SEPTEMBER 2019

Insight on the Issues

Health Insurance State Innovation Waivers and Older Adults: A Guide for States

Olivia Dean and Jane Sung
AARP Public Policy Institute

Section 1332 State Innovation Waivers, named after the section of the Affordable Care Act that created them, are intended to allow states to implement innovative strategies to provide health coverage for their residents. This *Insight on the Issues* provides a guide for states to understand the landscape and history of these waivers and how they can impact older adults.

Background

Section 1332 of the Affordable Care Act (ACA) allows states to seek and receive approval to waive certain parts of the ACA through State Innovation Waivers.[1] These waivers were originally intended to give states flexibility to implement innovative or alternative approaches to improve health insurance coverage for their residents. As of September 2019, several states have received federal approval for waivers.

Acknowledging that states have unique health care markets and may be able to achieve the ACA's health reform goals through various means, the ACA included State Innovation Waivers as a way for states to implement different approaches to health coverage while maintaining the law's core consumer protections. States have been able to apply for waivers since early 2017. The departments of Health and Human Services (HHS) and Treasury approve or reject waiver applications based on whether they meet certain requirements, as discussed in the next section.

Through this *Insight on the Issues*, we provide a guide to help states understand and evaluate State Innovation Waivers and their potential impact on older adults, as well as recommend steps to help protect and improve coverage for older adults. The paper is divided into five overarching steps:

1. Learn How a State Innovation Waiver Works,
2. Recognize Opportunities to Improve Coverage: Reinsurance and Other State Waivers,
3. Approach Recent Federal Guidance with Caution: Protecting Older Adults,
4. Understand the Waiver Process and Public Input Opportunities, and
5. Keep an Eye on Federal Activity.

DIFFERENT NAMES, SAME MEANING

While this paper uses the term *State Innovation Waivers*, these waivers are also commonly referred to as section 1332 waivers, 1332 waivers, or State Relief and Empowerment Waivers (as renamed by the Trump administration in October 2018).

AARP Real Possibilities

1. Learn How a State Innovation Waiver Works

What Can States Waive?
States can use State Innovation Waivers to remove or modify certain parts of the ACA (figure 1). However, in order to ensure states do not weaken the core protections of the ACA, several ACA provisions *cannot* be changed through a waiver. To date, most states with approved waivers have chosen to modify financial assistance provisions (which provide for premium tax credits and cost-sharing reduction subsidies).

What are the Protections in the Law?
While section 1332 of the ACA authorizes waivers that could potentially alter significant parts of the ACA, it also contains important safety mechanisms to ensure that waivers do not unravel or undermine the ACA's core reforms.

Section 1332 established four "guardrails" that limit the way waivers may be used by states and are designed to protect consumers. The departments of HHS and Treasury may grant a waiver only if they determine that the state's waiver plan meets these guardrails (figure 2).

FIGURE 1
State Innovation Waivers Can be Used to Change Certain Affordable Care Act (ACA) Provisions

Waivable Provisions	Non-waivable Provisions
Qualified Health Plans These are requirements that health plans must meet in order to be offered, including Essential Health Benefit requirements to cover a specified set of minimum benefits and limits on cost sharing.	**Guaranteed Issue** This provision requires insurance companies to offer coverage without regard to health or preexisting conditions.
Health Insurance Marketplaces These requirements govern how plan choices are offered to consumers.	**Premium Rating Protections** These include provisions that prohibit insurers from a) charging older adults more than three times the amount they charge younger people for the same plan ("age rating") and b) charging higher premiums on the basis of a person's health or preexisting condition.
Premium Tax Credit and Cost-Sharing Reductions This provision provides premium tax credits and cost-sharing reductions to people with incomes between certain ranges to make coverage more affordable.	**Lifetime and Annual Limit Ban** This provision ends the previous insurance company practice of setting lifetime and annual dollar caps on coverage.
Employer Shared Responsibility This provision requires employers with 50 or more employees to offer affordable health coverage.	**No Copays for Preventive Care** This provision requires insurers to cover preventive care services without copayments.
Individual Shared Responsibility This provision requires individuals to maintain minimum essential coverage.*	**Young Adult Coverage** This provision requires insurers to allow children up to age 26 to remain on their parents' plan.

** While the individual shared responsibility provision remains in federal law, Congress eliminated penalties associated with the requirement in December 2017 as part of the Tax Cut and Jobs Act, effective January 2019.*

FIGURE 2
State Innovation Waivers Must Meet Guardrails

COMPREHENSIVENESS	• Waiver provides coverage that is at least as comprehensive in covered benefits as would be provided without the waiver.
AFFORDABILITY	• Waiver provides coverage that is at least as affordable as would be provided without the waiver.
COVERAGE	• Waiver provides coverage to at least a comparable number of residents in the state as would be provided without the waiver.
COST	• Waiver does not increase the federal deficit.

