

**ISSUE BRIEF:****Section 1332 State Innovation Waivers for Health Care****UNDERSTANDING THE ISSUES: SECTION 1332 STATE INNOVATION WAIVERS**

Passed by Congress in 2010, the Affordable Care Act (ACA) increased federal regulation of the health care industry with the stated goal of reducing health care costs and decreasing the number of Americans not covered by health insurance.

Beginning in 2017, a provision of the law known as Section 1332 began allowing states to apply for federal permission to modify specific parts of the law in a manner more appropriate for their state. Similar to Section 1115 Waivers which allow states to apply for flexibility under state Medicaid programs, Section 1332 waivers are designed to allow states flexibility to implement experimental projects which provide low-cost, high-quality health care in a more efficient or effective manner.

The Trump Administration has recently announced changes to the Section 1332 waiver process in order to grant states even more flexibility and encourage states to create innovative programs under the law.

Section 1332 waivers allow states flexibility to implement innovative programs that encourage low-cost, high-quality health care.

**REQUIREMENTS OF 1332 WAIVERS**

In order for a waiver to be approved by the federal government, the state requesting the waiver must prove the following:

1. The innovation plan will provide coverage that is at least as comprehensive in covered benefits as required under the ACA
2. Coverage provided under the innovation plan will be at least as affordable as coverage provided under the ACA
3. After the implementation of the innovation plan, at least a comparable number of the state's residents will be covered by health insurance as would be under the ACA
4. Over the life of the innovation plan, the cost will be deficit neutral for the federal government. Waivers are approved for five-year periods and may be renewed if proven effective.

**EMPHASIS FROM THE TRUMP ADMINISTRATION**

In an effort to encourage more states to develop state-specific plans to improve health coverage and decrease costs, the Trump Administration has taken several steps to streamline the process of applying for Section 1332 waivers.

First, the Trump Administration has eased some of the criteria that states are required to meet in order to be approved for a waiver. Additionally, the federal government will also no longer require state legislatures to approve waiver plans before they are submitted for review by the U.S. Department of Health and Human Services and the U.S. Department of the Treasury. Instead, governors or approved state agency heads may submit waiver petitions. These changes will allow states more flexibility to experiment with new policies and programs, and will ease the process of applying for waivers and decrease the turnaround time between policy proposal and implementation.



2017 caused insurance premiums to increase across the United States as health insurers faced increased risk and instability in health insurance marketplaces. In fact, Oklahoma's health marketplace only had one health insurance provider participate in open enrollment in 2017 and 2018.

Oklahoma submitted a proposal for a Section 1332 waiver to create a reinsurance program for health insurance plans on Oklahoma's ACA marketplace in 2017. Supporters argued it would stabilize the health insurance market in Oklahoma by lowering health care premiums by up to 35%. Less expensive health insurance premiums would make health insurance more affordable for all and eventually save the federal government money through the reduced cost of health insurance subsidies.

The state worked with the federal government to submit the waiver application, but the federal government was not able to approve the waiver in time for the 2018 open enrollment period. The state ultimately withdrew its application for a Section 1332 waiver.

Oklahoma has thus far only pursued federal approval of a Section 1332 waiver for its reinsurance plan. However, the Trump Administration's eased rules for application now allow the Governor to apply for federal approval of a Section 1332 waiver without first seeking approval of the Oklahoma Legislature. This allows the new Governor increased flexibility to explore what options may be available to increase consumer choice, lower the costs of health insurance, and expand health coverage in Oklahoma.

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