

Background Paper 2

State Innovation Waivers

Allowing state-based Universal Health Coverage

The Affordable Care Act: Supporting State Innovation

The Departments of Health and Human Services (HHS) and Treasury recently finalized the proposed rule outlining the steps that states may pursue in order to receive a State Innovation Waiver under the Affordable Care Act. Under the law, states are given the option to seek a State Innovation Waiver to expand on the state flexibility that already exists in the Affordable Care Act in order to pursue their own innovative strategies to ensure their residents have access to high quality, affordable health insurance.... [See H.R. 3590 passed on 23 Mar 2010, Sec 1332.]

State Innovation Waiver Criteria

In accordance with the statute, in order to apply for a waiver states must have necessary state laws in place and comply with federal regulations that ensure appropriate public notice and transparency. States must also demonstrate that, if the waiver is approved, the state's plan will provide coverage that:

- Is at least as comprehensive as the coverage that would have been provided under the Affordable Care Act.
- Is at least as affordable as the coverage under the Affordable Care Act.
- Covers at least as many residents as would have otherwise been covered under the Affordable Care Act.
- Will not increase the federal deficit.

Already, under the law, most insurance companies:

- Cannot impose lifetime limits on the dollar amount they spend on health benefits.
- Must offer young adults without access to job-based coverage the option of remaining on their parent's plan until their 26th birthday.
- Must cover recommended preventive services without cost sharing.
- Must allow patients to choose their own doctor in their network.
- Cannot drop your coverage because you get sick.
- Must spend at least 80% of premium dollars on health care, rather than executive salaries and administrative costs.

And starting in 2014, insurance companies cannot charge more, carve-out benefits, or deny coverage because of a pre-existing health condition. States that receive a State Innovation Waiver would be required to maintain these important consumer protections that prevent insurance companies from denying, capping, or limiting care.

Currently, the Affordable Care Act allows State Innovation Waivers beginning in 2017. States could use a variety of strategies to innovate through a waiver, provided they meet the above requirements. For example, they could change the benefit levels or add new benefit levels for plans offered in the Exchanges....

Final Rule

The rule issued recently establishes a process for states to submit initial applications for a State Innovation Waiver. It describes out the content of applications, processes for public notice and comment, and describes standards for post-award reporting and monitoring.

Specifically, the rule addresses:

- **Public Notice:** At the state and federal level, the rule ensures an opportunity for public input. The regulation outlines how public notice and comment will work, including public hearings, to ensure a meaningful level of public involvement, input, and transparency.
- **Content of the Application:** Consistent with what is required by the law, the rule says that an application must include:
 - The provisions of law that the state seeks to waive;
 - An explanation of how the proposed waiver will meet the goals related to coverage expansion, affordability, comprehensiveness of coverage, and costs;
 - An implementation timeline;
 - A budget plan that does not increase the federal deficit, with supporting information;
 - Actuarial certifications and economic analysis to support the state's estimates that the proposed waiver will comply with the comprehensive coverage requirement, the affordability requirement, and the scope of coverage requirement; and
 - Analyses of the waiver's potential impact on provisions that are not waived, access to health care services when residents leave the state, and deterring waste, fraud, and abuse.
- **Periodic Reports:** Under the regulation, states with waivers would submit quarterly and annual reports. These reports would include the tracking of measures in the four key areas: affordability, comprehensiveness of coverage, number of people covered, and impact on the federal deficit.
- **Post-Award Evaluation:** The regulation suggests criteria that could be used in the evaluation of the waivers once they are in place.

Suggested criteria cover such topics as:

- Choice of health plans for individuals and employers;
- Stability of coverage for individuals and employers;
- Small businesses, individuals with pre-existing conditions, and the low-income population;
- The overall health care system in the state....

Source: <http://thomas.loc.gov/cgi-bin/query/F?c111:1:./temp/~c1118oRfrw:e281072>

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