



State Innovation Waiver Consideration Update

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Overview of ACA Section 1332



- Today we will be briefing the Board on Section 1332 of the Affordable Care Act (ACA), also known as “state innovation waivers”
- These waivers give states flexibility to modify portions of the ACA, and instead pursue alternative paths to the overall goal of the law: expanding access to health coverage
- Waivers can:
 - Be broad or narrow, within the parameters set by Section 1332 and final regulations published in 2012
 - Take effect starting January 1, 2017 or after
 - Allow a state to receive the federal subsidies its residents would have received, if the state gets approval to use the funds differently

The Health Connector's Role



- The Administration asked the Health Connector, given its role in ACA implementation and the scope of innovation waivers, to lead exploration of the Commonwealth's consideration of a potential Section 1332 waiver
 - The General Court recently affirmed this request (Ch. 119, Sec. 20 of the Acts of 2015)
- The beginning steps of this consideration have involved active solicitation of stakeholder engagement, as well as discussion among policy, operational, and program staff at the Health Connector and sister agencies
 - To date, we have been working with the Division of Insurance (DOI), the Executive Office for Administration and Finance (ANF), the Executive Office of Health and Human Services (EOHHS), MassHealth, the Center for Health Information and Analysis (CHIA) and the Group Insurance Commission (GIC)
 - Staff from the Legislature, the Governor's Office and the Attorney General's Office have also regularly attended and participated in stakeholder engagement meetings

Areas for State Flexibility



ACA Topic & Citation	Examples of Provisions That May Be Waived
<p>Benefits and Exchange Subsidies</p> <p>(Title 1, Subtitle D, Part 2) (Title 1, Subtitle E, Section 1401/36B of the IRC and Section 1402)</p>	<ul style="list-style-type: none">▪ Essential Health Benefits▪ Cost-sharing limitations▪ Metallic tiers▪ Individual and group market definitions▪ Premium tax credits and cost-sharing reduction subsidies
<p>Exchanges and Qualified Health Plans</p> <p>(Title 1, Subtitle D, Part 1)</p>	<ul style="list-style-type: none">▪ Exchange structure and role▪ Eligibility for Qualified Health Plans▪ Criteria for Qualified Health Plans
<p>Individual Mandate and Employer Mandates</p> <p>(Title 1, Subtitle E, Section 1501/5000A of IRC) (Title 1, Subtitle E, Section 1513/4980H of IRC)</p>	<ul style="list-style-type: none">▪ Minimum Essential Coverage requirement▪ Tax penalty for individuals who fail to maintain coverage▪ Tax penalty for employers who fail to maintain coverage for their full-time employees

Some Provisions Cannot Be Waived

- Section 1332 does not extend to other portions of the ACA, such as:
 - Insurance market reforms, e.g., nondiscrimination
 - Rating factors applicable to merged market
 - Risk-spreading mechanisms, e.g., risk adjustment
 - Revenue provisions, e.g., the “Cadillac Tax”
- All Section 1332 waivers must meet four “guardrails”:

Scope of Coverage

Must provide coverage to at least as many people as the ACA

Comprehensiveness

Must provide coverage at least as “comprehensive” as Exchange

Affordability

Must provide “coverage and cost-sharing protections against excessive out-of-pocket” spending at least as affordable as Exchange

Federal Deficit

Must not increase the federal deficit

Steps in Waiver Process

State Planning

- Obtain legislative authority to apply for and implement a waiver (✓)
- Determine if waiver is needed to achieve policy goals
- Draft waiver application, including:
 - Rationale
 - Actuarial and economic analysis
 - Implementation timeline
 - 10-year budget
- Provide a meaningful public notice and comment period, including:
 - Pre-application hearings
 - Consultation with tribes

HHS Approval

- Coordinate with Treasury
- Conduct a preliminary review for application completeness within 45 days
- Conduct federal notice and comment period
- Review and approve or reject the application within 180 days of deeming complete (runs concurrent with federal notice and comment period)