In summary, waivers must ensure the coverage provided in a state is at least as comprehensive (as the ACA's Essential Health Benefits), at least as affordable, and cover at least as many people as would coverage without the waiver—without costing the federal government more. These guardrails are meant to ensure waivers maintain the ACA's key objectives and protections.

The ACA also establishes procedural requirements to ensure strong state support and opportunity for meaningful public input (discussed in step 4). To ensure accountability, the ACA also requires state reporting and periodic evaluation.

What Criteria Does the Federal Government Use in Approving Waivers?

While the guardrails are specified in the ACA federal statute, the departments of HHS and Treasury have exercised discretion in how they implement the law and how they approve or reject state waivers. The federal agencies in both the current and previous administration have issued supplementary guidance to states about waiver procedures and requirements.

Previous guidance issued under the Obama administration in 2015 outlined criteria that the federal agencies at that time would consider in assessing whether a waiver application violated any

2018 FEDERAL GUIDANCE PRINCIPLES

The October 2018 guidance states that secretaries of HHS and Treasury will "consider favorably" waivers that advance some or all of the following principles:

1. **Increase access to affordable private market coverage**, including association health plans and short-term limited-duration plans, rather than public coverage.
2. **Restrain growth in federal spending**, including reducing state regulation that may discourage insurers from entering markets.
3. **Foster innovative state approaches** that meet local consumer and market needs.
4. **Support and empower those in need**, such as people with low incomes and those with high health costs.
5. **Promote consumer-driven health care** by including incentives to encourage consumers to seek higher value coverage.

of the law's guardrails.[2] In October 2018, the Trump administration released new guidance to replace the previous guidance. The 2018 guidance made significant changes to the prior administration's interpretations of the law, with one of its goals to give states greater flexibility to satisfy guardrails (table 1).[3] This guidance was followed by the release of four waiver concepts in November 2018 and detailed papers on these waiver concepts in July 2019, which provided some potential examples for states to consider in using the new federal flexibility.[4,5] Step 3 of this paper describes the potential impact of this guidance on older adults in more detail.

TABLE 1
Past and Present State Innovation Waiver Guidance

2015 Waiver Guidance	2018 Waiver Guidance
• **Specified protection for vulnerable populations such as the elderly** HHS and Treasury departments must take into account a proposed waiver's impact on different groups of state residents, including vulnerable populations like the elderly, people with low incomes, and people at risk for serious health problems. Waivers that reduce comprehensiveness, affordability, or coverage for vulnerable groups may not be approved.	• **No specified protection for vulnerable populations such as the elderly** HHS and Treasury departments only consider the impact on the population of state residents as a whole, and no longer have to consider impact on vulnerable populations. A waiver that provides less affordable or less comprehensive coverage for some groups, such as older adults, could still be approved so long as it is comprehensive or affordable for state residents as a whole.
• **Consideration of *enrollment in* affordable, comprehensive coverage** State waivers must show that a comparable number of residents would be forecast to enroll in affordable, comprehensive coverage under the waiver as would have without the waiver.	• **Consideration of *availability* of affordable, comprehensive coverage** State waivers need only show the *availability* of comprehensive and affordable coverage but do not have to demonstrate predicted enrollment in such coverage. As long as the coverage is available, it does not matter how many people are actually likely to enroll in it.
• **Comprehensive definition of coverage** In estimating coverage, states *cannot* include plans that do not meet the ACA's minimum essential coverage standards, such as short-term limited-duration plans and association health plans.	• **Relaxed definition of coverage** In estimating coverage, states *can* include plans that do not meet the ACA's minimum essential coverage standards, such as short-term limited-duration plans and association health plans. These plans are not required to cover people with preexisting conditions and can charge older adults more than three times what they charge younger adults for the same coverage. The guidance also allows tax credits to be used for purchasing these plans.

