



Medicaid Buy-In: Emerging Models and Considerations

December 17, 2018

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*Support for this webinar was provided by the Robert Wood Johnson Foundation.
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About Manatt Health

Patricia Boozang and Chiquita Brooks La-Sure with Manatt, Phelps & Phillips, LLP prepared this presentation. Manatt Health, a division of Manatt, Phelps & Phillips, LLP, is an integrated legal and consulting practice with over 90 professionals in nine locations across the country. Manatt Health supports states, providers, and insurers with understanding and navigating the complex and rapidly evolving health care policy and regulatory landscape. Manatt Health brings deep subject matter expertise to its clients, helping them expand coverage, increase access, and create new ways of organizing, paying for, and delivering care. For more information, visit www.manatt.com/ManattHealth.aspx



Today's Objective

- Overview of Emerging Medicaid Buy-In Models
- Key Considerations for States
- Current State Activities
- Discussion

Emerging Models

State Medicaid Buy-In: Evolving Definition

- The definition of a state Medicaid buy-in is evolving beyond the original Medicaid-based proposals to programs where the **state provides health care coverage that may be more affordable and/or accessible than current options in the individual and employer markets by leveraging government bargaining power.** Some refer to this evolving model as Medicaid buy-in, others label it a public option.



Goals and Target Populations



Access and Competition



Affordability



**Market Alignment Between
Medicaid and Marketplace**



Single Payer Glide Path



Low income



Unsubsidized



Uninsured



Health status/age



Geographic region



Small businesses



Open to all

Potential Buy-In Models

In the same way that states can leverage Medicaid to provide a new option, states may also leverage a new or existing Basic Health Program

Medicaid Buy-In

A Medicaid buy-in is a state-sponsored insurance product that leverages Medicaid in some way to offer coverage for individuals with incomes above the Medicaid eligibility level

Basic Health Buy-In

The State offers a Basic Health Program (BHP) to individuals with incomes below 200% FPL who are not Medicaid-eligible, and could redesign and expand plans to individuals with higher income eligibility, allowing them a choice to buy-in to the program

Two Basic “Medicaid” Buy-In Options

While each buy-in design will have state-specific variations, two basic options are beginning to emerge

Option One	Option Two	
<p>State-Sponsored QHP</p>	<p>State Medicaid Buy-In</p>	
<p>A product offered on the Marketplace, as a qualified health plan (QHP), likely in partnership with an existing insurer</p> <p>Variations: A state-sponsored product that does not meet QHP requirements; or a plan offered in limited geographic areas</p>	<p>The state makes Medicaid-like benefits available to all consumers above current Medicaid eligibility levels, as an off-Marketplace, state-administered buy-in plan</p> <p>Variation: A targeted buy-in for populations based on geographic region, income, age, or health status</p>	
<p>On Marketplace</p>	<p>Off-Marketplace, Outside of Individual Market Pool</p>	
<p>QHP Certification or 1332 Waiver Authority</p>	<p>1332 Waiver</p>	
<p>Low</p>	<p>State Financial Responsibility and State Control</p>	<p>High</p>

The Basic Health Plan (BHP) Model

After implementing a BHP under Section 1331, a state could pursue a 1332 waiver to redesign and expand BHP plans to individuals with higher income eligibility, allowing them to buy-in to the program

- Under BHP, the State offers a plan to individuals with incomes below 200% FPL who are not Medicaid-eligible (including people ineligible due to their immigration status) and the state has flexibility to design the BHP to align with Medicaid *or* QHP coverage
- The State receives federal funding equal to 95% of the amount of federal funds that would have been available had the BHP-eligible individuals purchased coverage through the Marketplace
- Importantly, BHP coverage would be in a new risk pool, separate from the individual market
- Authority for a traditional BHP is included in statute; therefore, program approval is *not* at the Administration's discretion
- A buy-in model could be designed to offer the BHP to people *above* 200% FPL; a 1332 waiver would be necessary for those above 200% FPL to use tax credits to purchase the plan

