

Section 1332 State Innovation Waivers

Covered California

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Overview

- 1332 basics
- Guardrails as defined by HHS/IRS guidance
 - Process issues and status of state progress
- Examples of waivers
 - Narrow waiver examples – HI, MA, VT
 - Broader waiver examples – CO, MN
- Discussion

Section 1332 authorizes waivers of four components of the Affordable Care Act

1 **Individual Mandate**

States can modify or eliminate the tax penalties that the ACA imposes on individuals who fail to maintain health coverage.

2 **Employer Mandate**

States can modify or eliminate the penalties that the ACA imposes on large employers who fail to offer affordable coverage to their full-time employees.

3 **Benefits and Subsidies**

States may modify the rules governing covered benefits and subsidies. States that reallocate premium tax credits and cost-sharing reductions may receive the aggregate value of those subsidies for alternative approaches.

4 **Exchanges and QHPs**

States can modify or eliminate QHP certification and the Exchanges as the vehicle for determining eligibility for subsidies and enrolling consumers in coverage.

Guardrails

Under statute, waiver-based reforms must meet certain requirements:

Scope of Coverage

Waiver programs must cover a comparable number of people

Comprehensiveness

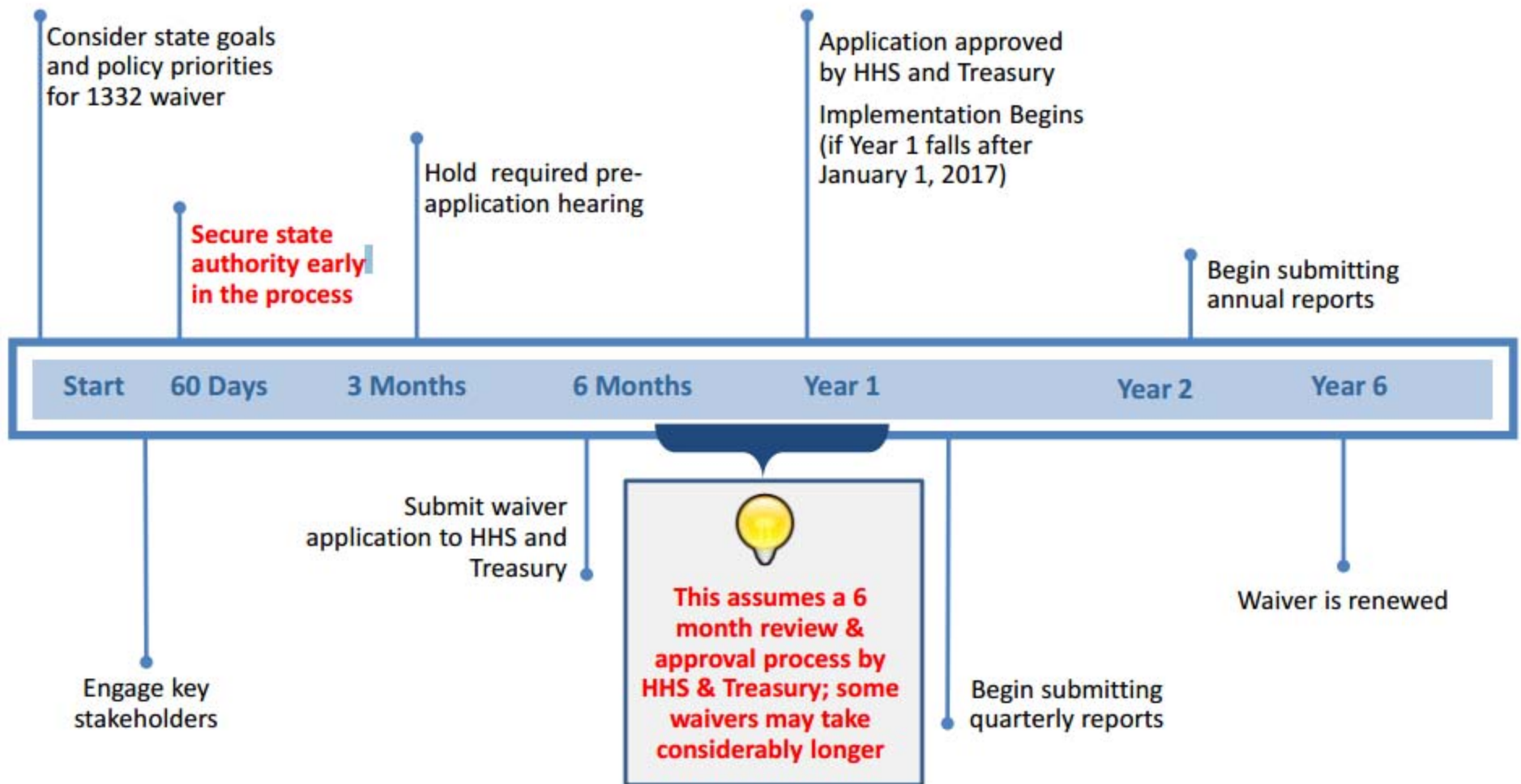
Waiver programs must provide coverage that is as comprehensive as traditional implementation