2. Recognize Opportunities to Improve Coverage: Reinsurance and Other State Waivers

State Innovation Waivers can provide opportunities to improve access to and affordability of coverage, including for older adults. While states may innovate and develop unique proposals, they can also learn from what other states have already done.[6]

State Waiver Activity

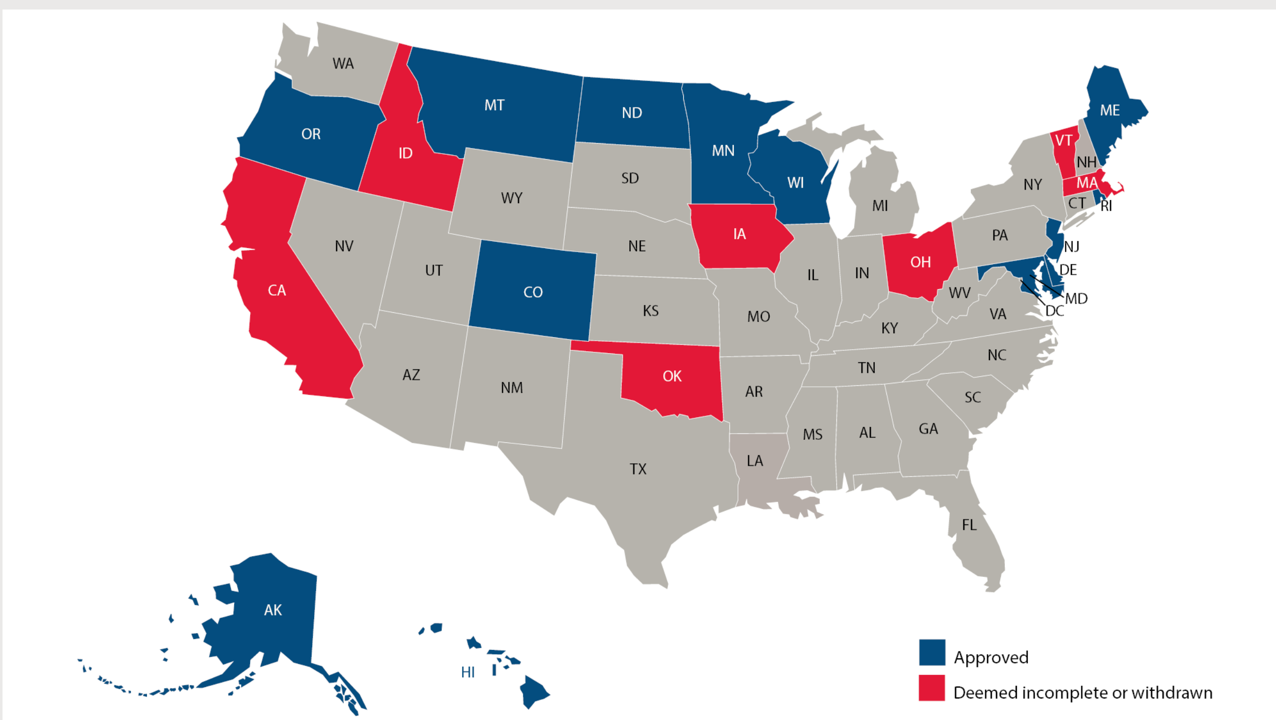
As of September 4, 2019, thirteen states have received State Innovation Waivers (figure 3). Seven have either received rejections or withdrawn the waivers themselves.

State waivers approved so far have been relatively limited in scope, but that may change in the future given the latest federal guidance. Even though waivers could conceivably make sweeping changes to the ACA, states that have received approvals thus far have pursued more targeted changes to their health insurance markets.

Hawaii became the first state to receive a waiver approval on December 30, 2016, but its waiver was limited to accommodating state-specific reforms (employer market) already in place prior to the ACA.[7] All subsequent state waivers that have been approved to date have focused on establishing state reinsurance programs to help stabilize state individual health insurance markets (discussed later in Step 2).

Only a few waivers have been proposed or explored that would implement somewhat broader reforms, though none of these have been approved yet. Some were withdrawn or not submitted for federal approval. For example, in 2016 California submitted a waiver to expand access to unsubsidized coverage on the state Marketplace to undocumented immigrants,[8] but the state subsequently decided to withdraw the waiver in January 2017. In July 2019,

FIGURE 3
Status of State Innovation Waivers as of September 4, 2019



Idaho submitted a waiver that would allow certain Medicaid-eligible residents to enroll in qualified health plan, but it was deemed incomplete in August 2019.

