January 2019

2018 State Child Health Policy Trends

CHA Overview

Internal

During the summer and fall of 2018, CHA held calls with government relations professionals (GRs) from children's hospitals and/or state children's hospital associations[1] in 40 different states[2] to inform its understanding of the state policy issues impacting children's hospitals. This analysis aggregates the information gleaned through these conversations to highlight the major state policy trends in 2018[3] and is intended for internal use by CHA member hospitals and staff only.[4] No hospital-specific information is included in the report and no hospital or state-specific information will be shared in any external communications without the permission of the relevant hospital. For questions about the state-specific trends in this analysis, contact Rachel Bonesteel or Jan Kaplan.

EXECUTIVE SUMMARY

- Close to half of children's hospitals reported strong state budgets in 2018, while approximately one-quarter of hospitals reported state budget challenges.
- Only a handful of children's hospitals reported that their states took actions related to Medicaid financing mechanisms. Those states created a new provider tax or increased an existing tax.
- A majority of children's hospitals reported that their states took action related to Medicaid reimbursement rates, Medicaid reimbursement methodologies, and/or supplemental payments under Medicaid.
- Slightly more than one-half of children's hospitals reported that their states did not take action on Medicaid managed care. Of the states that did take action, several changed aspects of their programs that specifically focused on children.
- Approximately one-half of children's hospitals indicated that their states were engaged in delivery system and/or payment reforms, with the majority of those states pursuing reforms through a Section 1115 Medicaid demonstration waiver. Approximately one-third of those hospitals reported that the state initiatives impacted children.
- Multiple children's hospitals reported that their states adopted restrictive Medicaid eligibility policies, including the elimination of retroactive eligibility and the imposition of work and community engagement requirements.
- Children's hospitals in multiple states reported that their states took actions affecting the private insurance market, including several states that took action to preserve Affordable Care Act (ACA) consumer protections or limit the availability of non-ACA compliant plans.

[1] The use of "hospital" throughout this analysis includes both hospitals and hospital associations.

[2] One call was held with a children's hospital or state children's hospital association in each of the following states: AK, AL, AR, AZ, CA, CO, CT, DE, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MA, MD, ME, MI, MN, MO, MS, NE, NH, NC, NV, NY, OH, PA, RI, SC, TN, TX, UT, VA, WA and WI . In the remaining states, calls were generally not held due to scheduling issues or because there was no children's hospital in that state.

[3] For a comparison of hospital-reported state trends for 2017, please see our 2017 State Child Health Policy Trends Analysis.

[4] The trends identified in this analysis are not verified by independent research. Furthermore, some calls were completed before state legislatures concluded their sessions.

Contact us: public.policy@childrenshospitals.org
600 13th St., NW | Suite 500 | Washington, DC 20005 | 202-753-5500
16011 College Blvd. | Suite 250 | Lenexa, KS 66219 | 913-262-1436
www.childrenshospitals.org | © Children's Hospital Association

- The majority of children's hospitals reported that their states took actions related to behavioral health, including implementation of telehealth initiatives, school-based care and services for substance use disorders (SUDs).

- Additional state child health policy hot topics in 2018 included child abuse and neglect, foster care, tobacco use, telehealth and population health. Hospitals anticipate that telehealth will be addressed by their states in the upcoming year, as well as behavioral health, SUDs and population health, among other issues.

STATE BUDGETS AND MEDICAID

Children's hospitals were asked about their states' economic situations to give context to state policy actions, particularly those affecting Medicaid. Forty percent (16) of hospitals reported strong state budgets in 2018, compared to 28 percent (11) of hospitals that noted that their states faced budget challenges;[5] five hospitals reported their state had a budget surplus in 2018. Multiple hospitals noted that there was limited action affecting their state budgets due, in part, to the upcoming midterm elections and/or to the fact that their states were in the second year of a biannual budget.

