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TRAILBLAZING

Trustmark 

Understanding the legislative landscape



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Agenda

- Update on the Tri-Agency Rule and its impacts
- Long-term care legislation – where we stand post-election in WA and other states
- Legislative trends
 - AI
 - Privacy
 - PFML

Tri-Agency Rule

Quick refresher – what is it?

- Re-interprets how certain products qualify as excepted benefits under HIPAA and PPACA laws
 - STLDI & other fixed indemnity products
- Issued by 3 federal government agencies
 - Department of Labor, Department of Treasury, Health and Human Services (tri-agency)
 - Proposal issued 7/7/2023



Tri-Agency Rule

Where did we leave off last year?

- Limiting STLDI to 3-4 months (from 3 years)
- Severely limiting hospital indemnity benefits (only “per day” benefits)
- Changing taxability of benefits
- Requiring stronger disclosures

Tri-Agency Rule

Final ruling issued March 28, 2024

- Limiting STLDI to 3-4 months (from 3 years)
- Requiring stronger disclosures

Tri-Agency Rule

Impacts – Short-Term Limited Duration Medical

- Must be limited duration, up to 3-4 months
- Effective 9/1/2024
- Policies issued before effective date can be 36 months, subject to state limitations

Tri-Agency Rule

Impacts – Hospital Indemnity

- All individual and group plans:
 - New disclosure language is required on all marketing, application, enrollment and reenrollment materials
- Individual plans only:
 - New disclosure is required on 1st page of all policies, certificates and insurance contracts
- Effective 1/1/2025

This notice is required by Federal Law

IMPORTANT: This is a fixed indemnity policy, NOT health insurance

This fixed indemnity policy may pay you a limited dollar amount if you're sick or hospitalized. You're still responsible for paying the cost of your care.

- The payment you get isn't based on the size of your medical bill.
- There might be a limit on how much this policy will pay each year.
- This policy isn't a substitute for comprehensive health insurance.
- Since this policy isn't health insurance, it doesn't have to include most Federal consumer protections that apply to health insurance.

Looking for comprehensive health insurance?

- Visit [HealthCare.gov](https://www.healthcare.gov) or call **1-800-318-2596** (TTY: 1-855-889-4325) to find health coverage options.
- To find out if you can get health insurance through your job, or a family member's job, contact the employer.

Questions about this policy?

- For questions or complaints about this policy, contact your State Department of Insurance. Find their number on the National Association of Insurance Commissioners' website ([naic.org](https://www.naic.org)) under "Insurance Departments."
- If you have this policy through your job, or a family member's job, contact the employer.

Tri-Agency Rule

Impacts – Hospital Indemnity

- Manhattan Life filed lawsuit challenging authority of tri-agencies to issue notice requirements
- In early December 2024, Court found in favor of Manhattan Life
- Only affects HI ruling (not STLDI)
- Confusion at the state level, if Feds want to appeal, must be filed by 2/4/2025

Tri-Agency Rule

Long-term impacts

- Election outcome - future measures will likely be less restrictive
 - Potential for reversals, AGAIN
 - Some jurisdictions outlaw STLDI altogether (like IL)
- Manhattan Life
 - Most states have relaxed new disclosure requirements, but not all (pending appeal)
 - Some states (e.g. Virginia) have their own state-required notice
- Some states adopting stances that are espoused by final ruling
 - WA – Requires heart attacks and strokes to be “as a result of a covered critical illness” and disallowing benefits that vary with severity
 - AZ – limits CI to just 1 critical illness (though recently they have backed-off this position)