Affordability

Waiver programs must provide coverage and cost-sharing protections that is at least as affordable as traditional implementation

Deficit Neutrality

Waiver cannot increase the federal deficit



State Innovation Waiver Guidance

Regulations

- HHS/IRS joint regulation on application development and submission procedures for 1332 waivers

February 2012

December
2015

Guidance

- HHS and IRS joint guidance on how the Departments intend to interpret the statutory conditions for granting a waiver when they review applications
- Future administrations could revise this guidance
- Departments are seeking comment but are under no obligation to respond to the comments or revise the guidance

Impact of Guidance on State Action

Likely Waivers in 2016

- Pre-ACA small group market innovations
- SBM SHOP Waivers

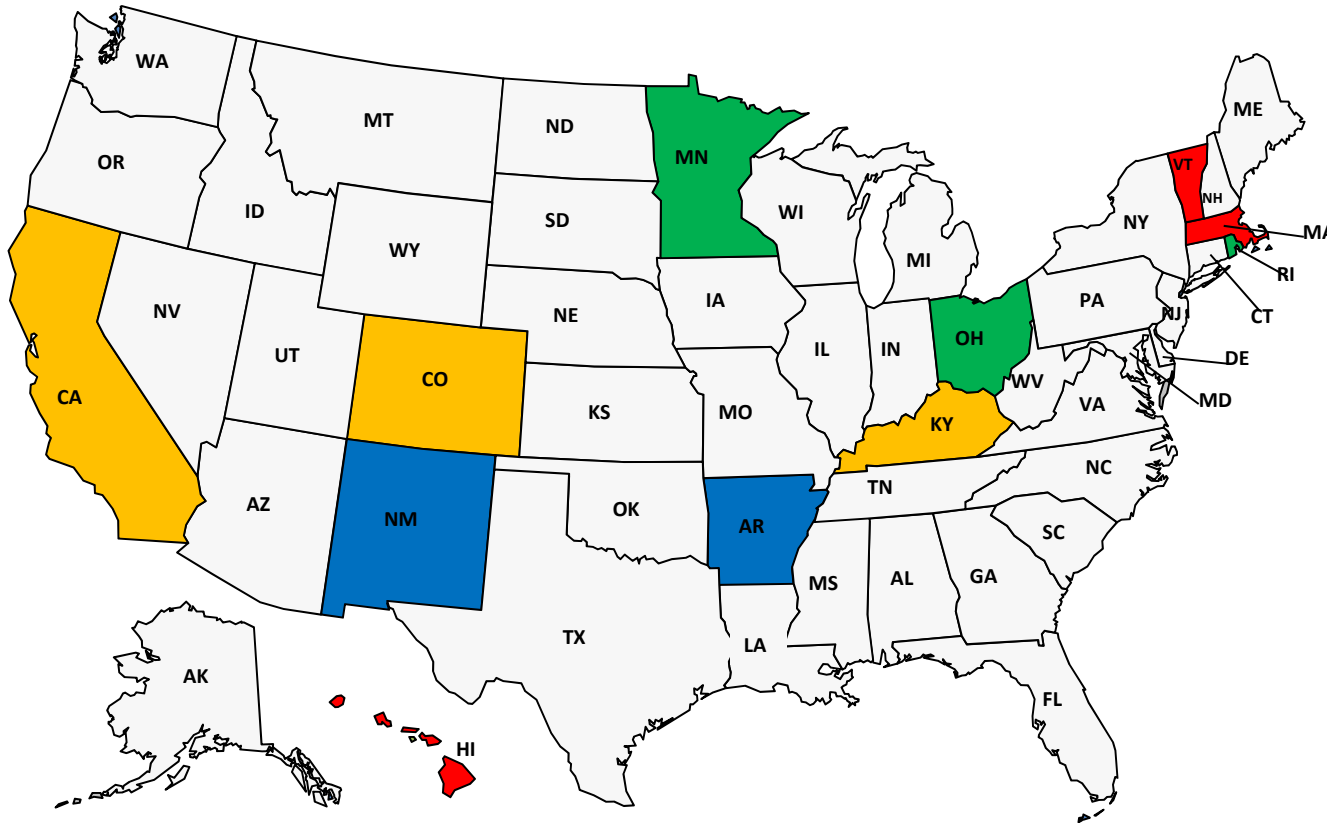
Possible Waivers in 2016

- Individual reforms that do not change APTC eligibility or calculations
- Definitions (Income calculation, Native American)

Unlikely Waivers in 2016

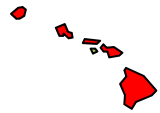
- APTC Eligibility Changes
- Cost smoothing efforts
- Coordinated reforms with Medicaid
- Waivers involving healthcare.gov

Status of State Progress



- Waiver proposal is public (3)
- Authorizing legislation passed (3)
- Legislature considered bills (2)
- Public discussion underway (3)

Narrow 1332 Proposal Examples



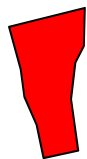
Hawaii

Policy Goal	Waiver Proposal