- **States with stronger budgets –** Hospitals in five of the 16 states with stronger budgets reported that their states took positive action related to Medicaid as a result of the budget situation.
  - Hospitals in those five states reported that their states increased Medicaid reimbursement. One of these states instituted an across-the-board increase, another state increased reimbursement for pediatric home health providers, pediatric day health care facilities for medically fragile children; and stand-alone pediatric sub-acute facilities.
  - Three of these states also expanded services and one state eliminated waiting lists for children in need of long-term services and supports services.

- **States with budget challenges –** Hospitals in 11 states reported that their states faced budget challenges**.** Hospitals in three of those states noted that their Medicaid programs were affected by the budget challenges.
  - One state placed a cap on reimbursement for non-emergent use of the emergency department and another state delayed payments to providers.
  - One state implemented cuts to Medicaid graduate medical education. The state is also in the process of designing a global spending target for all payers to help address budget issues.

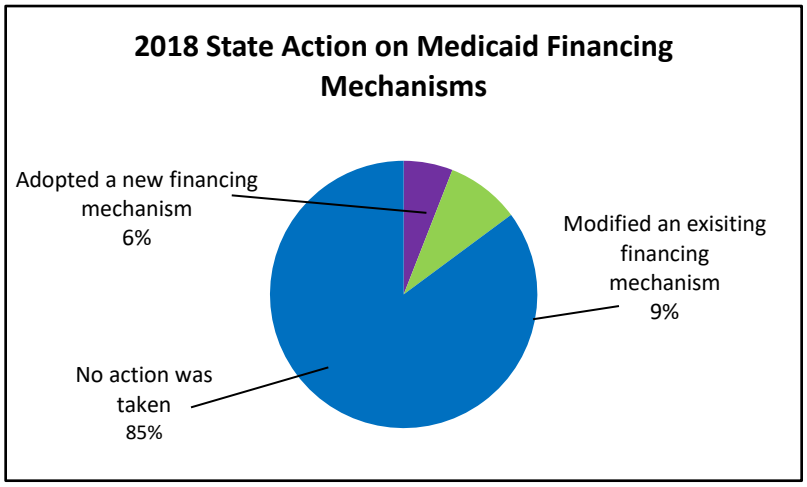
[5] In comparison, eight hospitals reported that their states had strong budgets in 2017, and approximately one-half (17) of the 33 responding hospitals reported state budget challenges in 2017.

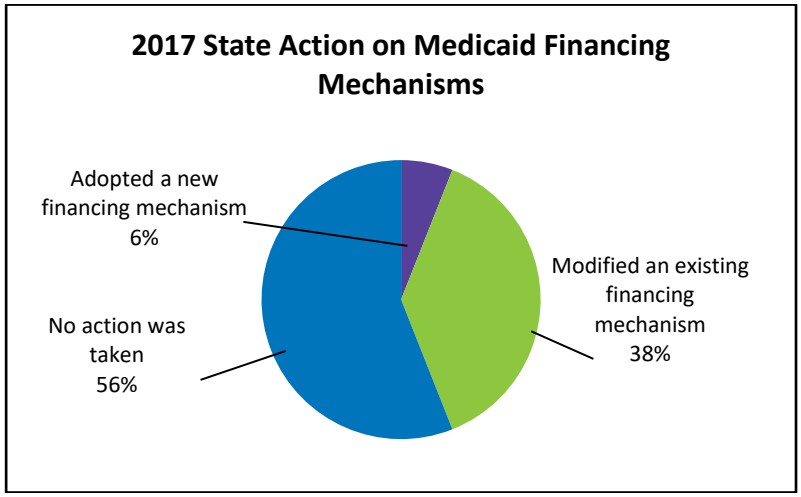
MEDICAID FINANCING MECHANISMS

The majority of children's hospitals (85 percent) reported that their states did not take actions related to provider taxes, intergovernmental transfers or other mechanisms to finance their state share of Medicaid in 2018. Hospitals in the remaining states noted that state action focused on the creation of a new provider tax or increases in an existing provider tax.

- Two states adopted new provider taxes
  - One of these states created two new taxes – one to pay for the state's portion of Medicaid expansion and one to increase reimbursement rates for private hospitals.

