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FOR AMERICAN INDIANS



1332 State Innovation Waiver

August 8, 2016

Purpose of Today's Webinar

- Provide an overview of the Section 1332 Waiver program and process and SB 10 (Lara, Chapter 22, Statutes of 2016)
- Provide a forum for questions and feedback to allow for robust discussion and consultation with Tribes
- Convey that no changes will be made to the unique benefits or subsidies provided to the AI/AN population as a result of this proposal

Agenda

1. Introduction to the Section 1332 Waiver
 - What can be waived, what can't, recent federal guidance, and more
2. California's Section 1332 Waiver Proposal
3. Public Input Process

No Change to Existing Programs for the AI/AN Population

- Covered California is required pursuant to recently enacted legislation to develop and submit a Section 1332 Waiver proposal
- This Waiver does not change existing subsidies or benefits through Covered California that are available to California's AI/AN population
- Section 1332 Waivers must go through the legislative process, and cannot be submitted to the federal government without a legislative mandate

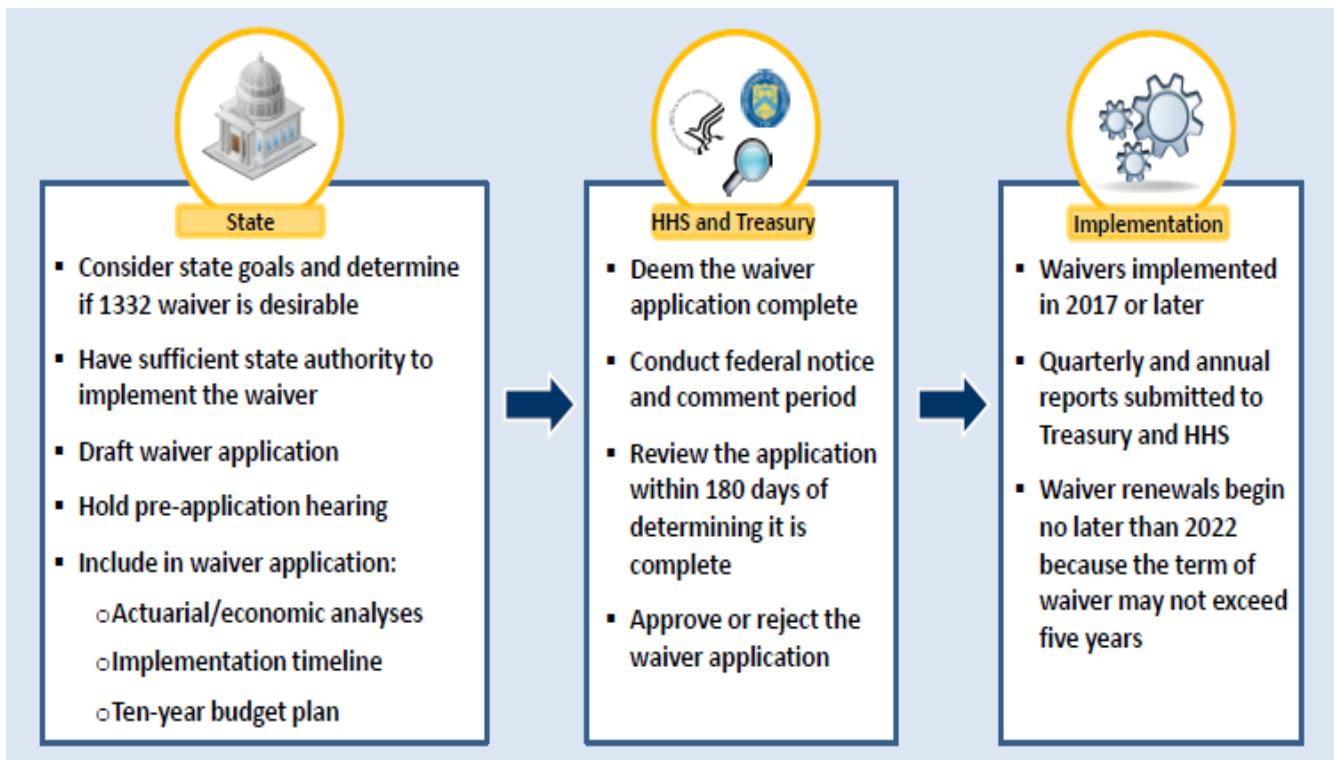
ACA §1332
Jason Burruel
Covered California

Introduction to State Innovation Waivers (ACA §1332)

The “1332 Waiver” allows states to pursue innovative strategies for providing residents with access to quality, affordable insurance while retaining the basic protections of the Affordable Care Act.

- No specific deadline; proposals can start on or after 1/1/17
- Proposals must not add to the U.S. Treasury’s 10 year deficit
- Requires authorizing state legislation that is effective for 5 years

Steps in Waiver Process



Source: Robert Wood Johnson Foundation

1332 Waiver: What can be waived

States may propose innovations and alternatives to four pillars of the ACA

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 can modify the rules governing what benefits and subsidies must be provided within the constraints of section 1332's coverage requirements.

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.