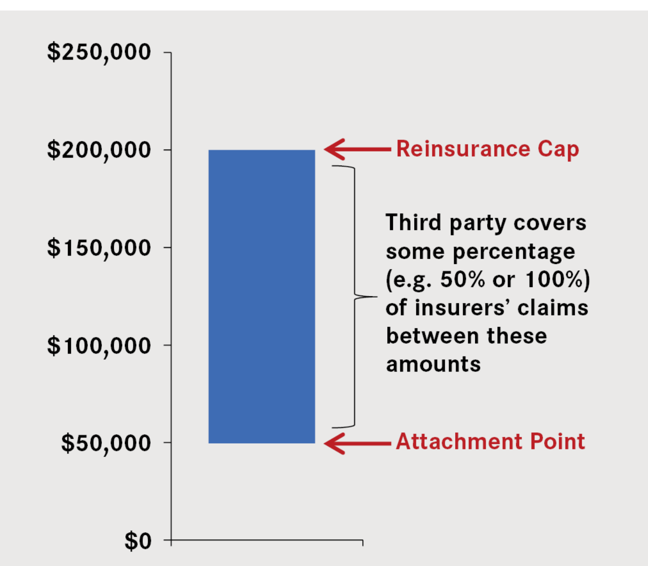
Waiver Opportunity: Implementing Reinsurance

One positive way states can use waivers to improve affordability of individual market premiums is to implement state reinsurance programs. To date, the vast majority of approved waivers—twelve out of thirteen—have focused on establishing such state funds.

Reinsurance protects health insurers from unpredictable and high health care claims, and thus allows insurers to set lower premiums and helps provide market stability. Reinsurance programs have been effective in reducing individual market premiums, increasing enrollment, and retaining insurer participation.[9]

States' reinsurance programs vary in their approach. In a **traditional reinsurance program**, a reinsurer (usually a third party) pays for a portion of the costs starting when an individual's health insurance claims exceed a certain threshold, called an attachment point, until the claims reach a cap (figure 4). These attachment points and caps often vary widely by state.

FIGURE 4
Traditional Reinsurance Example



DID YOU KNOW?

The ACA included a temporary federal reinsurance program for three years: 2014, 2015, and 2016. It was created to provide premium stability while the new law was getting started and insurers had little-to-no history on which to base expectations about claims. After those three years passed and the federal reinsurance program sunset, insurer uncertainty without the guarantee of a federal reinsurer led to premium increases, particularly in 2017 and 2018 as insurers adjusted assumptions. That proved to be a catalyst for waiver activity at the state level.

For example, in Minnesota, the reinsurance program pays 80 percent of claims above an attachment point of $50,000, up to a cap of $250,000. In Oregon, the program will pay 50 percent of claims between an attachment point of $90,000 and a cap of $1 million.

In a **condition-based reinsurance program**, also sometimes referred to as an *invisible high risk pool*, a reinsurer pays an insurer's claims for specified health conditions rather than reimbursing based on a dollar threshold and cap. Enrollees with health conditions who insurers believe will be particularly expensive are "ceded" into these "invisible" high-risk pools, which pay the health care costs for these high-risk enrollees above a certain threshold. Some states, like Maine, combine a condition-based approach with a traditional approach.

Reinsurance programs can be helpful in stabilizing health insurance markets in states experiencing unaffordable premiums or insurers dropping out of the market. Reinsurance programs have proven successful in several states and can help reduce premiums and improve access to coverage for enrollees, including older adults.[10] An analysis by Avalere found that states with their own reinsurance programs see an average 19.9% drop in individual market premiums in their first year.[11]

One of the biggest challenges to implementing a state reinsurance program is securing and then maintaining a state funding source. Although they can access pass-through of federal ACA tax credit funds (see explanation of Alaska waiver), state reinsurance waivers have generally also included a source of state funding,[12] which can be challenging to identify and maintain.

12 out of 13 approved waivers have established state reinsurance funds.

LOOKING BACK: WHICH STATE WAS FIRST?

In July 2017, **Alaska** became the first state to get a State Innovation Waiver approved. Under the waiver, Alaska designed and implemented a reinsurance program to better distribute costs of high-cost enrollees and lower premiums. Alaska worked with the Centers for Medicare & Medicaid Services (CMS) to find a way to access pass-through federal funds, a critical piece of Alaska's waiver and subsequent state waivers. The pass-through funding comes from the federal government and is equal to the amount of funds that would have otherwise been provided to consumers and businesses through tax credits and cost-sharing subsidies had the waiver not been implemented.

Minnesota and Oregon soon followed Alaska's lead and had waivers approved in September and October 2017, respectively, to implement state reinsurance programs. Several other states have recently had waivers approved to establish reinsurance.

3. Approach Recent Federal Guidance with Caution: Protecting Older Adults

While State Innovation Waivers offer opportunities for states to make positive changes to their individual health insurance markets, recent federal guidance also opens the door to allowing states to pursue new types of waivers that could have a potentially harmful impact on older adults. When evaluating new waiver proposals, states should be aware of several potential areas for concern.

