



Innovation Waivers: the Next Wave of State Coverage Reform?

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Overview

- 1332 basics
 - What can be waived
 - Funding
 - Limitations
- Role of the legislature
- Timing
- Options and considerations for States
- Additional resources

1332 waiver basics

- States may request that HHS and Treasury exempt them from certain requirements of the ACA
- States can aim for broad system-wide reforms or simply use narrow waivers to smooth rough edges of the law
- Use of 1332 waivers will vary according to local needs and goals
- Waivers must preserve coverage and fiscal parameters of ACA

What can be waived

- The individual mandate
- The employer mandate
- Benefits and subsidies
- Marketplaces and qualified health plans

Funding

- States can receive the aggregate amount of federal funds that otherwise would have gone to tax credits and cost-sharing reductions
- Unlike with exchange development, there are no federal grants available to plan for 1332-waiver based reforms

Limitations of 1332 waivers

- Four guardrails state requests must stay within:
 - Comprehensiveness
 - Affordability
 - Scope
 - Budget neutrality

Other limitations

- Section 1332 does not expand waiver authority for Medicaid or Medicare
 - Though states can coordinate waivers across those programs
- States that rely on healthcare.gov will be more limited in what they can do under 1332
- Unclear whether can apply savings from one waiver to another (such as with a Medicaid waiver and a 1332)
- Unclear how HHS will determine budget neutrality
 - An issue especially in non-Medicaid expansion states

Role of the legislature

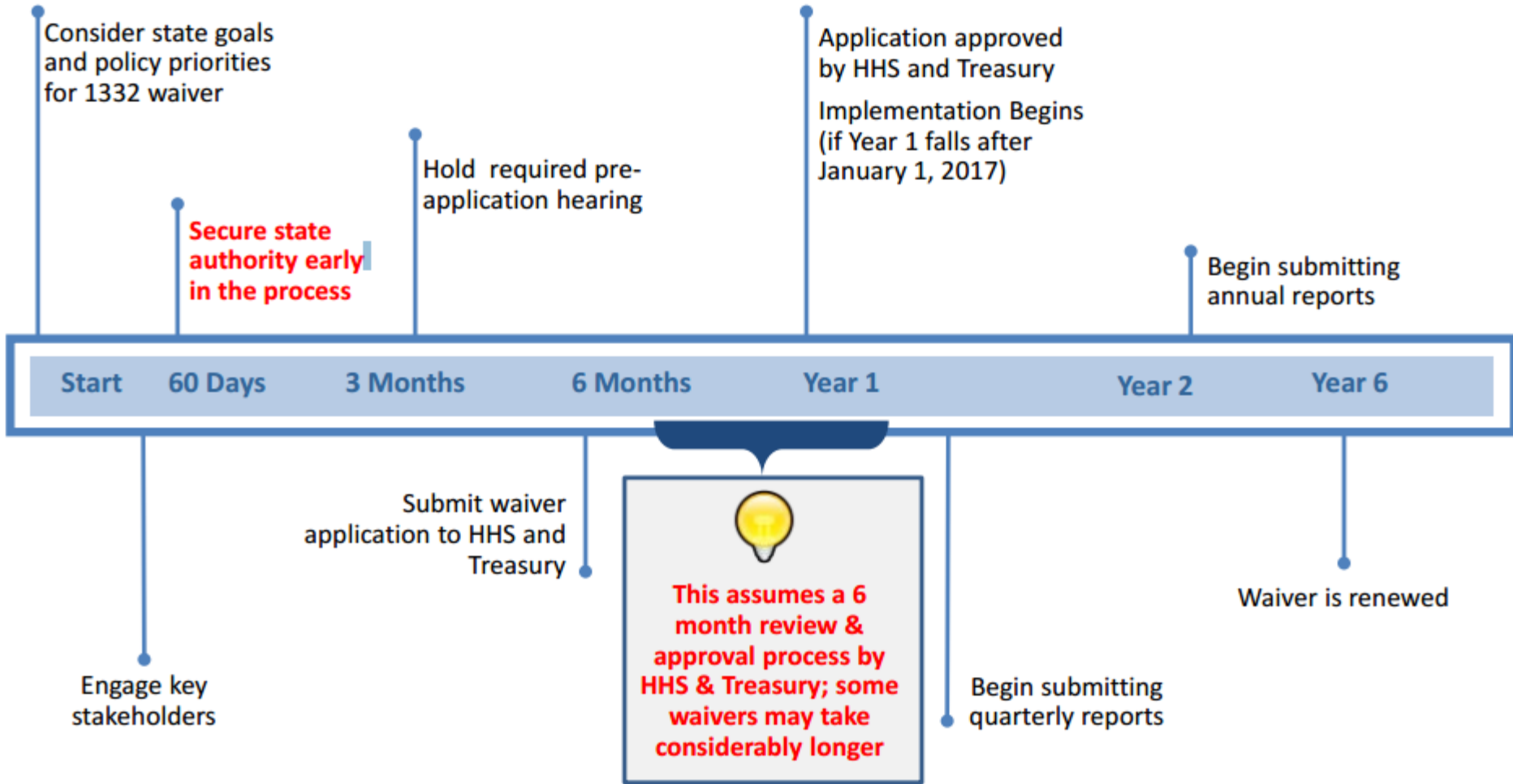
- State legislatures are key part of 1332 process
- Legislative authorization is required
- Current list of states with new legislative authorization to pursue a 1332 waiver:
 - Hawaii
 - Minnesota
 - Rhode Island

Role of the legislature

- Other states that have taken action on 1332s:
 - New Mexico
 - Office of the Superintendent of Insurance created a task force to study opportunities under a 1332
 - Arkansas
 - Detailed report prepared for the Arkansas Health Insurance Marketplace Board and Legislative Oversight Committee
 - 1332 waivers under consideration at the Arkansas Health Reform Legislative Task Force

Timing

- Waivers can take effect as early as January 1, 2017
- Clock is ticking! Application process will take some time
 - Includes required public hearings and considerable analysis and documentation
 - Federal review and approval process could take six months
- Thus, important for legislature to weigh in early



What states can do with a 1332

- Minnesota aim: smooth out the cost curve and build on the state's Basic Health Plan; coordinate with SIM efforts?
- Hawaii aim: replace SHOP with direct enrollment with carriers
- Remove some irritants, including:
 - Different definition of American Indian across programs
 - Different enrollment effective dates across programs
 - Different ways of counting income

What states can do with a 1332

- Other options:
 - Eliminate the marketplace and replace with direct enrollment or private vendor infrastructure
 - Eliminate the individual mandate and replace with automatic enrollment or reduced opportunity for future enrollment
 - Reallocate subsidies to favor plans with higher quality ratings (as in Medicare Advantage)
 - Fix the family glitch, which makes coverage unaffordable for some families

Considerations for states

- What are your coverage and delivery system goals?
- What authority do you need to achieve those goals?
- Start work group and stakeholder discussions
- Plan for fiscal analysis

Resources

- **New CMS 1332 hub:**

[https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section 1332 state Innovation Waivers.html](https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section%201332%20state%20Innovation%20Waivers.html)

- **State Network resource library:**

<http://statenetwork.org/2015/06/24/1332-waivers-resource-library/>

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