- Three states modified their provider tax. Those changes included:
  - A change in the percentage of the tax that pays for disproportionate share hospital (DSH) payments
  - An increase in the tax percentage to allow for an increase in reimbursement for all hospitals.

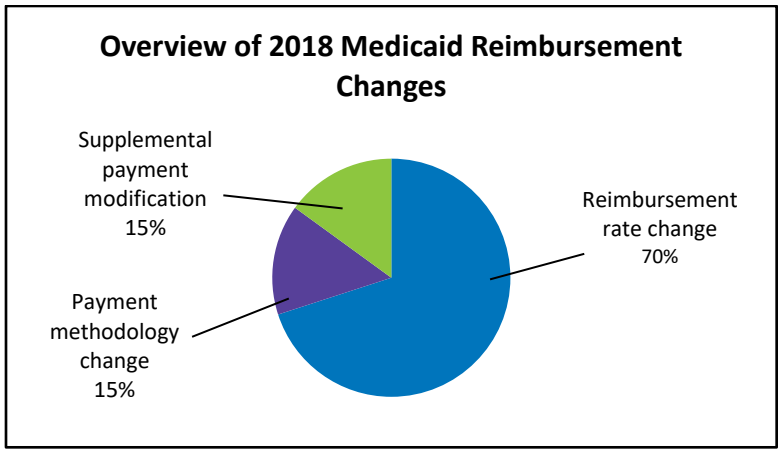




MEDICAID REIMBURSEMENT

The majority of children's hospitals reported that their states took some type of action affecting Medicaid reimbursement in 2018.

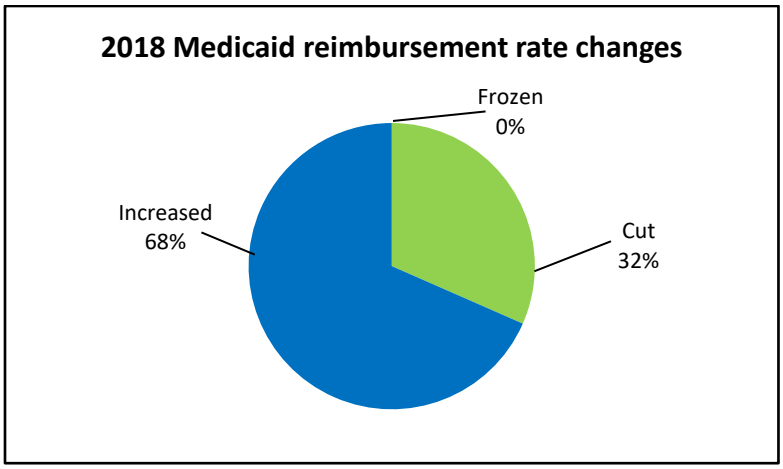
- Twenty-seven hospitals reported their states made a policy change that affected payment rates, methodologies, and/or supplemental payments.
- Of the 27 states that made reimbursement policy changes, the largest proportion (70 percent) changed payment rates.

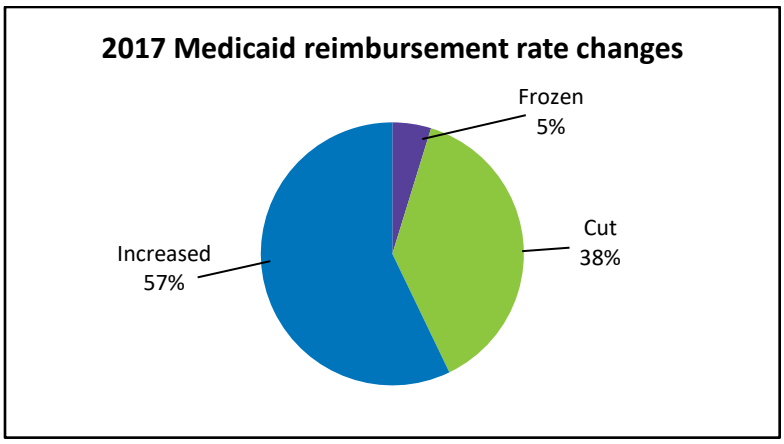


Reimbursement rates

According to the reporting hospitals, of the 70 percent of states that modified their payment rates, 68 percent adopted increases, some of which were specific to certain providers and/or services.