Concern 1: Weaker protections could negatively affect older adults.

New flexibilities under the recent federal guidance have the effect of weakening guardrail protections. States should be aware that new waivers that negatively affect older adults could potentially be approved under the latest guidance. While states are no longer required to evaluate the potential impact of a waiver on older adults and other vulnerable groups, states that want to ensure protections for older adults should continue to examine a waiver's impact on such groups.

Concern 2: Waivers could encourage proliferation of non–ACA compliant plans.

The new guidance could allow waivers that promote the purchase of non–ACA compliant insurance, such as short-term limited-duration health plans and association health plans. The waiver concepts released also encourage states to allow premium tax credits to be used to purchase these types of coverage, which could drive even more people towards non-compliant plans.

Expansion of non-compliant plans could result in fewer healthy people buying coverage in the ACA-compliant individual health insurance market and could be disruptive to the market. As a result, costs could increase for people who remain in the individual market, including older adults and people with preexisting conditions seeking coverage with ACA consumer protections.

Higher costs for those remaining in the individual market would make it particularly difficult for moderate-income older adults who may be ineligible for subsidies and would have difficulty affording premiums if they increased. Older adults already face premiums that are three times as high as those for younger adults for the same coverage, and even higher premiums could be unaffordable.

Waivers that promote non–ACA compliant plans should be closely analyzed to assess impact on older adults who purchase coverage in the individual market, including for those who do not qualify for subsidies.

CONCERNS WITH SHORT-TERM PLANS AND ASSOCIATION HEALTH PLANS

Both short-term plans and association health plans are not required to comply with the ACA, so they do not have to cover essential benefits, protect people with preexisting conditions, or adhere to premium rating consumer protections. While healthier enrollees may be attracted to these plans because they are cheaper, they may face high out-of-pocket health costs if an unexpected health issue arises that is not covered by their plan. Expansion of these plans could also disrupt the market and raise premiums for those remaining in ACA-compliant plans.

Concern 3: Waivers could make coverage less affordable.

As illustrated in waiver concepts released in November 2018,[13] states could also use State Innovation Waivers to propose alternative ways to offer tax credit premium assistance, which under the ACA is available to help lower-income people afford health insurance premiums. While not all changes to ACA tax credits are necessarily harmful, some proposals in recent years would have reduced tax credit assistance to many older adults had they been adopted.

One of the waiver concepts encourages states to consider alternative subsidy structures, including one suggestion of a fixed premium tax credit based on age. A similar proposal was central to the 2017 federal "repeal and replace" debate, when the proposed American Health Care Act would have replaced the ACA premium tax credit with a new age-adjusted flat tax credit.[14] Such a proposal would have significantly reduced premium assistance for many older adults.

In addition to these changes, the recent guidance also relaxes an ACA requirement that states enact authorizing legislation before pursuing a State Innovation Waiver. States can now use existing legislation in conjunction with enacted regulations or executive orders to enforce the ACA generally. While this procedural change may make it easier and faster for states to submit waiver applications, states should still ensure that there is adequate opportunity for meaningful public input.

4. Understand the Waiver Process and Public Input Opportunities

Prior to submitting an application to the departments of Treasury and HHS, the ACA requires that states enact authorizing legislation allowing the waiver to be implemented. As mentioned earlier, the latest federal guidance makes it easier for states to initiate the waiver process by allowing them to use existing legislation along with an executive order or enacted regulations for enforcing the ACA. Following the creation of an application comes a public notice and comment (including public hearings) stage, which must ensure a "meaningful level of public input."[15]