Retain pre-ACA (circa 1974) employer mandate covering all employees of businesses with one or more employees.	Waive ACA employer mandate, waive SHOP, waive some small group definition rules



Massachusetts

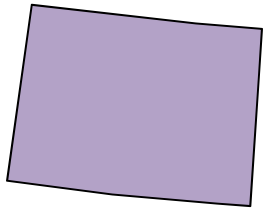
Policy Goal	Waiver Proposal
Retain pre-ACA (circa 2006) merged small group / individual market with small group rolling enrollment and quarterly rate updates.	Waive ACA merged market/single risk pool rules



Vermont

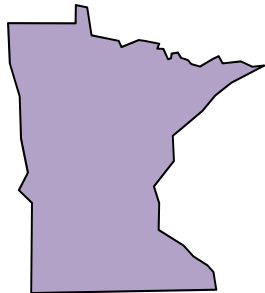
Policy Goal	Waiver Proposal
Retain SHOP Direct Enrollment with carriers	Waive SHOP Technology Requirements

Broader 1332 Proposal Examples



Colorado

Policy Goal	Waiver Proposal
Ballot-initiative would use 1332 to develop a single-payer system for state.	Unknown



Minnesota

Policy Goal	Waiver Proposal
Task Force recommends using 1332 to lower premiums and cost sharing requirements up to 275% of poverty.	Unknown

Best Practices

- Set policy goals before pursuing waiver
- Use 2016 as planning year – next administration will likely be more willing to work with states on alternative models
- Prepare for required actuarial analyses, data modeling and forecasts – without planning grants
- Start stakeholder engagement early

Resources

- State Network 1332 Waivers Resource Library:
<http://statenetwork.org/1332-waivers-resource-library/>
- CMS webpage focused on 1332s:
https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section_1332_state_Innovation_Waivers-.html

Questions?

State Health Reform Assistance Network
Charting the Road to Coverage

A Robert Wood Johnson Foundation program



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