- Slide from the State Health Reform Assistance Network and the Robert Wood Johnson Foundation

1332 Waiver: What cannot be waived

Many important components of the ACA (**subtitles A, B and C of Title I of the ACA**) aren't subject to section 1332, including:

Pre-Existing Conditions

Prohibitions against insurers denying coverage or charging higher premium rates to people with pre-existing health conditions

Annual & Lifetime Limits

The ban on annual and lifetime coverage limits in most plans

Dependent Coverage to 26

The requirement to Cover adult dependents up to age 26

Discrimination

Bars on discrimination against people based on health status, disability status, race, age, or sex

Rates on Old vs. Young

Cannot waive limitations on how much insurers in the individual and small-group markets can charge older people compared to younger people

Risk Adjustment Program

State's cannot waive the risk adjustment program, designed to protect insurers in the individual and small-group markets from financial harm if they attract enrollees with higher-than-average costs

* Slide from the State Health Reform Assistance Network

1332 Waiver: Guardrails

A state waiver application must satisfy four criteria to be granted

1 *Scope of Coverage*

The waiver must provide coverage to at least as many people as the ACA would provide without the waiver.

2 *Comprehensive Coverage*

The waiver must provide coverage that is at least as “comprehensive” as coverage offered through the Exchange. Whether coverage is as comprehensive as Exchange coverage must be certified by the CMS chief actuary based on data from the state and comparable states.

3 *Affordability*

The waiver must provide “coverage and cost sharing protections against excessive out-of-pocket” spending that is at least as “affordable” as Exchange coverage.

4 *Federal Deficit*

The waiver must not increase the federal deficit.

* Slide from the State Health Reform Assistance Network

Recent Federal Guidance

In December 2015, HHS and IRS published joint guidance outlining how they will interpret the rules for approving an application for a 1332 waiver.

The guidance specifies that any waiver must result in:

- Health **coverage for at least as many** as would have had coverage under the ACA without a waiver
- Coverage and cost-sharing that is as **affordable** as would have otherwise been without a waiver
- Coverage that offers **benefits** that are at least as comprehensive
- **No additional costs** to the Federal government. Additionally, any savings from a Medicaid 1115 waiver cannot be counted towards the costs of a 1332 waiver

The guidance specifies that the HHS and IRS will also consider a proposal's effect on **vulnerable groups**, including low-income residents. Additionally, the IRS cannot modify the administration of taxes or tax credits on a state-by-state basis, which means any modification to APTC must be **administered by the state**.

Appendix

Key Links:

- Most recent federal guidance on 1332 waiver - <https://federalregister.gov/a/2015-31563>
- Application, Review, and Reporting Process for Waivers for State Innovation Final Rules - <https://www.gpo.gov/fdsys/pkg/FR-2012-02-27/pdf/2012-4395.pdf>

Other waiver resources:

- RWJF - <http://statenetwork.org/2016/01/17/1332-waivers-resource-library/>

QUESTIONS AND DISCUSSION

California's Section 1332 Waiver Proposal

Donna Laverdiere
Health Management Associates

Overview

Overview of Covered California's Section 1332 Waiver Proposal

1. Key points on the waiver proposal
2. Background on SB 10 and the Section 1332 Waiver proposal
3. How the Section 1332 Waiver proposal meets federal standards
4. Questions, Feedback and Discussion

Key Points on the Section 1332 Waiver Proposal

Key Points:

- The framework and requirements for the Section 1332 Waiver proposal are set by SB 10; Covered California is required by SB 10 to develop and submit the application
- This waiver does not impact special benefits provided to the AI/AN population and will not change existing subsidies or benefits available through Covered California
- All Section 1332 Waivers must go through the legislative process
- This webinar fulfills the requirement for Tribal Consultation for this waiver; a separate Tribal Consultation is scheduled on Aug. 24 to discuss future Section 1332 Waiver ideas

California's Proposed Waiver Program

SB 10 passed and signed into law

- Requires Covered California to apply for a Section 1332 Waiver and specifies the waiver program

Proposed waiver parameters

- Allow undocumented immigrants to purchase coverage through Covered California
- Provide *unsubsidized* coverage to undocumented immigrants – no federal assistance will be provided for the purchase of health insurance coverage under the waiver
- Provide access to new California Qualified Health Plans for the undocumented immigrant population

How the Proposed Waiver Meets Requirements

- Protects coverage
 - An estimated 17,000 additional individuals will gain health insurance coverage under the waiver program; **no changes to AI/AN benefits**
- Affordable
 - The cost of coverage will not change as a result of the waiver program
- Comprehensive
 - There will be no changes to benefits and services provided through existing programs as a result of the waiver program
- Deficit neutral
 - The waiver program will not result in a cost to the federal government

Timeline for Implementation

| Milestone | Target Date |
|----------------------------------|------------------------------|
| Submit waiver application to HHS | Mid-September 2016 |
| Begin implementation planning | April 2017 |
| Implement systems changes | May 2017 – June 2018 |
| Announce QHP/CQHP rates | July 2018 |
| Open enrollment | November 2018 – January 2019 |
| Coverage effective | January 1, 2019 |

Process for Public Input and Submission of the Application

- Covered California has posted the draft State Innovation Waiver application online [here](#).
- Comments are welcome for 30 calendar days from the date of posting
- Comments can be submitted to Covered California by:
 - Email: 1332@covered.ca.gov, or
 - Mail: Mandy Garcia – 1601 Exposition Blvd. Sacramento, CA 95815
- The revised application will be submitted to the US Dept. of Health and Human Services in mid-September
- As always you can contact your Covered California Tribal Liaison with any questions or concerns: Wayne Lucero – Wayne.Lucero@covered.ca.gov

QUESTIONS AND DISCUSSION