The Department of Treasury and the Centers for Medicare and Medicaid Services (CMS) released guidance on State Relief and Empowerment Waivers. These waivers can be used by states to make changes to their health insurance markets, including to create reinsurance programs. Previously, the Trump and Obama administrations worked with states on reinsurance programs under what are known as 1332 waivers. CMS will analyze these waivers based on coverage purchased, shifting its focus to the overall impacts and costs on the general population. Previously, the overall effects on specific populations that gained coverage through a reinsurance waiver was part of the criteria.

CMS laid out key principles states must meet under the new waivers, including:

- Provide increased access to affordable private market coverage.
- Encourage sustainable spending growth.
- Foster state innovation to support and empower those in need.
- Promote consumer-driven healthcare.

Some of the other notable changes from the 1332 waivers to State Relief and Empowerment Waivers include how many people can be covered, and the ability to provide subsidies for short-term plans. Previous authority required that reinsurance waivers provide a comparable number of residents to have health insurance under a 1332 waiver as they would have under the Affordable Care Act (ACA), this previous requirement will no longer apply and will expand the definition of coverage by including short-term health insurance plans.

In addition, the guidance clarifies “that in certain circumstances, existing state legislation that provides statutory authority to enforce the Patient Protection Affordable Care Act (PPACA) provisions and the state plan, combined with a duly-enacted state regulation or executive order, may satisfy the requirement that the state enact a law under section 1332(b)(2).”
Regarding association health plans and short-term plans, states can now use marketplace subsidies to purchase these types of plans, but they must still meet health plan requirements set by the state. This means that states seeking a State Relief and Empowerment Waiver can allow residents to use ACA subsidies to purchase these types of plans even if they don’t meet all ACA requirements. CMS highlight this as expanded financial flexibility that will help residents purchase new types of plans and could be used to incentive other populations, like younger residents, to enroll. The impacts these waivers could have on plans without ACA basic coverage requirements, or on state efforts to expand other public health programs continues to be discussed.

This guidance has gone into effect and will be applicable for 2020 health insurance enrollment.

**Resources:**

