under the required coverage for prostate cancer screening.

## Other Priority Bills

- House Bill 1, the state budget, includes two provisions:
  - \$10M for the Texas Colorectal Cancer Initiative, which would fund the treatment of colorectal cancer for uninsured and underinsured Texas residents with household incomes at or below 200 percent of the federal poverty level.
  - An increase in the income eligibility threshold for the Breast and Cervical Cancer Services program to 250 percent of the federal poverty level.
- House Bill 12 by Rep. Toni Rose – would provide 12 months of coverage for women post pregnancy. HB 12 passed the House and it waiting to be set for a hearing in Senate Health & Human Services.
- HB 173 by Rep. Stephanie Klick – would provide for the licensing and regulation of genetic counselors. This bill passed the House and is waiting to be set for a hearing in Senate Business & Commerce.
- HB 1649 by Rep. Angie Chen Button – would provide health benefit coverage for certain fertility preservation services; awaits referral in the Senate
- HB 1283 by Rep. Oliverson, which relates to maintaining a single drug formulary under Medicaid, has been heard in Senate Health & Human Services and we are expecting a vote any day.



**hello@advi.com**

**202.509.0760**

1000 F St NW  
Suite 650  
Washington, DC 20004