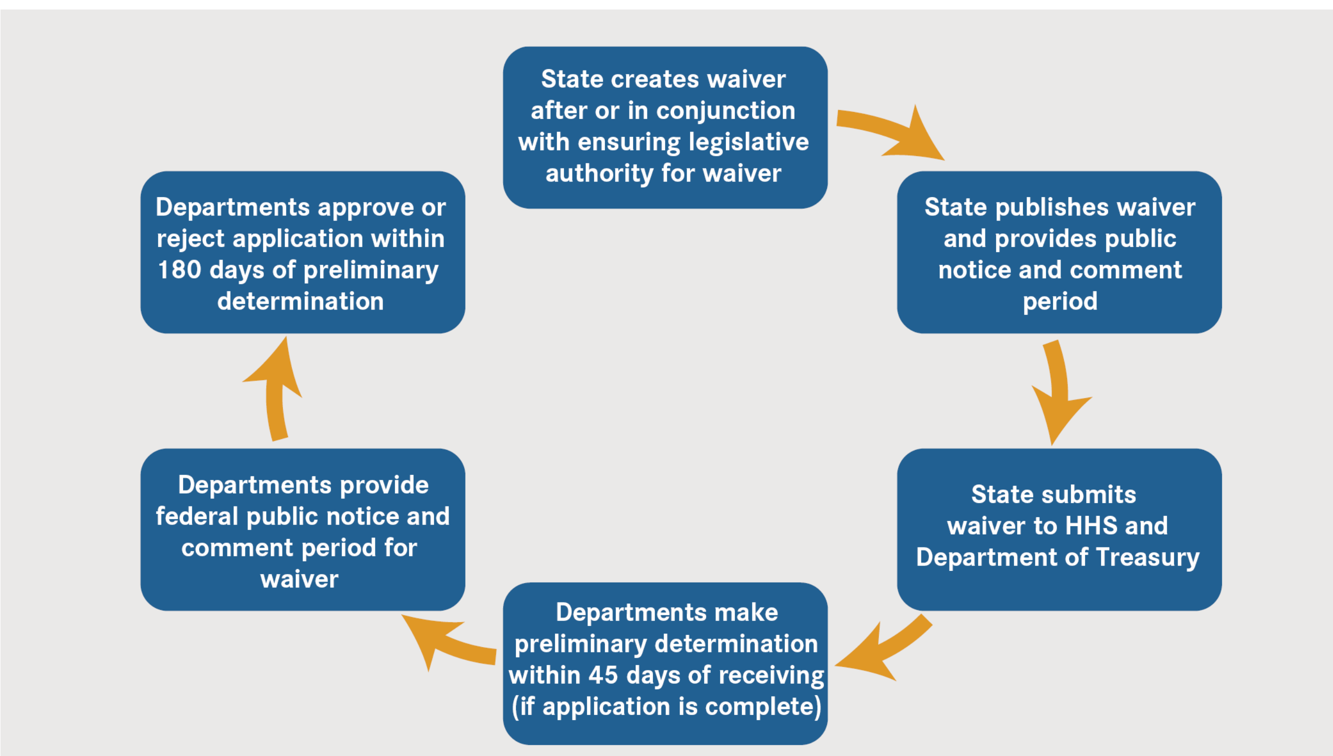
The ACA and its implementing regulations have established a number of steps states need to complete to gain federal approval for a State Innovation Waiver (figure 5).

First, states draft a waiver in conjunction with or after ensuring legislative authority. The waiver application must include several elements, including

State Innovation Waiver **applications must include** the following:[16]

- Public notice and comment period
- Enacted state legislation
- List of provisions the state plans to waive
- Information to determine the waiver meets the 1332 guardrails with actuarial support and economic analysis
- 10-year budget plan
- Implementation plan
- Reporting targets
- Principles discussion

FIGURE 5
State Innovation Waiver Application Process



actuarial and economic analyses that support the state's finding that the waiver complies with the law's guardrails. While no longer required under the recent guidance, states should ensure older adults and other vulnerable populations are included in the actuarial analyses and report the potential impact on these populations in their applications.

States submit the waiver applications to the departments of Treasury and HHS, which conduct a preliminary review within the first 45 days of receiving the application to determine if the application is complete.

While no additional federal funding is provided for State Innovation Waivers, the ACA does allow the federal government to provide pass-through funding for the amount of tax credits or cost-sharing reductions that would have been paid on behalf of Marketplace enrollees had the state not received a waiver.

Once the federal agencies deem a state's application complete, they conduct a federal public notice and comment period for the waiver. No more than 180 days after the application is determined complete, the departments of Treasury and HHS make a final decision, either approving or rejecting the waiver application.

Waivers are approved for periods of up to five years and are renewable. States are required to conduct periodic reviews of implementation of the waiver, and within six months of implementation must advertise and hold a public forum. States must also submit quarterly and annual reports to the departments of Treasury and HHS, and the departments will periodically evaluate the implementation of the waiver.

5. Keep an Eye on Federal Activity

States should be sure to keep an eye on federal activity related to State Innovation Waivers, as changes to federal law or guidance could have big impacts on access to and affordability of health coverage for older adults. Recently, policy makers and stakeholders have considered and advocated for changes to increase state flexibility in health insurance regulation, including promoting greater use of State Innovation Waivers.

What Has Happened?