- In comparison, 57 percent of states that instituted rate changes in 2017 increased those rates.
- No hospitals reported rate freezes in 2018 in contrast to 2017, when 5 percent of hospitals reported freezes.





- **Reimbursement increases –** Reimbursement rate increases were applied to a variety of providers and services. One state's increase was a restoration of a previous rate cut and another state increased its provider tax rate, which allowed it to increase rates. Other reimbursement increases reported by hospitals included:

    - **Provider-specific increases** – Hospitals in eight states reported that their states increased reimbursement rates for a specific provider. Four of these states increased rates for all hospitals and three of these states increased rates for pediatric primary care providers (PCPs). One state raised rates for providers specializing in autism services; two increased rates for adult PCPs; two states increased rates for nursing home providers; and one of the states raised rates for home care providers.

    - **Service-specific increases** – Hospitals in seven states reported that their states increased reimbursements rates for a specific service. Three states increased reimbursement rates for pediatric primary care services; two increased rates for mental health and substance abuse services for all populations; another increased rates for pediatric-specific mental health and substance abuse services. One state increased rates for pediatric dental care.

- **Reimbursement cuts** – Hospitals in six states reported that their states cut reimbursement rates.

    - **Provider-specific cuts** –Three hospitals reported their states cut reimbursement rates for specific providers. One state's rate cut affected all hospitals; one state cut rates for home care providers only; and one state cut rates for nursing home providers.

    - **Service-specific cuts** – Three hospitals reported that their states made service-specific rate cuts. One state cut inpatient hospital services and one state cut pharmacy services. Another state cut rates for durable medical equipment providers.

Payment methodologies

Children's hospitals in four states noted that their states instituted changes to payment methodologies in 2018.

- One state modified their EAPGs for outpatient services.
- One state recalibrated an existing inpatient payment methodology.
- One state adopted Medicare payment methodologies for physical, occupational and speech therapy visits.[6]
- One state moved its Medicaid expansion population out of the commercial market and into Medicaid managed care, a transition from private market fee-for-service to a capitated payment structure.

Supplemental payments

Children's hospitals in four states reported state action related to supplemental payments.

- One state instituted a supplemental payment bump for certain procedure codes that impact children.
- One state adjusted its formula for DSH payments to account for a hospital closure, resulting in a small payment cut to the remaining hospitals. The state also cut upper payment limit payments because of the formula change.
- One state experienced challenges in funding its portion of its supplemental payment pool/low income pool.
- One state considered, but did not implement, a recalculation of its DSH payments and a change in methodology, in response to the need to distribute funds recouped from a lawsuit that requires the restoration of DSH and uncompensated care payments.

[6] The Balanced Budget Act (BBA) of 2018 repealed Medicare outpatient therapy caps, which limited how much Medicare paid for therapy services in one calendar year, while retaining a targeted medical review process. The BBA also reduced payment levels for services provided by a physical or occupational therapy assistant. For more information, see the CMS Medicare Therapy web site.

MEDICAID MANAGED CARE

Slightly more than one-half (22) of children's hospitals reported that their states did not take any action related to Medicaid managed care in 2018.

- **State actions targeting children**
  - **Carved in children's services** – One state carved in specialty services for children.
  - **Exempted child populations** – One state exempted children with medical complexity from its Medicaid managed care program; another exempted medically fragile children.
  - **Added child-specific language to managed care organization (MCO) contracts** – Two states negotiated contracts with MCOs that included child-specific requests. One state awarded a contract to a single MCO to manage care specifically for children with medical complexity. The other state passed a Medicaid expansion bill that requires new managed care procurement contracts to include language to ensure that specialty services are available for kids, including case management services.

