



State Innovation Waiver Update

AUDREY MORSE GASTEIER
Director of Policy and Outreach

EMILY BRICE
Senior Policy Advisor on State Innovation Waivers

Board of Directors Meeting, January 14, 2016

Overview of ACA Section 1332



- Today we will update the Board on progress exploring an “innovation waiver” under Section 1332 of the Affordable Care Act (ACA), including a proposed initial waiver to stabilize small group plans by maintaining status quo timing of rating and enrollment
- 1332 waivers offer states flexibility to develop alternatives to specific provisions of the ACA, including:
 - Exchange marketplace structure, offerings and subsidies
 - Merged market plan design and benefits
 - Individual and employer mandates
- States must demonstrate that a proposed waiver meets equivalency safeguards:

Scope of Coverage

Must provide coverage to as many people as the ACA

Comprehensiveness

Must provide coverage as comprehensive as the ACA

Affordability

Must provide coverage as affordable as the ACA

Federal Deficit

Must not increase the federal deficit

Update on Federal Guidance

- Previous federal guidance in 2012 was largely procedural
- Guidance issued in December 2015 offered new detail about federal standards for waiver applications, indicating high expectations of states seeking a waiver:
 - States must consider potential impact of waiver on vulnerable populations, not just population as a whole
 - States must consider deficit neutrality broadly, including changes in revenue and indirect spending as well as direct spending
 - States may not consider “cross-waiver” savings in demonstrating deficit neutrality
 - States seeking “pass-through” funds may not “claim” federal administrative savings
 - The Internal Revenue Service (IRS) is unable to administer different rules for different states – state may propose to waive tax provisions entirely if state assumes administration, but IRS cannot administer an alteration to the provision
- Recent guidance is subregulatory and may evolve over time (e.g., as federal agencies gain capacity to accommodate state differences)

Update on Stakeholder Process



- Extensive stakeholder engagement throughout fall 2015:
 - Website and distribution list
 - Seven public stakeholder meetings
 - Open call for comment (Comments to date: Massachusetts Association of Health Plans, Blue Cross Blue Shield, ACT!!, Health Care for All, Massachusetts Hospital Association, Boston Medical Center Health Plan)
 - Open door for one-on-one meetings, with request that feedback is also raised publicly
 - Additional outreach to key stakeholders (e.g., tribes, General Court, Congressional staff)
 - Transparent policy evaluation framework and process
- Stakeholder themes to date:
 - Desire for greater simplification for individuals and employers
 - Remaining concerns about affordability for individuals and employers
 - Interest in a period of stability before undertaking additional systemic reforms

Phased Waiver Strategy

- Given recent federal guidance and stakeholder feedback, we recommend considering a phased waiver strategy:

Issues for Phase 1 Application

- Enjoy broad consensus;
- Could be analyzed fully within a relatively brief timeframe; and
- Does not require extensive implementation planning prior to application

Issues for Phase 2 Application

- Require lengthier and more detailed stakeholder feedback;
- Require extensive analysis; or
- Require complex implementation planning prior to application

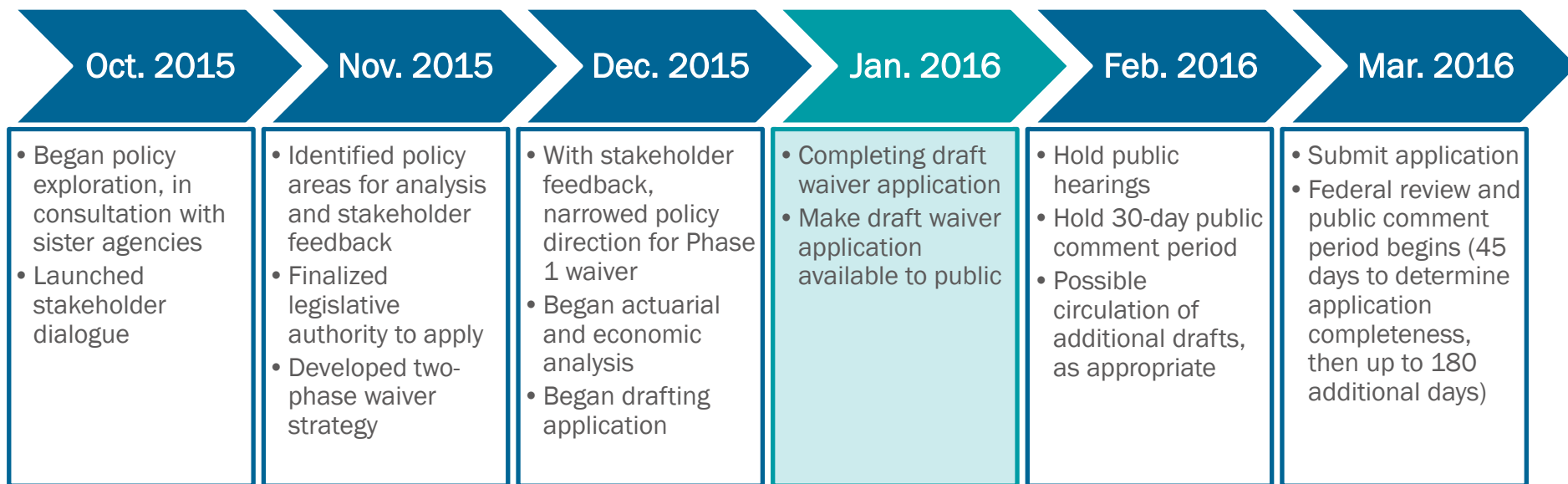
- Factors supporting a phased strategy:
 - Stakeholder desire to approach complex changes with careful and thoughtful planning
 - Recent federal guidance indicates high bar for federal review
 - Mindful of continuity and capacity issues with upcoming federal administrative change
 - Not aware of any federal limit on multiple waiver applications

