Tools for State Transformation: To Waiver or Not?

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By

Cindy Mann
Agenda

- Background
- 1115 Waivers
- 1332 Waivers & Coordinated Waiver Approaches
Background
How many want a waiver?
Why do you need a waiver?
Some Examples of Flexibility Without a Waiver
(Subject to Federal Guidelines)

- Coverage design
  - Adult expansion
  - More streamlined enrollment procedures
  - Benefits
  - Cost sharing
  - Premium assistance to support employer sponsored insurance

- Long term care reform
  - Growing share of long term services and supports in home and community based settings

- Delivery system and payment reform
  - Fee for service, managed care, ACOs, etc.
  - Payment rates, incentives, shared savings
  - Health homes (90% federal match)
Medicaid Spending Focused on High Need Enrollees

Nationally, 5% of Medicaid beneficiaries account for 48% of total expenditures.

United States: Estimated Medicaid Enrollment and Expenditures by Enrollment Group as Share of Total, FY 2011

Enrollment

- Children: 48%
- Adult: 27%
- Disabled: 15%
- Aged: 9%

Nationally, 5% of Medicaid beneficiaries account for 48% of total expenditures.

Spending

- Children: 21%
- Adult: 42%
- Disabled: 63%
- Aged: 21%

Sources:
**In addition: Available Waiver Tools**

- **1115 waiver** to waive certain provisions of federal Medicaid law
- **Combine 1332 and 1115 Waivers**
- **1332 waiver** to waive certain ACA provisions
- "HCBS“, Selective Contracting, Managed Care, Family Planning Waivers Also Available
1115 Waivers
Overview of 1115 Waivers

• Section 1115 of the Social Security Act permits the Secretary of the Department of Health and Human Services to approve demonstrations (aka “waivers”) that “further the objectives (of the program)”

• Section 1115 waivers must be “budget neutral to the federal government

• Waivers are subject to evaluation and initially approved for 3-5 years

• Requirements for public process
1115 Waivers: Delivery System Reform

Delivery System Reform Incentive Payments (DSRIP) Waivers have been approved to provide states with funding to transform Medicaid care delivery.

- **California:** Bridge to Reform Waiver (2010-2015, seeking renewal)
- **Texas:** Transformation & Quality Improvement Waiver (2012-2016)
- **Kansas:** KanCare Waiver (2014-2017)
- **New York:** Medicaid Reform Transformation Waiver (2014-2019)
- **Massachusetts:** MassHealth (2011-2014, renewed to 2019)
- **New Jersey:** Comprehensive Medicaid Waiver (2014-2017)

Pending Approval for 2016:
- New Hampshire
- Washington
Under a DSRIP waiver, a State supports providers using waiver funds... ...IF they meet project metrics aimed at achieving reform and improved outcomes

- DSRIP waivers are expected to lead to change; they are not permanent
- Budget neutrality can be a challenge
- They are not simple to negotiate or implement
1115 Waivers: Alternative Medicaid Expansions

As of November 2015.

Note: Pennsylvania is not implementing its approved waiver.
CMS Recently Approved Montana’s Alternative Expansion Waiver

Health and Economic Livelihood Partnership (HELP) Program

- Section 1115 Demonstration Waiver and 1915(b)(4) Waiver approved by CMS on November 2, 2015. Program enrollment began on November 1, 2015, with coverage effective January 1, 2016.
- Five-year Demonstration will cover up to an estimated 70,000 new adults.

Key Features

- **Premiums** - New adults are required to pay premiums equal to 2% of their household income.
- **Co-payments** - New adults are required to pay the maximum co-payments allowable under federal law.
  - The State will credit incurred co-payments against premiums
  - Individuals will not have to pay co-payments until the value of accumulated co-payments exceeds 2% of income
- **Third-Party Administrator (TPA)** – Montana contracted with Blue Cross Blue Shield of Montana to administer health care services under the Demonstration. Services will be reimbursed on a fee-for-service basis, and the TPA will be paid an administrative fee for its services. Some individuals are excluded from the TPA.
- **Continuous Eligibility** – New adults with incomes up to 138% of the FPL will have 12-month continuous eligibility.

