EMBARGOED UNTIL THURSDAY, NOVEMBER 29th at 12:15PM

FACT SHEET: State Empowerment and Relief Waiver Concepts

The Centers for Medicare & Medicaid Services (CMS) has released four waiver concepts for states' use to promote more affordable, flexible health insurance coverage options through State Relief and Empowerment Waivers. CMS is providing states with these waiver concepts in an effort to spur innovation, reduce burden for states with potentially limited policy resources or legislative schedules, and illustrate how states might take advantage of new flexibilities provided in recently released guidance[1] related to State Relief and Empowerment Waivers (also referred to as "section 1332 waivers" or "state innovation waivers"). As with all waiver requests, a state must ensure that the waiver plan meets the four statutory guardrails relating to comprehensiveness, affordability, coverage, and federal deficit neutrality. Nothing in the new guidance or the waiver concepts changes the requirements for health insurance issuers to provide protections for people with pre-existing conditions.

Waiver Concepts

The waiver concepts are offered to spur innovative ideas that can be utilized by individual states to improve their health care markets. CMS and the Department of the Treasury (collectively, the Departments) look forward to engaging with states on these waiver concepts, which illustrate concepts that the Administration supports and that fit within the framework outlined in section 1332 of the Affordable Care Act (ACA). The four waiver concepts are:

- **Account-Based Subsidies:** Under this waiver concept, a state can direct public subsidies into a defined-contribution, consumer-directed account that an individual uses to pay for health insurance premiums or other health care expenses. The account could be funded with pass-through funding made available by waiving the Premium Tax Credit (PTC) under section 36B of the Internal Revenue Code (IRC) or the small business health care tax credit under section 45R of the Internal Revenue Code. The account could also allow individuals to aggregate funding from additional sources, including individual and employer contributions. An account-based approach could give beneficiaries more choices and require them to take responsibility for managing their health care spending. This approach could also allow a consumer greater ability to select a plan based on the individual's or their family's needs, including a higher deductible plan with lower premiums.

- **State-Specific Premium Assistance**: States can use the State-Specific Premium Assistance waiver concept to create a new, state-administered subsidy program. A state may design a subsidy structure that meets the unique needs of its population in order to provide more affordable health care options to a wider range of individuals, attract more young and healthy consumers into their market, or to address structural issues that create perverse incentives, such as the subsidy cliff.[2] States may receive federal pass-through

[1] https://www.federalregister.gov/documents/2018/10/24/2018-23182/state-relief-and-empowerment-waivers

[2] The subsidy cliff refers to the point at which a consumer's income changes and they are ineligible for PTC.

funding by waiving the Premium Tax Credit (PTC) under section 36 B of the Internal Revenue Code (IRC) to help fund the state subsidy program.

- **Adjusted Plan Options:** Under this waiver concept, states would be able to provide financial assistance for different types of health insurance plans, including non-Qualified Health Plans, potentially increasing consumer choice and making coverage more affordable for individuals. For example, states could choose to expand the availability of catastrophic plans beyond the current eligibility limitations by waiving section 1302(e)(2) of the ACA. Used in conjunction with the Account-based Subsidy waiver concept, states could provide subsidies in the form of contributions to accounts, allowing individuals to use the funds to purchase coverage that is right for them and use any remaining funds in the account to offset out-of-pocket health care expenses.

- **Risk Stabilization Strategies**: To address risk associated with individuals with high health care costs, this waiver concept gives states more flexibility to implement reinsurance programs or high-risk pools. For example, a state can implement a state-operated reinsurance program or high-risk pool by waiving the single risk pool requirement under section 1312(c)(1) of the ACA. Reinsurance programs have lowered premiums for consumers, improved market stability, and increased consumer choice. To date, States have chosen to use a variety of models to operate their state-based reinsurance programs, using flexibility available under section 1332. These models include a claims cost-based model, a conditions-based model, and a hybrid conditions and claims cost-based model. If the state shows an expected reduction in federal spending on PTC, the state can receive federal pass-through funding to help fund the state's high-risk pool/reinsurance program. Such flexibility can be particularly important to maintain rates in the individual market for states allowing the sale of short-term, limited-duration coverage.

In order to gain the Departments' approval, states' waiver applications must meet section 1332 statutory requirements, including satisfaction of the four guardrails under section 1332(b)(1) (comprehensiveness, affordability, coverage, and federal deficit neutrality). The Departments cannot assess whether or not a proposal meets the guardrails until we receive a specific proposal from a state.

The Departments wish to work with states to develop their ideas and ultimately implement these programs to benefit consumers. States are not required to use these concepts in their waiver applications; states that opt to utilize waiver concepts, may use waiver concepts alone or in combination with other waiver concepts, state proposals, or policy changes. We encourage states to couple waiver concepts with other innovative ideas.

The Departments continue to encourage states to propose other innovative approaches to meet the unique needs of their population, and recommend that states interested in applying for a State Relief and Empowerment Waiver reach out to the Departments promptly for assistance in formulating an approach that meets the requirements of section 1332.

States may submit State Relief and Empowerment Waiver applications and/or questions to stateinnovationwaivers@cms.hhs.gov.

The guidance is available at https://www.federalregister.gov/documents/2018/10/24/2018-23182/state-relief-and-empowerment-waivers.

For more information, please visit: https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section_1332_state_Innovation_Waivers-.html.

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