Legislative landscape

Long-term care

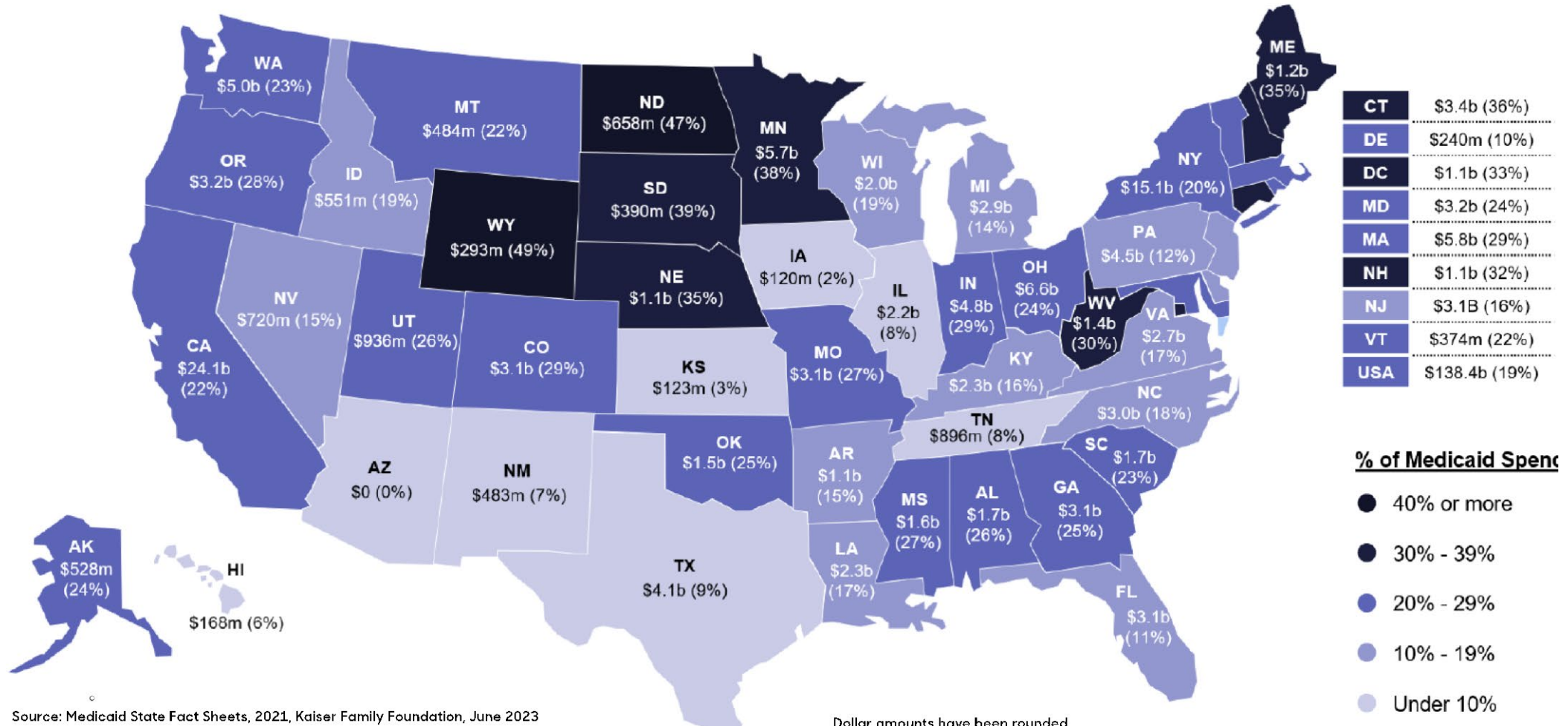
WA Cares – Initiative 2124

- WA Cares Fund established in 2021 to address challenge of long-term care
 - Washington employees pay a .58% payroll tax unless they have proof of qualifying long-term care coverage
- Ballot initiative 2124 to make WA Cares optional, failed
 - Opportunities
 - Recertification & legislative engagement