In recent years, federal agencies have issued guidance to encourage states to submit State Innovation Waivers. For example, in March 2017, the departments of Treasury and HHS wrote to state governors encouraging states to submit waiver applications, focusing specifically on waivers that propose reinsurance programs.[17] In May 2017, CMS released a checklist to help states complete such waiver applications. In October 2018, CMS released new guidance, intended to replace the 2015 guidance, and changed the name of the waivers from *State Innovation Waivers* to *State Relief and Empowerment Waivers*. This was followed by the release of four accompanying waiver concepts in November 2018. In July 2019, CMS released detailed papers on the four waiver concepts plus waiver templates, along with an updated checklist for states.[18]

2017 PROPOSED FEDERAL LEGISLATION IMPACTING STATE INNOVATION WAIVERS

- **The Bipartisan Health Care Stabilization Act:** This ACA stabilization legislation included several proposed changes to expedite the approval process for State Innovation Waivers. States would no longer need to enact legislation before submitting a waiver application, and the waiver period could be extended to six years. The language around affordability would have been relaxed, though the bill still specified that waivers must maintain affordability for people who are low-income or have serious health needs, as well as other vulnerable populations (such as older adults). The bill would also have allowed other federal program costs to be included when calculating a waiver's impact on the federal deficit.
- **The Lower Premiums through Reinsurance Act:** This ACA stabilization legislation would have added funding for reinsurance programs that were created through State Innovation Waivers and provided an expedited approval process for such waivers.
- **The Better Care Reconciliation Act:** This ACA "repeal and replace" legislation, as introduced in the Senate, would have made major changes affecting State Innovation Waivers. It would have eliminated the section 1332 guardrails that require coverage to be as comprehensive and affordable and cover as many people as would have been covered without a waiver. The bill also proposed eliminating the HHS and Treasury secretaries' discretion to reject waivers for any reason other than that they increase the federal deficit. It would also have expedited the approval process for waivers and extended the waiver period, while forbidding secretaries to revoke a waiver once it was granted for any reason. Finally, the bill would have provided funds for states to establish reinsurance without a waiver.
- **American Health Care Act:** This ACA "repeal and replace" legislation, as introduced in the House of Representatives, would have provided funds for states to establish reinsurance without a waiver and would have established a federal invisible risk sharing program with funding made available for the period 2018–26. It would also have granted states new authority to waive the federal definition of Essential Health Benefits and specify their own definitions.

State Innovation Waivers were also a topic of consideration in 2017 as Congress debated ACA "repeal and replace" legislation. The major bills considered at the time included provisions that would have affected these waivers (see textbox). Other legislation was introduced in 2017 with the goal of stabilizing the individual health insurance market, and some of the provisions in those bills would have made changes to the waiver approval process. While none of these bills were ultimately enacted, it is helpful for states to know what was proposed in case similar proposals resurface in the future.

What Could Happen?

New guidance: While the State Innovation Waiver guardrails (discussed primarily in step 1) are enshrined in federal law, interpretations of how they operate in practice may continue to be modified by federal agencies. As discussed, recent administration guidance made changes to federal waiver guidance that weakened previous guardrail protections. However, the U.S. Government Accountability Office (GAO) stated in July 2019 that the guidance constitutes a rule that must be reviewed by Congress under the Congressional Review Act, raising the potential that the guidance could be overturned.[19]

New legislation: The State Innovation Waiver guardrails are embedded in statute, so they cannot be wholly eliminated or changed without a change in federal law. If Congress considers legislation to change or eliminate guardrails, it is critical that they ensure coverage, affordability, and comprehensiveness of benefits are maintained.

Policy makers could also propose other legislation that would allow states to waive other federal health insurance requirements, such as essential health benefits and the age rating ratio limit (which prevents insurers from charging older adults more than three times what they charge younger adults for the same coverage). Under current law, State Innovation Waivers cannot alter certain provisions and must abide by federal guardrails, but no such limitations would exist under such a law change.

While there is potential to make improvements to waiver authority, the types of changes to State Innovation Waivers listed above could permit waivers to be used to decrease affordability and comprehensiveness of health coverage for consumers, including older adults.

Summary

States play a central role in providing access to affordable, comprehensive health coverage for people who purchase coverage on their own in the individual health insurance market, including older Americans ages 50 to 64. They have a responsibility to ensure protection of their residents, including older adults and other vulnerable groups. Through State Innovation Waivers, states have the power to make big changes to their health insurance markets. These waivers can help improve state health insurance markets and lower premiums, but they can also cause harm if used the wrong way.

