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Today’s speakers

James A. Dunnigan,
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State House of Representatives

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Agenda

Today: Overview of Health Care Waivers

• Flexibility for Innovation Without a Waiver

• Primary Waiver Types

• Coordination of Waivers

Next webinar: Focus on 1332

• August 4, 2016, 11:00am EST
Some Examples of Flexibility Without a Waiver

- **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)
Key Questions in Determining Next Steps

Key Questions:

• What are the goals for my state?
• What program changes would enable those goals?
• What federal authorities enable the desired changes?
<table>
<thead>
<tr>
<th>What are the states’ goals?</th>
<th>What program changes might help meet these goals?</th>
<th>Do these changes require a waiver?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Improve access to care</td>
<td>Adequacy/stability of rates? Ease enrollment burden for providers? Strengthen network adequacy contracting provisions with MCOs?</td>
<td>A waiver is not needed to implement these changes.</td>
</tr>
<tr>
<td>Move to value based purchasing</td>
<td>Spectrum of initiatives, including contracting and payment changes, aimed at incentivizing quality, efficiency, and accountability for care and costs.</td>
<td>Generally, these initiatives can be achieved without a waiver but may seek delivery system waiver to help finance the transition.</td>
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<tr>
<td>Increase consumer responsibility for costs</td>
<td>Impose premiums or other cost-sharing features</td>
<td>A waiver is required to charge premiums, but not for copays.</td>
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Primary Types of Health Care Waivers

1. Section 1115 Waivers
2. Section 1332 Waivers
3. Section 1915 Waivers
Section 1115 Waiver Requirements

- Section 1115 of the Social Security Act permits the Secretary of the Department of Health and Human Services to approve demonstrations (aka “waivers”)
- Waivers are subject to evaluation and initially approved for 3-5 years
- Waivers are subject to public transparency requirements

Sec. 1115 Waivers Must:

- Promote the objectives of the Medicaid program
- Be budget neutral to the Federal government
Section 1115 Waivers Must Promote the Objectives of Medicaid

In the past, CMS has approved waivers testing changes related to:

- Delivery System Reform
- Premiums
- Cost Sharing
- Health Savings-Like Accounts
- Healthy Behavior Incentives
- Connecting to Work
- Benefits & Coverage
- Premium Assistance for Qualified Health Plans
- Premium Assistance for Employer Sponsored Insurance

There are guardrails with respect to these authorizations. All waivers must ensure compliance with the statute and further the objectives of Medicaid.
Waivers Must Be Budget Neutral to the Federal Government

1115 Waiver Budget Neutrality

- 1115 waivers must be budget-neutral to the federal government – the federal government spends no more with a state’s demonstration than it would have spent without the demonstration.
- Determined based on projections of costs with and without a waiver.
- Waivers include mechanisms to ensure budget neutrality over the life of the waiver.
Funding the Non-Federal Share of Waiver Investment

States must provide matching dollars for waiver expenditures—waivers are not grants. States have flexibility in determining how they will finance Medicaid expenditures, including waiver-related costs.

**Common Sources for the Non-Federal Share**

- **State Government General Funds**
  - Coverage expansion

- **Intergovernmental Transfers**
  - Public hospitals
  - Local governments

- **Provider Assessments**
  - Subject to Federally defined rules

- **Designated State Health Programs**
  - Federal dollars subsidize historically state-funded health programs
Arizona and Ohio have already expanded their respective Medicaid programs, but are seeking to reform their Medicaid delivery systems under a waiver.
States Implementing or Requesting 1115 Delivery System Reform Incentive Payment (DSRIP) Waivers

- California
- Nevada
- Utah
- Idaho
- Montana
- Wyoming
- Maine
- Vermont
- New York
- North Carolina
- South Carolina
- Alabama
- Nebraska
- Georgia
- Mississippi
- Louisiana
- Oklahoma
- Pennsylvania
- Wisconsin
- Minnesota
- North Dakota
- South Dakota
- Iowa
- Illinois
- Indiana
- Ohio
- Kentucky
- Indiana
- New Hampshire
- Massachusetts
- Rhode Island
- Connecticut
- New Jersey
- Delaware
- Washington, DC
- Maryland
- West Virginia
- Virginia
- North Dakota
- South Dakota
- Kansas
- New Mexico
- Texas
- Arkansas
- Tennessee
- Michigan
- Iowa
- Illinois
- Missouri
- Louisiana
- Alabama
- Mississippi
- Florida
- Hawaii
- Alaska
Primary Types of Health Care Waivers: 1332 Waivers

1. Section 1115 Waivers
2. Section 1332 Waivers
3. Section 1915 Waivers
1332 Waivers: What Can Be Waived?

States may request waivers from HHS and the Treasury Department of certain provisions in the Affordable Care Act (ACA). A 1332 waiver is NOT a Medicaid waiver, but a Medicaid waiver could accompany a 1332 waiver.

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

- **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.

- **Benefits and Subsidies**
  States may modify the rules governing covered benefits and subsidies.

- **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.
Statutory Guardrails

States must satisfy four major criteria for a state waiver to be granted and may *not* waive guaranteed issue and related rating rules.

**Key Application Components**

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

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

- **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.

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

**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.
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
The First Three State 1332 Waivers Focus on Small Group Market Reforms

These states are seeking to preserve innovative pre-ACA programs

Hawai‘i seeks to preserve its pre-ACA employer mandate (Hawai‘i Prepaid Health Care Act)

Massachusetts seeks to maintain features of its pre-ACA merged individual and small group markets

Vermont seeks to maintain pre-ACA direct enrollment approach for small employers
Primary Types of Health Care Waivers: 1915 Waivers

1. Section 1115 Waivers
2. Section 1332 Waivers
3. Section 1915 Waivers
Three Section 1915 Waivers:

- **Section 1915(b) Managed Care Waivers** are used to provide services through managed care delivery systems or to otherwise reduce enrollee choice of providers.

- **Section 1915(c) Home and Community-Based Services Waivers** allow for the provision of LTC in home and community settings rather than within facilities.

- States may apply to use “**Combined 1915 (b)/(c) Waivers**” provided Federal requirements for both programs are met.
Questions?
Thank You!

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More Information

- Visit www.ncsl.org and search “waivers”

- Our report on State Legislation and Enacted Laws Related to 1332 Waivers has been updated through today.

- Email health-info@ncsl.org

- Call 303-364-7700 and ask to speak with someone in the health program
This is a two-part series!

Please join us for Part 2: Health Care Waivers in Action, **Thursday, Aug. 4: 11 a.m. ET**

Thank you!