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<th>Expansion Feature</th>
<th>State Examples</th>
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<td>Premiums</td>
<td>Indiana, Iowa, Michigan, Montana, Pennsylvania</td>
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<td>Examples: Indiana charges premiums of 2% of income to all new adults; Michigan does so for those with incomes &gt;100% FPL</td>
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<td>Cost Sharing</td>
<td>Indiana, Montana</td>
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<td>Only state to receive a cost-sharing waiver; testing $25 co-payments for repeated non-emergency use of the Emergency Department; note many states use cost sharing consistent with federal law</td>
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<td>Health Savings-Like Accounts</td>
<td>Arkansas, Indiana, Michigan</td>
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<td>Healthy Behavior Incentives</td>
<td>Indiana, Iowa, Michigan, Pennsylvania</td>
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<td>Example: Iowa reduces or eliminates premium obligations for the completion of healthy behavior activities</td>
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<td>Connecting to Work</td>
<td>Indiana, New Hampshire, Utah (proposed)</td>
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<td>Examples: Indiana and New Hampshire refer individuals to employment assistance programs</td>
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<td>Benefits &amp; Coverage</td>
<td>Iowa, Indiana, New Hampshire, Pennsylvania</td>
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<td>Examples: Iowa, Indiana and Pennsylvania received waivers of non-emergency medical transportation</td>
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<td>Premium Assistance for Qualified Health Plans</td>
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<td>Examples: Arkansas and New Hampshire use mandatory premium assistance for QHPs for most new adults</td>
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<td>Premium Assistance for Employer Sponsored Insurance</td>
<td>Indiana, Iowa, New Hampshire, Oklahoma, Tennessee (proposed)</td>
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<td>Examples: Iowa and New Hampshire utilize mandatory premium assistance for ESI; note, many other states use premium assistance for ESI without a waiver</td>
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Notes: Pennsylvania is not implementing its approved waiver; Utah proposed an approach in its Healthy Utah Plan Concept Paper; Iowa will end its QHP premium assistance program at the end of 2015; Tennessee proposed Premium Assistance for ESI in a waiver amendment that the State legislature has not yet approved for submission to CMS
The Latest on Economic Impacts of Expansion in AR and KY

**Kentucky – Governor Beshear Press Conference 11/6/2015**

- Expansion has had a $300 million positive impact on the State General Fund in 2 years
  - Rolling back expansion would cost $300 million over next 2 years
- 12,000 jobs created in the first year of expansion
- $2.9 billion in new provider revenues by July 2015
- $30 billion positive impact on Kentucky’s economy over 8 years

**Arkansas – The Stephen Group Report 10/1/2015**

- Projected net positive impact on Arkansas State Budget of $438 million from 2017-2021
  - Rolling back expansion would cost $438 million over next 4 years
- $1.1 billion reduction in hospital uncompensated care costs from 2017-2021
- $567 million in increased State tax revenues

Deloitte report on Kentucky is linked below:
http://governor.ky.gov/healthierky/Documents/medicaid/Kentucky_Medicaid_Expansion_One-Year_Study_FINAL.pdf

The Stephen Group report on Arkansas is linked below:
http://www.arkleg.state.ar.us/assembly/2015/2015R/Pages/MeetingDetails.aspx?committeecode=836&meetingID=26509
“A state may choose whether and when to expand, and, if a state covers the expansion group, it may decide later to drop the coverage.”

CMS Guidance, 12/10/2012
1332 Waivers & Coordinated Waiver Approaches
What Can Be Waived Under a 1332 Waiver?

States may request waivers from HHS and the Treasury Department of certain requirements of the Affordable Care Act (ACA), effective 01/01/2017

1. **Individual Mandate**
   States can modify or eliminate the tax penalties on individuals who fail to maintain health coverage.

2. **Employer Mandate**
   States can modify or eliminate the penalties 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.

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.

ACA § 1332(a)(2)
What Can’t Be Waived?

States may not waive guaranteed issue and related rating rules

Fair play rules
States may not waive non-discrimination provisions prohibiting carriers from denying coverage or increasing premiums based on medical history. States are precluded from waiving rules that guarantee equal access at fair prices for all enrollees.
What are the Statutory Guardrails?

A state waiver application must satisfy four criteria to be granted:

1. **Scope of Coverage**
The waiver must provide coverage to at least as many people as the ACA would provide without the waiver.

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

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. **Federal Deficit**
The waiver must not increase the federal deficit.

ACA § 1332(b)(1)
Initiatives Requiring Both Waivers

Section 1332 waivers can be coordinated with 1115 waivers to address differences among federal programs.

States may want to coordinate 1332 and 1115 waivers to achieve the following:

**Smoothing the Cost Continuum:** Improving premium and cost-sharing alignment across insurance affordability programs

**Purchasing Alignment:** Creating a Medicaid premium assistance program, BHP-like program, or premium subsidy program

**E&E Alignment:** More fully aligning eligibility and enrollment rules and processes across insurance affordability programs
To Waive or Not to Waive?

Key Questions:

• What changes are needed in your Medicaid program?
• Do you need a waiver to do some or all of those changes?
THANK YOU

Cindy Mann
202.585.6572
CMann@Manatt.com