Medicaid spend on LTC by state

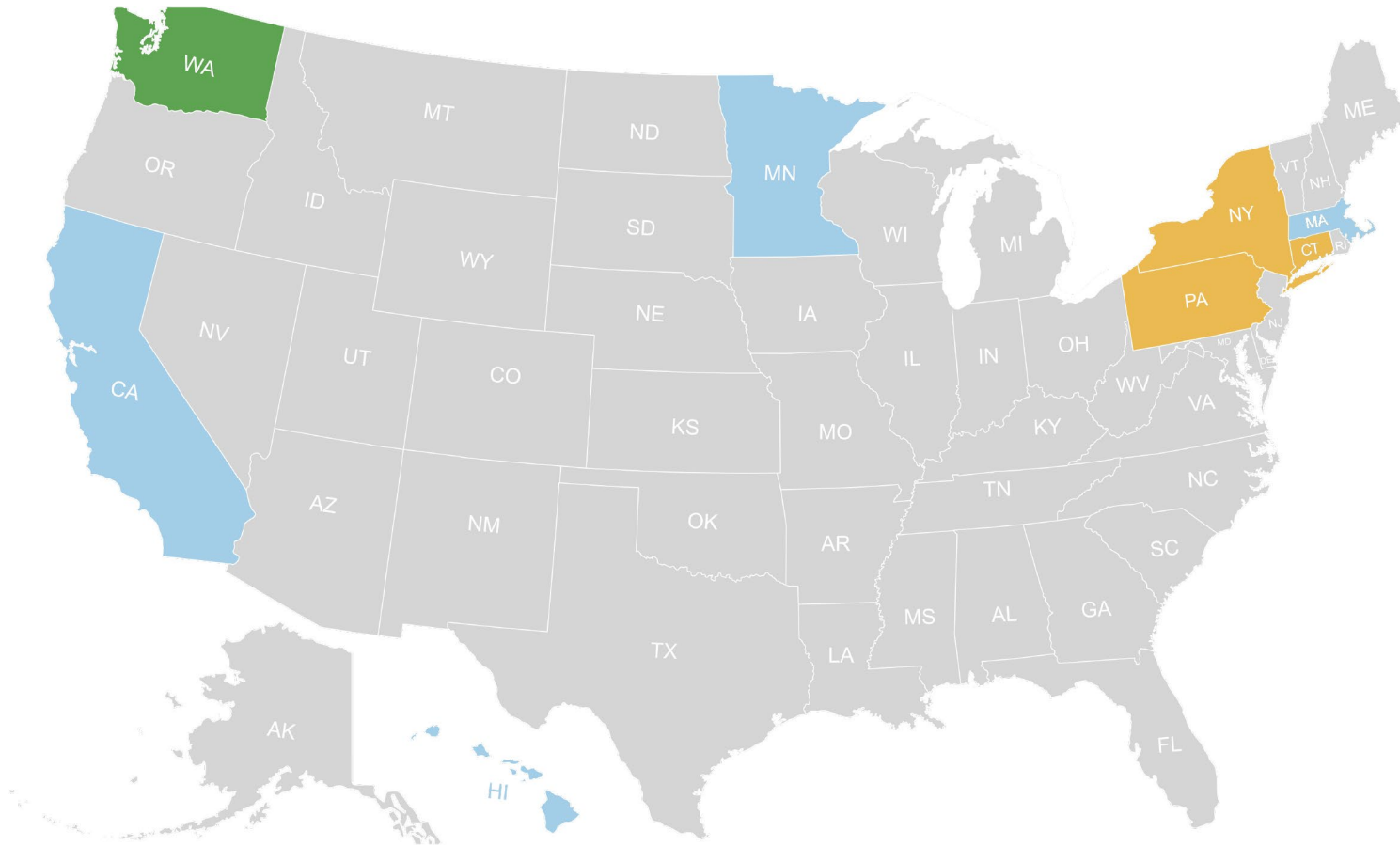
Total spent on LTC (percentage of Medicaid budget)



Source: Medicaid State Fact Sheets, 2021, Kaiser Family Foundation, June 2023

Dollar amounts have been rounded.

Today's long-term care legislative landscape



States with publicly-funded LTC program:

- Washington

States with legislation proposed:

- New York
- Pennsylvania
- Connecticut

States task forces and/or actuarial assessments in flight:

- California
- Minnesota
- Hawaii
- Massachusetts

Other state LTC activity

Key states to watch

- California
- Massachusetts
- Minnesota
- New York
- Connecticut
- Kentucky
- Hawaii



Long-term care

Federal

- Well-Being Insurance for Seniors to be at Home (WISH) Act
 - Catastrophic LTC insurance
 - Need based and income-based component
 - Leverages private insurance





Other state legislative programs

Stop loss

- NJ
 - Bill requires regulator (DOBI) to conduct a study of individual and small group health insurance markets
 - Stop loss data call
- AZ
 - Reinterpretation of existing legislation
 - Must have P&C license to file stop loss products
- LA
 - Upcoming 2025 session may introduce restrictions to small group (2-50) stop loss

Other state legislative programs

Supplemental health

- Minimum loss ratios
 - States implementing minimum loss ratio requirements (ex: VA, MI, NM)
 - NM: New rules filing requirements with ratio formulas
 - Broad applicability (including extra-territoriality)
- Wellness
 - More states introducing restrictions (VA, MI, NH)



Legislative trends

■ AI

- Federal – bipartisan working group
- State – 26 states introduced legislation in 2024
- Industry Focus:
 - Discrimination
 - Use within algorithms for consequential decisions
- NAIC Model Bulletin
 - Currently adopted by [17] states



Legislative Trends

■ Privacy

- Federal – bipartisan support for consumer data privacy measures (especially children)
 - Issues – private right of action state law preemption
- States – will remain focused on consumer protection

■ Risk classification

- Genetic testing prohibitions in underwriting
- 3 states introduced in 2023; 11 in 2024



Legislative trends

■ PFML

- Post-COVID paid leave and child tax credit programs have lapsed.
- Bipartisan support for various forms of Federal spending on permanent programs.
- Republican controlled Congress may influence proposals
- State activity – 13 total (+DC)
- Advocacy – focus on leveraging private market



Key takeaways

- Tri-Agency ruling largely a non-issue for supplemental health, and likely to stay that way
 - However, some states impacted are changing their supplemental health stance (ex: wellness, CI definitions)
- Legislation at the state level will continue in 2025
- AI, privacy, and cybersecurity will be top of mind
- Opportunities
 - Regardless of legislation, we'll be looking for opportunities to engage and serve our clients and provide innovation and excellence in the industry
- Stay on top of these trends to be a better consultant to your clients

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Thank You!