- **Additional actions of interest**
  - One state took action related to value-based payment, in comparison with four states that took action in 2017. The state applied a quality percentage withhold that applies to MCOs.
  - One state carved in behavioral health services for all populations.
  - One state withdrew a waiver proposal that would have transitioned the state to managed care.
  - Six states rebid contracts, adjusted the number of MCOs, or took other technical or contracting actions.
  - Hospitals in three states noted that MCOs, not the state itself, took action. For example, the MCOs in one of these states interpreted state statute to set strict seven-day opioid prescribing limits.

DELIVERY SYSTEM & PAYMENT REFORM

Children's hospitals in 21 states reported that their states took actions affecting how Medicaid pays for and requires care to be delivered. Health care delivery system and payment reform activity included implementation of Delivery System Reform Incentive Payment programs (DSRIPS)[7] and value-based care initiatives. The majority of actions were carried out in the context of a Section 1115 Medicaid demonstration waiver. Hospitals reported that their states were in various stages of reform/waiver implementation. For a detailed overview of the Section 1115 demonstration landscape and approved waivers, please visit the CHA Key Section 1115 Medicaid waiver web page.

- Eleven hospitals reported that their states modified existing delivery system and payment reform initiatives; 10 hospitals reported that their states were in early stages of considering or approving a new delivery system and payment reform initiative, had submitted a waiver application to CMS, or began implementation of a reform.

- One-third of hospitals reported that their states' delivery system and payment reform initiatives specifically impacted children. Several of the initiatives specifically included children with medical complexity. Examples include:
  - One state released a comprehensive plan for managing the health care needs of children with medical complexity in response to instruction included in the previous year's budget bill.
  - One state is implementing a coordinated care model for children with medical complexity.

[7] DSRIPs are programs that encourage providers to engage in delivery system reform efforts and tie payments to health outcome improvements for Medicaid beneficiaries.

Key delivery system/payment reform trends identified by children's hospitals include:

- **Care coordination** – Twenty-six states address care coordination within their initiatives. Six states' initiatives involve primary care medical homes; nine states' initiatives involve general care coordination; and three states' initiatives include a chronic care medical home component.

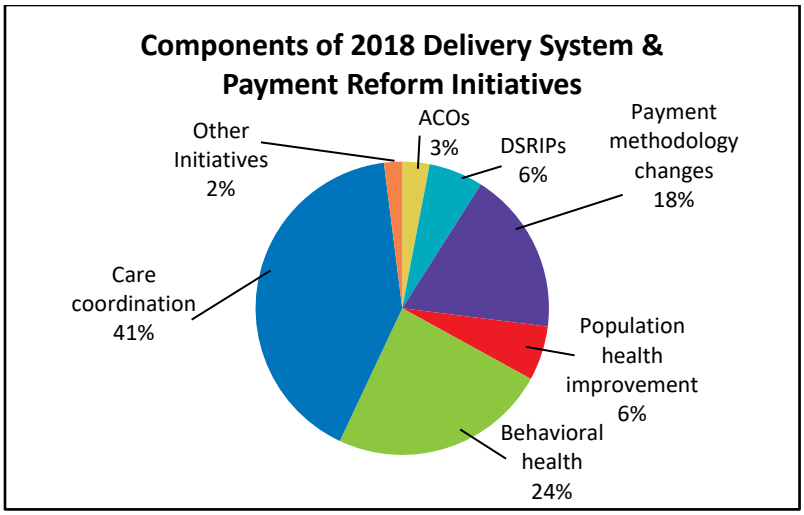
- **Behavioral health** – Fifteen states address behavioral health within their initiatives, including six states that integrate physical and behavioral health. For example, one state began implementation of a behavioral health delivery system transformation demonstration to create integrated health homes that include a pediatric home visiting program.