Implementation

- Waiver may be implemented starting in 2017 and can last five years, with option of renewal
- Waiver may be amended
- State must hold a public forum within six months of implementation
- State must submit quarterly and annual reports to HHS
- HHS must conduct periodic evaluations
- Either state or HHS can suspend or terminate waiver, with limited close-out costs awarded to state

Stakeholder Process to Date

- Outreach to other states exploring Section 1332
- Ongoing dialogue with state partners
- Distribution list and webpage: www.MAhealthconnector.org/state-innovation-waiver
- Public meetings with consumer, issuer, provider, broker, business and labor representatives

Date	Topic
Introductory Forum Wed., Oct. 7, 3-4:30 PM	<ul style="list-style-type: none"> ▪ Overview of Section 1332 and stakeholder process
Open Policy Forum # 1 Friday, Oct. 16, 9-11 AM	<ul style="list-style-type: none"> ▪ Individual mandate ▪ Employer mandate
Open Policy Forum # 2 Friday, Oct. 23, 9-11 AM	<ul style="list-style-type: none"> ▪ Exchange and qualified health plan structure ▪ Individual and group market structure ▪ Essential health benefits
Open Policy Forum # 3 Friday, Oct. 30, 9-11 AM	<ul style="list-style-type: none"> ▪ Exchange subsidies ▪ Exchange eligibility ▪ Other aspects of Exchange coverage
Roll-up and Next Steps Friday, Nov. 6, 9:30-11 AM	<ul style="list-style-type: none"> ▪ Roll-up of discussion to date ▪ Revisit timeline for application, including topics for in-depth sessions

Initial Policy Areas of Interest



Issue	Initial Policy Areas for Further Exploration
Individual and Employer Mandates	<ul style="list-style-type: none"> • Streamline the federal individual mandate to address redundancy with state individual mandate • Streamline employer reporting of employee Minimum Essential Coverage
Metallic Tiers	<ul style="list-style-type: none"> • Develop state approach to components of metallic tiers and actuarial value requirements, such as flexibility in permitted de minimus variation
Small Employer Coverage Options	<ul style="list-style-type: none"> • Refine the choices available for employers and employees in the Small Business Health Options Program (SHOP) (e.g., flexibility for “microgroup” employers to contribute to employees’ purchase of individual coverage)
Small Group Rating Timing	<ul style="list-style-type: none"> • Maintain quarterly rate filing for small group plans in merged market
Individual Eligibility	<ul style="list-style-type: none"> • Streamline eligibility and income rules between MassHealth and the Health Connector
Subsidy Mechanism	<ul style="list-style-type: none"> • Modify subsidy mechanism to buffer enrollees from complexities of premium tax credits and reconciliation, while maintaining same subsidy level
Family Affordability	<ul style="list-style-type: none"> • Measure “affordability” of employer-sponsored insurance in a manner that incorporates total cost of family coverage
Continuity of Coverage	<ul style="list-style-type: none"> • Modify approach to “grace period” for enrollees receiving premium tax credits to prevent retroactive terminations of coverage

