



Comparing Section 1332 and Section 1115 Waivers

Medicaid and CHIP Payment and Access Commission
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Section 1332 Waivers

- Beginning January 1, 2017, Secretaries of HHS and Treasury can waive provisions related to:
 - Exchanges
 - Qualified health plans
 - Premium tax credits and cost sharing subsidies
 - Individual and employer mandates
- Do not apply to Medicaid
- No state has received approval

1332 Guardrails

1332 waivers must meet the following criteria:

- Coverage must be as comparable, affordable, and comprehensive as what would have been available under the ACA
- Must not raise the federal deficit

States Seeking 1332 Waivers

- A number of states have expressed interest, but only one state has formally submitted an application and two others have made draft applications public
- All three are modest in scope and are seeking to maintain the status quo in their state

Section 1115 Waivers

- Section 1115 waivers have been used to make changes to eligibility, benefits, cost sharing, delivery systems, and supplemental payments
- These waivers must be budget neutral
- States and the federal government must seek meaningful public input
- Section 1115 waivers are subject to periodic reporting and evaluation

Interaction between Medicaid and Section 1332 Waivers

- No Medicaid provisions can be waived under a 1332 waiver
- CMS is required to coordinate waiver requests
 - Center for Medicaid and CHIP Services (CMCS)
 - Center for Consumer Information and Insurance Oversight (CCIIO)
 - Treasury
- Assessment of 1332 waivers takes into account effects on Medicaid (while holding Medicaid policies constant)

Challenges

- Savings from one program can not be used to meet budget/deficit neutrality in the other
- The federally facilitated exchange platform can not accommodate different rules for different states
- The IRS also cannot administer different rules for different states



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