

State Health Reform Assistance Network

Charting the Road to Coverage

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1332 State Innovation Waivers: Coordinating 1332 and 1115 Waivers Part 2

**Manatt Health Solutions
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Agenda

- **Review Basics of 1332 Waivers and Guardrails**
- **Potential Waiver Examples and Implications**
- **Next Steps**

Review Basics of 1332 Waivers and Guardrails

Review Basics: What Can be Waived

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 may modify the rules governing covered benefits and subsidies. States that reallocate premium tax credits and cost-sharing reductions may receive the aggregate value of those subsidies for alternative approaches.

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.

Depending on the policy goals, states may leverage and coordinate 1115 and 1332 waivers to make changes to test innovative approaches in Medicaid (1115) or individual or small group insurance markets (1332)

Why a State May Want Both 1115 and 1332 Waivers

A state may want coordinated waivers to:

- Reduce the significant premium and cost-sharing increases with minimal changes in income for consumers at the margins of insurance affordability program eligibility
- Make changes to align and streamline programs across the coverage continuum

New York (2015)	Medicaid (138% FPL)	QHP (139% FPL)	Difference
Premium	\$0	\$564 (annual) \$47 (monthly)	\$564 (annual) \$47 (monthly)
Deductible	\$0	\$0	\$0
Prescription drugs	\$1 - \$3	\$6 - \$30	\$5 - \$27
Specialty visit	\$0	\$20	\$20
Inpatient hospital stay	\$25	\$100	\$75
Maximum out-of-pocket	\$200	\$1000	\$800

Review Basics: What are the Guardrails

1 *Scope of Coverage*

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

2 *Federal Deficit*

The waiver must not increase the federal deficit.

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 *Comprehensive Coverage*

The waiver must provide coverage that is at least as “comprehensive” as coverage offered through the Exchange.

- Following slides explore the guardrails by looking at specific waiver proposals in four areas, all related to enhancing alignment between Medicaid and Marketplaces through combined 1115 and 1332 waivers.
- HHS and Treasury will be responsible for interpreting the guardrails, and have not published guidance regarding guardrails to date.

Potential Waiver Examples and Implications

Aligning FPL Updates Between Medicaid and Marketplace

Example of a targeted fix aimed at specific components of the ACA that impact state implementation of the law and could potentially be fast-tracked by CMS

Current Law	Potential Waiver Examples
Medicaid and CHIP use FPL guidelines from the date of annual update (January 22 this year).	No Change. Eligibility based on current FPL guidelines (updated when FPL guidelines are updated).
Marketplaces delay use of updated FPL guidelines until next open enrollment period (November 1 this year).	Adopt Medicaid approach so that FPL guidelines change at same time for all eligibility determinations, including SEPs.

Rationale

- Enhanced administrative efficiency
- Reduce consumer confusion for those on the margins of APTC thresholds

Implications of FPL Alignment Waivers

Example of a narrow waiver that tests how strict the guardrail analysis will be since changes under waiver will be marginal and only exist for a short gap period



Scope: Coverage may increase marginally since some consumers will be eligible for higher tax credits and cost sharing reductions because FPL increases earlier

Comprehensiveness: No changes in the benefit package, only subsidies change

Affordability: Some consumers on the margins of the income thresholds will gain subsidies and cost-sharing reductions earlier under the waiver

Federal Deficit: Some consumers will gain tax credits and cost sharing reductions earlier, resulting in a marginal increase in federal spending

Eligibility and Enrollment Rules: Changing Reconciliation

Example of a very broad waiver which may not be feasible but illustrates both the benefits and complexity of trying to fully align Medicaid and Marketplace

Current Law	Potential Waiver Examples
APTC provided during year is reconciled with annual income during tax filing resulting in retroactive changes to subsidy amounts	Do not reconcile tax credits, but improve initial income verification
Medicaid benefits received are not subject to reconciliation and not otherwise subject to repayment absent fraud	No change

Rationale

- Makes tax credit system more similar to Medicaid
- Simplifies back-end administrative process
- Current reconciliation system may be perceived as unfair by consumers who gave good faith estimates of income and end up with large tax bills

Implications of Reconciliation Waivers

Waiver could have implications on the federal deficit which would have to be offset

Scope: Consumers who are more risk adverse would be more likely to enroll in coverage if the threat of a tax reconciliation was reduced