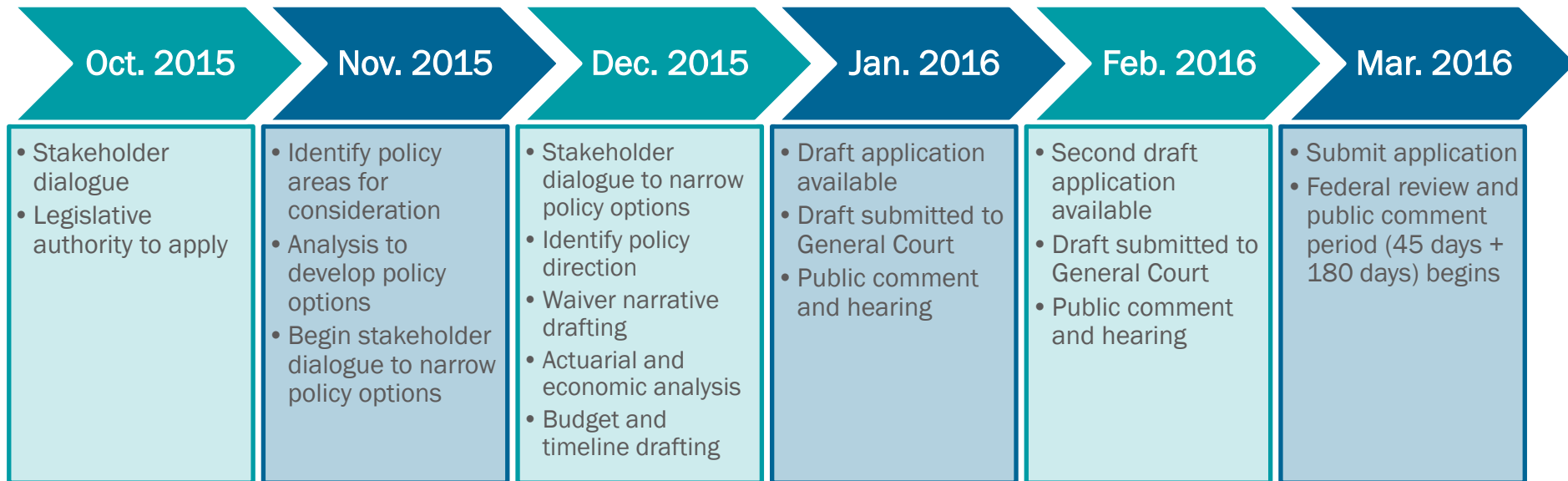
Policy Evaluation Framework



	Element	Description
State-Based Principles	Affordability of Coverage	Creating a consumer-centric approach to ensuring that all Massachusetts residents avail themselves of available health insurance subsidies to make health care affordable to as many people as possible
	Appropriateness of Coverage	Offering appropriate health insurance coverage to eligible individuals and employers by defining both the populations affected and the health benefits that meet their needs
	Continuity of Coverage	Focusing on simplicity and continuity of coverage for members by streamlining coverage types , thereby making noticing and explanation of benefits more understandable, and also minimizing disruptions in coverage
	Integrated Eligibility	Creating a single, integrated process to determine eligibility for the full range of health insurance programs, including Medicaid, Children’s Health Insurance Program (CHIP) and premium tax credits and cost-sharing subsidies
	State Fiscal Responsibility	Working within state fiscal realities and making effective use of available federal funding
	Administrative Efficiency	Creating an efficient administrative infrastructure that leverages technology and eliminates administrative duplication
	Health Systems Transformation	Creating opportunities to achieve payment and delivery system reforms that ensure continued coverage, access and cost containment and improve the overall health of the populations served
	Precedent & Stability	Building off the lessons learned since passage of Chapter 58 and ACA implementation, mindful of multiple years of implementation and transition for consumers and stakeholders
ACA 1332	Scope of Coverage	Will provide coverage to at least a comparable number of its residents as under Title I of the ACA
	Comprehensiveness of Coverage	Will provide coverage that is at least as comprehensive as the coverage defined in Section 1302(b) of the ACA and offered through Exchanges
	Affordability of Coverage	Will provide coverage and cost-sharing protections against excessive out-of-pocket spending that are at least as affordable as under Title I of the ACA
	Federal Deficit Neutrality	Will not increase the federal deficit

Potential Timeline for Exploration

- Massachusetts may consider submitting a limited-scope waiver by spring 2016



- Waiver could begin at time appropriate for policy and implementation needs

Next Steps

Date	Topic
November 2015	<ul style="list-style-type: none">▪ Outreach to stakeholders not yet involved, e.g. tribes▪ Continue policy analysis and engagement with external stakeholders, interest groups and Board members to identify more targeted policy options for consideration
December 2015	<ul style="list-style-type: none">▪ Develop pre-proposal policy direction to vet with stakeholders and test for consensus▪ If sufficient interest and consensus: begin possible waiver drafting and possible engagement of actuarial and economic modeling vendors
Early 2016 (exact timing TBD)	<ul style="list-style-type: none">▪ Possible release of draft waiver application for public comment and hearing▪ Possible release of second draft waiver application for public comment and hearing
Federal review period (up to 7.5 months by law)	