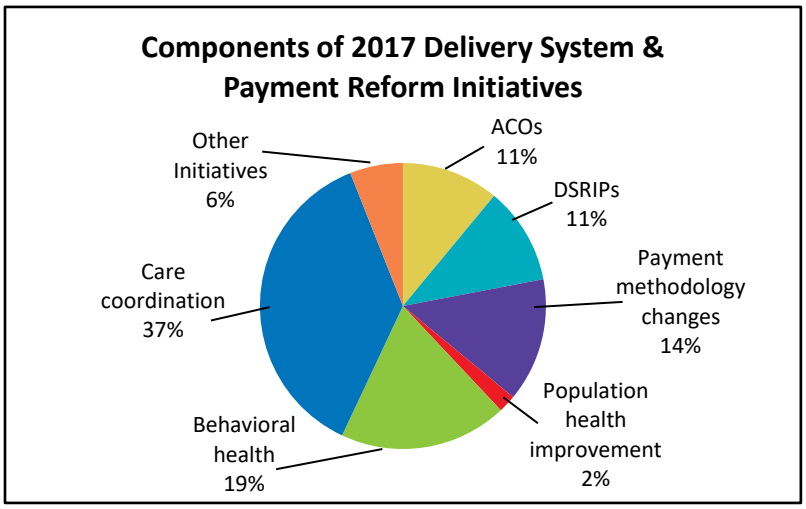
- **Payment methodology changes** – Eleven state initiatives include payment methodology changes. For example, one state's initiative includes a transition to a global payment model; two state initiatives modify supplemental payments; and two initiatives have a pay-for-performance payment structure.

- **DSRIP programs** – Four states are implementing a DSRIP program. One of these states began disbursing funds for a project focused on care for children with asthma.

- **Population health** – Four state initiatives address population health. For example, one state initiative includes a social determinants pilot program that will reimburse for enhanced case management for non-medical services, including housing supports and food security.

- **Accountable Care Organizations (ACOs)** – Two state initiatives involve ACOs.





ADDITIONAL MEDICAID POLICY CHANGES

Other state actions noted by children's hospitals that impacted Medicaid programs in 2018 included:

- Initiatives that restrict Medicaid eligibility, particularly related to waivers of retroactive eligibility policies and the implementation of work and community engagement requirements.
- The use of ballot initiatives to expand Medicaid.
- Implementation of a hospital-based project to reduce the use of emergency department services in non-emergent situations.
- The passage of legislation related to pharmacy step therapy reform.
- Consideration of the creation of a global budget that would include a soft spending target for all payers.

PRIVATE INSURANCE MARKET

Children's hospitals in thirteen states reported that their state took action related to private insurance coverage, including:

- **Section 1332 state innovation waivers** – Four states received approval from CMS to implement a state-based reinsurance program via a Section 1332 waiver, beginning in 2019.[8]

- **ACA-alternative coverage options** – Two states took action related to ACA non-compliant coverage options.
  - One state passed legislation to ban the sale of short-term, limited-duration insurance (STLDI) plans.
  - Another state passed legislation authorizing the sale of ACA non-compliant insurance plans, such as STLDIs, on the Exchange.

- **ACA protections** – One state passed legislation that prohibits annual limits on essential health benefits (EHBs) at the state level and passed additional legislation to protect EHBs if they are eliminated at the federal level.

- **Pediatric benefits** – One state required non-ERISA plans to cover autism services up to age 20.

- **Prior authorization** – One state passed legislation to clarify that prior authorization approval for a service means that service is deemed medically necessary by the insurance plan.

- **Reimbursement rates/structure**
  - One state passed legislation to establish a commercial reimbursement rate floor for primary care services provided by primary care providers at 100 percent of Medicare rates for the next three years. That state currently requires commercial plans to reimburse for primary care services at 60 percent of Medicare.
  - Another state is requiring plans to implement a fully capitated, per member/per month payment structure.

[8] For more information, about the ACA Section 1332 waivers, see the CHA Section 1332 waiver fact sheet.

BEHAVIORAL HEALTH

Children's hospitals in 23 states reported state actions related to services for children and adolescents affected by mental health or SUDs.

- **Telehealth** – Hospitals in nine states reported on their states' use of telehealth technology to provide behavioral health services. Several states received funding from Pediatric Mental Health Care Access Program[9] grants to develop telehealth child psychiatry access programs. Examples of additional state initiatives include:
  - One state passed legislation that authorizes the state to reimburse all Medicaid-eligible facilities for telehealth services, which will allow providers to be reimbursed for inpatient behavioral health consultations.
  - One state changed an existing policy to allow Medicaid to reimburse for telehealth home-based services. The state also relaxed requirements for face-to-face in-person visits intended to establish a physician-patient relationship.