Comprehensiveness: No change in the benefit package, only subsidies change

Affordability: Some consumers will gain and others will lose, depending on what income changes occur after each eligibility determination, but subsidy thresholds remain constant

Federal Deficit: Eliminating reconciliation for both income increases and decreases should preserve deficit neutrality, though challenge will be to implement sufficient income verification to avoid fraud and a mechanism to ensure equitable treatment of those whose wages decline unexpectedly

Cross-IAP Budget Neutrality

Waivers would measure costs and savings across IAPs for purpose of budget neutrality

Current Law	Potential Alternative Approach
Currently, CMS measures budget neutrality under Medicaid 1115 waivers by comparing Medicaid spending with and without the waiver, ignoring any impact the waiver may have on federal spending outside of Medicaid.	In the context of joint 1115 and 1332 waivers, a state could seek CMS/Treasury approval to evaluate budget neutrality across waivers so that savings achieved under one waiver could be offset against costs incurred under the other waiver.

Rationale

- Holistic approach to budget neutrality is consistent with continuum of coverage across IAPs
- Aligns incentives across IAPs to reduce cost of coverage for consumers, states, and federal government

Cross-IAP Budget Neutrality

Measuring budget neutrality across Medicaid and the Marketplace could expand waiver options, especially in smoothing the coverage continuum for those under 200% FPL



Scope: Coverage should expand for consumers who will generally have cheaper and/or more heavily subsidized coverage, especially at lower incomes

Comprehensiveness: Changes more likely to impact subsidies; does not contemplate significant changes to the benefit package

Affordable: Affordability should be improved, especially at lower incomes

Federal Deficit: To the extent states may consider federal costs across programs and waivers, it will be easier to meet budget neutrality requirements by offsetting costs to one federal program against savings to another.

Delivery System Waiver: Vary Subsidies Based on Quality

States could follow Medicare Advantage practice of rewarding quality by varying Marketplace subsidies and Medicaid payments based on the plan's quality rating

Current Law	Potential Waiver Examples
APTC for individual is calculated based on household income, household size, and second lowest cost silver plan	Additional APTC provided to individuals who enroll in plans with high quality rating to reduce their share of premium for that plan (low quality plans will have APTC reduction)
Premium may only be rated based on age, geography, and tobacco use	No change (premium remains the same, only APTC adjusted)
States may impose premiums and cost-sharing through 1115 waivers	Reduce premiums for people who enroll in high value plans

Rationale

- CMS and states are increasingly incentivizing quality through Medicare Advantage, Medicaid Managed Care, and Marketplace requirements
- State may be able to use this as a building block for value based benefit design that varies cost sharing based on the medical value of the service

Implications of Quality Waivers

Waivers could have affordability implications, depending on Federal interpretation

Scope: Should not change number covered since the incentives should increase enrollment in some plans and decrease enrollment in others

Comprehensiveness: No change in the benefit package, only subsidies change

Affordability: Some plans will be more affordable while others will be less affordable. A person can elect during open enrollment to be in a higher quality, more affordable plan. There will be winners and losers among those who do not shop.

Federal Deficit: Neutral by design (subsidies are re-allocated without changing total amount)

Other Potential 1115/1332 Waiver Alignment Examples

Benefit Package Alignment

- Benefit package for Medicaid is more comprehensive than EHB required under the ACA
- State could choose to use an 1115 waiver to waive Medicaid requirement on NEMT and EPSDT benefits, or use a 1332 waiver to require QHPs cover all Medicaid benefits
- 1332 waivers which impact the comprehensiveness guardrail may also require a corresponding 1115 waiver for seamlessness

Cost Sharing

- A potential solution to affordability is to add “copper” plans with 50% AV
- May improve risk pool by attracting healthier risks who are deterred by high premiums, but raises questions about minimum coverage requirements
- State considering a copper plan should consider implications of seamlessness for individuals who churn and may want to submit a corresponding 1115 waiver

Discussion



Next Steps

Next Steps

Webinar Topic	Date
1332 State Innovation Waivers: What's Next for States	4/20/15 
1332 State Innovation Waivers: What Can be Waived?	5/29/15 
1332 State Innovation Waivers: Getting off the Ground	7/13/15 
1332 State Innovation Waivers: Coordinating 1332 and 1115 Waivers	8/24/15 
1332 State Innovation Waivers: Issues Related to Coordinated Waivers	Today 
Topic TBD	TBD (November)

Thank you!

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