Phase 1 Topic: Small Group Timing

	Description
Context	<ul style="list-style-type: none">• In states with a single risk pool for the small group market, issuers may file index rates: (1) annually, (2) annually with quarterly trend updates or (3) annually and quarterly. Issuers may enroll groups on a rolling basis throughout the year• Per ACA, in states with a merged market, issuers may only file index rates: (1) annually or (2) annually with quarterly trend updates. Issuers may only enroll groups on a calendar year basis
Issue	<ul style="list-style-type: none">• Starting in 2018, issuers of small group plans can no longer file quarterly rates and sell small group plans on a rolling basis. This issue is unique to MA and other merged market states (VT, DC)• The change could disrupt the small group market, including: (1) higher premiums as issuers rate more cautiously, (2) fewer choices for employers during the year and (3) member disruption due to shortened plan years in initial “change-over”
Approach	<ul style="list-style-type: none">• Seek a waiver to make a limited modification to the definition of the merged market, such that MA could maintain a single risk pool for the merged market while maintaining select features unique to the small group market: rolling enrollment and quarterly rating. This would preserve the status quo in MA’s market
Rationale	<ul style="list-style-type: none">• Could contribute to rate stability at a time when other items are in flux – e.g., transition to ACA-compliant rating factors, end of risk corridors and reinsurance• Could minimize coverage disruptions, e.g., shortened plan years for groups with mid-year anniversary dates• Could be implemented with virtually no administrative burden or cost to state, issuers or employers• Would maintain shared calendar-year rating for broader merged market
Areas for continuing analysis	<ul style="list-style-type: none">• With support from Division of Insurance and actuarial vendor, modeling likelihood of volatility in small group costs, with and without waiver





Phase 1 Application Timeline

- Massachusetts is preparing to submit a limited-scope waiver in Spring 2016



- Phase 1 waiver limited to timing of rating and enrollment for small group plans
- If approved, this waiver could begin as soon as January 1, 2017

Phase 1 Upcoming Key Dates

1/25 - 1/29	2/1 - 2/5	2/8 - 2/12	2/15 - 2/19	2/22 - 2/26	2/29 - 3/4	3/7 - 3/11
 Friday, 1/29 - Public Release Draft 1						
<div data-bbox="48 692 454 1063" style="border: 1px dashed black; padding: 10px;"> <p>Official Public Comment Period: 1/29 - 2/29 (Comments also accepted before and after)</p> </div>	 Friday, 2/5 - Hearing 1, Boston		 Friday, 2/19 - Hearing 2, Springfield			
<div data-bbox="19 1335 511 1392" style="border: 1px dashed black; padding: 5px;"> <p>Draft - Dates subject to change</p> </div>						 Monday, 3/7 - Submit

Continued Section 1332 Exploration



- Concurrent with Phase 1 application preparations, the Health Connector continues active exploration of additional policy issues raised by stakeholders, such as:
 - Impact of federal actuarial value calculator on plan design in merged market
 - Scope of eligibility gaps that prevent some lower-income residents from accessing subsidies
- As Phase 1 application process winds down, the Health Connector will ramp up exploration of a possible Phase 2 waiver application:
 - Dialogue with state and federal partners about timing
 - Ongoing policy analysis and stakeholder conversations
- Expect to return to the Board in spring with an update:
 - Update on progress of Phase 1 application following public comment period
 - Update on Phase 2 exploration and analysis