State Health Reform Assistance Network
Charting the Road to Coverage
1332 State Innovation Waivers:
Looking Ahead to Potentially Broader 1332 Waivers

Manatt Health
April 13, 2016
Agenda

- Background
- States Planning for 1332 Waivers: Minnesota and California
- 1332 Waiver as Pathway to Public Option
Background
Future 1332 Waivers May Have Broader Policy Goals

Several states are seeking targeted waivers to preserve pre-ACA programs

- Hawai‘i seeks to preserve its pre-ACA employer mandate (Hawai‘i Prepaid Health Care Act)
- Massachusetts seeks to maintain features of its pre-ACA merged individual and small group markets
- Vermont seeks to maintain pre-ACA direct enrollment approach for small employers

Today’s discussion will focus on states using 2016 to plan for 1332 waivers that have potentially broader policy goals and implications

- California Initiated a stakeholder process to identify potential policy initiatives requiring a 1332 waiver
- Minnesota Exploring use of 1332 waivers to improve health coverage, delivery and financing
States Planning for 1332 Waivers: Minnesota and California
Minnesota Health Care Financing Task Force

Legislature establishes “task force on health care financing”

Pre-launch interviews to determine Task Force priorities

Task Force first convened

Task Force members voted on recommendations to Governor and Legislature

Overview of Task Force

- **Task Force composed of 29 members** including representatives from legislature, health plans, brokers, small business owners, consumers, and state agencies

- **Three workgroups established** to develop recommendations on key priorities:
  - **Health Care Delivery Design**: Identify health care delivery system strategies to reduce costs and improve outcomes
  - **Seamless Coverage Continuum**: Examine opportunities for providing a seamless, affordable, and financially stable coverage continuum
  - **Barriers to Access**: Evaluate opportunities to reduce barriers to accessing care
Minnesota’s Task Force Proposals Requiring a 1332 Waiver

Task Force Recommendations

1. Expand MinnesotaCare (State BHP) from 200 to 275% Federal Poverty Level to improve the affordability of coverage and smooth premium and cost-sharing cliffs.

2. Fix the family glitch, rationalizing the affordability definition for families with access to employer sponsored coverage.

3. Allow QHP enrollees to apply APTC/CSR to dental coverage, creating alignment across the coverage continuum.

4. Study the potential impact on consumer choice of allowing for plans on a sliding scale from 60 – 100% actuarial value (AV).
Minnesota’s Legislature Directed Department of Commerce to Explore Tax Credit Portability

Proposal would allow individuals to access APTC and CSR to purchase QHPs only offered outside of MNsure APTC

Proposal is currently being developed including a review of all necessary waivers and federal approvals

Proposal will be submitted to the MNsure Board and MNsure Legislative Oversight Committee 30 days before submission to the federal government

Proposal submitted to the Federal government

Potential 1332 Waiver Requirements

- **APTC**: ACA only allows individuals who have purchased a plan through the Marketplace to receive premium tax credits
- **QHP Requirements**: ACA defines QHPs as plans that have been certified by the Marketplace

*Source*: State of Minnesota; House of Representatives; HF5; 89th Legislature 2015 – 2016; Available at: https://www.revisor.mn.gov/bills/text.php?number=HF5&version=0&session_year=2015&session_number=0
California 1332 Waiver Process

- **January 2016**: Covered California hosted 1332 waiver overview webinar
- **February 2016**: 1332 panel on possible waiver topics
- **April 2016**: Covered California presents analysis and report to the Board of Directors
California Policy Ideas Potentially Requiring a 1332

**Affordability issues** including: fixing the family glitch, adding more affordable plan choices on the Marketplace, and smoothing subsidies from 138 – 400% FPL

**Aligning coverage programs to reduce the impact of churn and mixed families** potentially through uniform eligibility standards between programs or allowing Medicaid plans to sell on the Marketplace (even if they are not considered QHPs because they don’t sell off-Marketplace)

**Allowing undocumented immigrants to purchase unsubsidized coverage through Covered California**

- California recently enacted SB 75 to expand Medicaid benefits to all children under age 19 regardless of immigration status effective May 1
- Legislation was also proposed to authorize a 1332 waiver to allow undocumented immigrants to purchase through the Marketplace non-QHP health plans that mirror QHPs
1332 Waiver as Pathway to Public Option
Might 1332 be a Pathway to a Public Option?

Public Option: “[A] publicly insured plan in direct competition with… private health insurance coverage, in the hope of driving down both premiums and underlying health care costs.” ¹

Considerations in Designing a Public Option Product

Essential Health Benefits: Will the product cover the 10 EHBs?

Actuarial Value: Will it meet metal tier requirements?

Cost: How will the state ensure premium affordability?

Use of Tax Credits: Will premium tax credit dollars be used to fund the public option? Will public option enrollees receive APTC?

Eligible Populations: Could include public employees, Medicaid beneficiaries

Marketplace and QHP Requirements: Will the product meet QHP and Marketplace requirements?

“Hillary supports the public option to reduce costs and broaden the choices of insurance coverage for every American. To make immediate progress toward that goal, Hillary will work with interested governors, using current flexibility under the Affordable Care Act, to empower states to establish a public option choice.” – Hillary Clinton on health care²

¹ The Origins and Demise of the Public Option. Harpin, H., and Harbage, P. Health Affairs June 2010 vol. 29 no. 6 1117-1124
Minnesota “Public Option” Proposal

• Minnesota’s Legislature is considering a bill that would allow a MinnesotaCare product, designed and purchased by the State, to be sold on MNsure (the Marketplace)

• Individuals with incomes from above 200% FPL would be eligible to purchase the MinnesotaCare product; those who are eligible for APTCs would be able to use them to offset the cost of coverage

• Not a BHP expansion!

Potential 1332 Waiver Requirements

• **APTC/CSR**: ACA says tax credits may only be used to purchase QHPs, this provision may need to be waived for individuals to receive subsidies to purchase a MinnesotaCare product

• **QHP Requirements**: ACA defines QHPs as plans that have been certified by the Marketplace and are offered both in and outside of the Marketplace. The State anticipates that it would have to seek a waiver of the law’s QHP requirements.

• **Actuarial Value**: The bill requires that the MinnesotaCare product have a minimum AV of 87%
Discussion
## Next Steps

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Thank you!

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