All states, whether or not they plan to pursue waivers in the future, should have a sound understanding of State Innovation Waivers and the implications of recent federal and state changes to these waivers for consumers, including older adults. States considering waivers in the future can look to other states that have successfully implemented waivers for promising practices to improve access to and affordability of coverage for older adults. In the coming months and years, states should keep an eye on state and federal activity around these waivers, as it is likely to continue evolving.

1 42 U.S.C. § 18052.

2 “Waivers for State Innovation,” *Federal Register* 80 (2015): 78131. https://www.federalregister.gov/documents/2015/12/16/2015-31563/waivers-for-state-innovation.

3 “State Relief and Empowerment Waivers,” *Federal Register* 83 (2018): 53575. https://www.federalregister.gov/documents/2018/10/24/2018-23182/state-relief-and-empowerment-waivers

4 “Section 1332 State Relief and Empowerment Waiver Concepts,” Discussion Paper, Centers for Medicare & Medicaid Services, Washington D.C., November 2018, https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Downloads/Waiver-Concepts-Guidance.PDF

5 “Concept Papers and Application Templates,” Centers for Medicare & Medicaid Services, Washington D.C., July 2019, https://www.cms.gov/cciio/programs-and-initiatives/state-innovation-waivers/section_1332_state_innovation_waivers-.html

6 For short descriptions of approved state waivers, see: “Tracking Section 1332 State Innovation Waivers,” Kaiser Family Foundation, Washington D.C., July 2019, https://www.kff.org/health-reform/fact-sheet/tracking-section-1332-state-innovation-waivers/.

7 This Hawaii waiver relieved the state from implementing the ACA’s Small Business Health Options Program (known as SHOP) and related requirements, as Hawaii already had a law requiring employer coverage and small employer premium assistance known as the Prepaid Health Care Act.

8 Eligible individuals would not be eligible for premium tax credits or cost sharing reductions.

9 Rachel Schwab, Emily Curran, and Sabrina Corlette, “Assessing the Effectiveness of State-Based Reinsurance: Case Studies of Three States’ Efforts to Bolster Their Individual Markets,” Georgetown University Health Policy Institute, Washington D.C., November 2018, http://chirblog.org/new-georgetown-report-assessing-effectiveness-state-based-reinsurance/.

10 “Leveraging 1332 State Innovation Waivers to Stabilize Individual Health Insurance Markets: Experiences of Alaska, Minnesota, and Oregon,” State Health Access Data Assistance Center (SHADAC), Minneapolis, MN, February 5, 2019, https://www.shadac.org/news/leveraging-1332-state-innovation-waivers-stabilize-individual-health-insurance-markets

11 “State-Run Reinsurance Programs Reduce ACA Premiums by 19.9% on Average,” Avalere, Washington D.C., March 13, 2019, https://avalere.com/press-releases/state-run-reinsurance-programs-reduce-aca-premiums-by-19-9-on-average

12 “Leveraging 1322 State Innovation Waivers,” SHADAC.

13 “Section 1332 State Relief and Empowerment Waiver Concepts,” Centers for Medicare & Medicaid Services.

14 Jane Sung, Lina Walker, and Olivia Dean, “Adequate Premium Tax Credits are Vital to Maintain Access to Affordable Health Coverage for Older Adults,” AARP Public Policy Institute, Washington D.C., March 22, 2017, https://www.aarp.org/ppi/info-2017/adequate-premium-tax-credits-are-vital-to-maintain-access-to-affordable-health-coverage-for-older-adults.html

15 45 C.F.R. §155.1312

16 “Steps for States Considering a 1332 Waiver,” Centers for Medicare and Medicaid Services, Washington D.C., May 2019, https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Downloads/Steps-for-States-Considering-A-1332-Waiver.pdf

17 “Offering States Flexibility to Increase Market Stability and Affordable Choice,” US Department of Health and Human Services, Washington D.C., March 2017, https://www.hhs.gov/about/news/2017/03/13/offering-states-flexibility-increase-market-stability-and-affordable-choices.html

18 “Checklist for Section 1332 State Relief and Empowerment Waivers (also called section 1332 waivers or State Innovation Waivers) Applications,” Centers for Medicare & Medicaid Services (CMS), Washington D.C., July 2019, https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Downloads/Checklist-for-Section-1332-State-Relief-and_Empowerment-Waivers.pdf

19 “Department of Health and Human Services and Department of the Treasury–Applicability of the Congressional Review Act to State Relief and Empowerment Waivers,” U.S. Government Accountability Office, Washington D.C., July 2019, https://www.gao.gov/products/B-330811

Insight on the Issues 145, September 2019

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https://doi.org/10.26419/ppi.00081.003

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