Medicaid Buy-In Program Parameters for Consideration

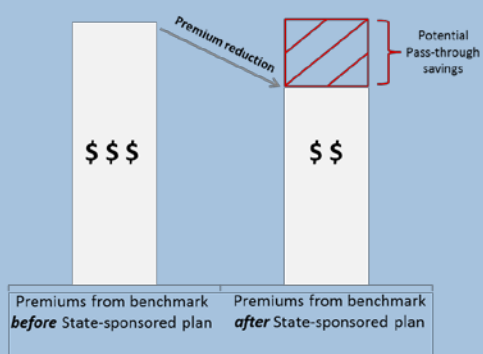
Design Elements	Possible Options
Eligibility	<ul style="list-style-type: none"> • Marketplace eligible (subsidized and non-subsidized) • Targeted population (e.g., geography, age, health status etc.) • Open to all
Risk Pool	<ul style="list-style-type: none"> • Part of or outside the individual market risk pool • Targeted by age or health status
Administration/ Delivery System	<ul style="list-style-type: none"> • Offered on or off the Marketplace • Direct buy-in, administered by the state Medicaid agency • Fee-for-service, perhaps in partnership with a third party administrator (TPA) • Managed care contracting (e.g., existing Medicaid/CHIP, state employee plan, “tying” to other state contracting)
Provider Networks	<ul style="list-style-type: none"> • Medicaid network • “Tying” provider participation linked to other programs (e.g., Medicaid)
Provider Rates	<ul style="list-style-type: none"> • State-selected rates (e.g., Medicaid, Medicaid+, Medicare rates)
Benefit Design	<ul style="list-style-type: none"> • Essential Health Benefits • Additional benefits (e.g., vision, dental, etc.)
Cost-Sharing	<ul style="list-style-type: none"> • Marketplace cost-sharing tiers • More generous out-of-pocket plans

Potential Pass-Through Funding Mechanisms

Marketplace Savings

If a state-sponsored product **on the Marketplace** has a lower premium than current plans, it would reduce the benchmark for tax credit subsidies, thus reducing federal costs

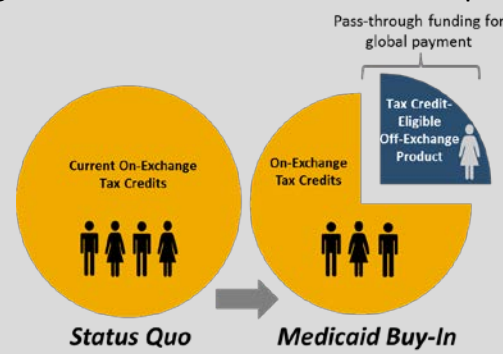
Under a 1332 waiver, the state could receive tax credit subsidies for each individual who enrolls in the state-sponsored product, as well as pass-through funding that reflects the value of federal savings associated with lowering the benchmark for subsidies



Tax Credit Transfer

A Medicaid buy-in **outside the individual market** would lower the number of individuals receiving tax credit subsidies on the Marketplace. Under a 1332 waiver, the state could receive those subsidies as a global payment

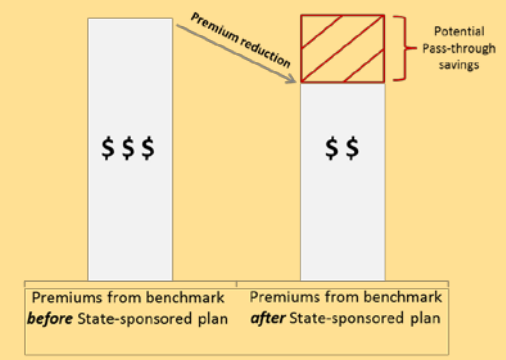
If the cost of the buy-in product was less than Marketplace plans, the value of the global payment would pay for a larger share of the total buy-in costs, allowing the state to offer more generous subsidies to the Marketplace



High Risk Savings

Additionally, if, by design, the buy-in attracts a higher risk population than in the Marketplace, it could lower premiums in the individual market, thus lowering federal APTC costs

The state could be eligible for those pass-through savings through a 1332 waiver



Overview of 1332 Waiver Authority

Select buy-in designs require a 1332 waiver, which may be more challenging to implement in the short term

1332 Waivers (State Innovation Waivers)

- Section 1332 of the Affordable Care Act (ACA) permits states to request waivers from the Department of Health and Human Services and the Treasury Department of four key components of the ACA:
 1. Individual mandate (reduced to \$0 for 2019)
 2. Employer mandate
 3. Benefits and subsidies
 4. Marketplace and QHPs
- States cannot waive guaranteed issue and related rating rules
 - States may not waive non-discrimination provisions prohibiting carriers from denying coverage or increasing premiums based on health status. States are precluded from waiving rating rules that guarantee equal access at fair prices, including age rating