- **School-based services** – Hospitals in seven states reported that their states took actions related to children's and teens' access to school-based behavioral health services.
  - For example, two of the nine states utilizing telehealth technology are providing behavioral health services in a school-based setting via telehealth technology.

- **Substance use disorders** – Hospitals in seven states reported that their states took actions related to services for children and adolescents with SUDs.
  - Several hospitals reported that their states received opioid state targeted response (STR) grant funding[10] and used the funds for a variety of initiatives. For example, one state allocated its first year of STR grant funds to a program for mothers and babies with an opioid use disorder (OUD). The state plans to use the second round of funding to strengthen care infrastructure, workforce, housing and rehabilitation.
  - One state allocated more funds to mental health services, including increased funding for services for pregnant women with an OUD.

- **Physical and behavioral health integration** – Hospitals in four states reported that their states focused on the integration of physical and behavioral health services. One of these states developed pilot programs to integrate behavioral health services.

- **Opioid prescribing limits** – Hospitals in three states reported that their states implemented prescribing limits for opioids, including:
  - One state implemented a seven-day limit, but exempted children, infants with neonatal abstinence syndrome and people with sickle cell disease.
  - Another state enacted legislation to limit prescriptions and mandate prescription monitoring and e-prescribing of opioids.

- **State boards/coalitions** – Hospitals in three states reported that their states authorized the creation of state boards or state-sponsored coalitions focused on pediatric behavioral health. Examples include:

---

[9] The Pediatric Mental Health Care Access Program is a grant program administered by the Health Resources and Services Administration (HRSA) that promotes behavioral health integration in pediatric primary care by supporting the development of new or improvement of existing of statewide or regional pediatric mental health care access programs via telehealth. Grants are awarded on an annual basis.

[10] Opioid State Targeted Response (STR) grants, created by the 21st Century Cures Act, are administered by the Substance Abuse and Mental Health Services Administration and awarded on an annual basis to states to combat the opioid crisis. The second year of funding was released in April 2018.

- One state passed legislation to create a children's mental health board charged with the development of recommendations for the creation of a pediatric behavioral health system in the state.
- One state convened a pediatric behavioral health panel at the request of the governor. The panel recommended funding be provided for education and job training for adolescents. Funding is expected to be approved for the upcoming year.

- **Prevention** – Hospitals in two states reported that their states invested funds in youth suicide prevention; one invested additional funds in residential treatment and the other focused on suicide-prevention education in schools.

STATE CHILD HEALTH POLICY HOT/EMERGING TOPICS

Some children's hospitals reported on other child health policy issues that were a focus of state action in 2018, including:

- **Telehealth** – Hospitals in seven states reported state actions related to telehealth policy, including actions to address reimbursement challenges and the use of telehealth to increase access to behavioral health services.

- **Child abuse and neglect** – Hospitals in six states reported on state actions related to child abuse and neglect. For example, one state tightened liability laws in regard to child abuse and neglect, including for health care providers.

- **Children in foster care** – Hospitals in five states reported on state actions impacting the foster care system, particularly actions to address limited resources and overburdened systems that have resulted in an increase in abuse and neglect cases and prolonged hospital stays. One state increased funding and one state implemented a new requirement for mandatory health screening for all children in foster care within three days of placement.

- **Smoking/tobacco use –** Hospitals in five states reported that their states took actions related to tobacco use and the use of other nicotine products. For example, several of the states enacted or considered legislation to restrict or prohibit the possession of electronic cigarettes by a minor.

- **Other** – Hospitals also noted that the following issues were a focus of state policy activity:
  - Child injury prevention
  - Gun safety
  - Health professional training
  - Population health
  - Price transparency
  - School safety

Anticipated child health policy topics for the upcoming year

Children's hospitals highlighted a few child health policy issues that they anticipate their states will address in the upcoming year, including:

- Behavioral health
- Substance use/opioid use
- Telehealth
- Health professional training
- Population health
- Medical marijuana