SECTION 1332 of the Affordable Care Act

WHAT ARE 1332 WAIVERS?

Section 1332 waivers allow states to waive requirements of the ACA pertaining to:

- Insurance marketplaces
- Premium tax credits and cost-sharing reduction payments
- Individual & employer mandates
- Qualified health plan requirements

This gives states greater flexibility to pursue alternative approaches to providing coverage in the individual and small group markets.

Section 1332 also allows money the federal government would have spent on premium tax credits, cost sharing reductions, and small employer tax credits to help fund the state’s program.

CONGRESS COULD STREAMLINE THE PROCESS

CURRENT PROCESS

Engage key stakeholders and pass required authorizing legislation before applying for 1332 waiver.

Determine approach, draft waiver application, and schedule pre-application hearings:
- Actuarial analysis, economic impact study.
- Internal review of application materials.
- Tribal outreach, if applicable.

Publish application for public comment. Hold public hearings, incorporate public comments, and submit application to HHS.

HHS reviews waiver application for up to 6-7 months.

45 days for application completeness review

180 additional days to evaluate application

STREAMLINED PROCESS

PRIOR TO DRAFTING WAIVER APPLICATION

A

B

C

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16

MONTHS

Options:
- Eliminate or modify requirement for state legislation to apply for waiver.
- Develop model legislation for use by states interested in developing 1332 waivers.

Provide planning funding to help states secure necessary contracts.

States could adapt proposal language that has already been approved by HHS for expedited review.

Decrease public comment period from the requisite 30 days.

Reduce time for HHS application completeness review and application evaluation.

SOURCES: Centers for Medicare & Medicaid Services (CMS), National Conference of State Legislatures

STATUS OF STATES’ ACTION AROUND 1332 WAIVERS

- Approved Waiver (4)
- Waiver Application Submitted, with Legislation (4)
- Waiver Application Submitted, Without Legislation (1)
- Public Draft of Application (1)
- Authorizing Legislation Passed, Waiver Application in Process* (5)
- Authorizing Legislation Passed, Vetoed (2)
- Legislation Filed, Did Not Pass (12)
- No Legislation or Waiver Application (22 including Washington, D.C.)

*Note that the effect of state laws vary considerably.

SOURCES: National Conference of State Legislatures (NCSL), Oliver Wyman Health, State Health Reform Assistance Network

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