Section 1332 Statutory Guardrails

All section 1332 waivers must comply with guardrails protecting consumers and ensuring deficit neutrality

1 *Scope of Coverage*

The waiver must provide coverage to at least as many people as the ACA would provide without the waiver

2 *Comprehensive Coverage*

The waiver must provide coverage that is at least as “comprehensive” as coverage offered through the Marketplace

3 *Affordability*

The waiver must provide “coverage and cost-sharing protections against excessive out-of-pocket” spending that is at least as “affordable” as Marketplace coverage

4 *Federal Deficit*

The waiver must not increase the federal deficit including all changes in income, payroll, or excise tax revenue, as well as any other forms of revenue

However, even if guardrails are met, there is limited precedent and waivers are always under Treasury and HHS discretion. It is unclear how this Administration will respond to new coverage option waivers

Potential Impact of New 1332 Guidance

In October, CMS released new 1332 guidance; CMS expanded on the guidance on November 29, providing four model concepts outlining the type of waivers the Administration is likely to support

- The guidance outlines goals that the Administration believes waivers should achieve:
 - *Increased access to affordable private coverage*
 - *Sustainable spending growth*
 - *State innovation*
 - *Empower those in need*
 - *Promote consumer-driven healthcare*
- The guidance also relaxes the earlier standard that waivers cannot provide less comprehensive or less affordable coverage to particular subgroups within the state
- The CMS-proposed model concepts seems to confirm that plans that do not meet ACA requirements will now be counted as meeting the “coverage guardrail”

While the new guidance does not directly address buy-in or pass-through waivers, the preference for private coverage innovations may mean that buy-in products that partner with an existing insurer are more likely to receive approval

Key Considerations for States

Emerging Responses to Buy-In



Provider Reimbursement: Providers will be most concerned about adequate reimbursement rates; but overall compensation to providers could rise from increased coverage and reduced uncompensated care



Insurer Reactions: Insurers will be most concerned about having a level playing field



Single-payer Interaction: Consideration of state single-payer advocates will be important for the success of buy-in implementation, as these programs can be seen as a glide path to single-payer or as an obstacle by some groups

Potential Market Impacts

Impact on the existing market will depend on multiple factors—whether buy-in enrollees are part of the individual risk pool, the health status of enrollees, and how many people transition to the new product

★ **Impact to Existing Insurance Markets:**

- Impact on the existing market will depend, in large part, on who is attracted to the buy-in:
 - If too many healthy individuals shift to the buy-in, premiums in the existing market may increase, which could prevent a 1332 waiver from being approved
 - If the buy-in attracts less healthy risk, under a low cost-sharing design, premiums on the existing market may decrease
- A buy-in could destabilize the existing market if too many enrollees transition to the product and insurers increase premiums or drop out of the market in response
- Mitigation strategies are available, including limiting enrollment to certain populations to better control/predict changes in the buy-in risk pool

Questions for States to Consider When Planning a Buy-In



- What **problem(s)** are your state trying to solve?
- What **goals** are your states trying to accomplish with a buy-in?
- What **state agency would administer** the product? Medicaid agency? Department of Insurance?
- Which **stakeholders would be involved** in buy-in promotion/planning in your state? How does this influence the goals?
- Are **provider reimbursement-related savings and administrative savings** feasible in your state?
- How is your state **thinking about the need for a 1332 waiver** in your approach to buy-in design?

Snapshot of Recent State Initiatives



New Mexico authorized a buy-in study in January. Manatt, alongside a coalition of advocates and the legislature, is conducting an analysis and quantitative assessment of select buy-in options for the state



In the spring of 2018, advocates from Colorado sponsored a model of the potential impact of an off-Marketplace Medicaid buy-in open to all residents



In April 2018, legislation was reintroduced to allow individuals with incomes above 201% FPL to purchase a MinnesotaCare-like product on the Marketplace



In January 2018, legislation was introduced to allow parents or caretakers with incomes above 350% FPL to purchase NJ FamilyCare for child under the age of 19



In 2017, the state Senate passed a provision to introduce a buy-in option for all residents, including those with employer-sponsored insurance, but it did not pass the full legislature. The state is currently studying buy-in options for future introduction

Discussion



Thank You

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