Comparing Section 1332 and Section 1115 Waivers

Medicaid and CHIP Payment and Access Commission
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March 31, 2016
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 cannot be used to meet budget/deficit neutrality in the other
• The federally facilitated exchange platform cannot accommodate different rules for different states
• The IRS also cannot administer different rules for different states
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