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Introduction

With seven states using Section 1332 waivers to help fund reinsurance programs, many more state officials are considering the model for their state in future years. Having worked directly with the 2018 and 2019 reinsurance states, State Health and Value Strategies is pleased to present the following to-do list for states as they consider developing reinsurance waivers.

Section 1332 waivers also offer states opportunities to pursue other policy objectives beyond funding reinsurance programs. For information about other options available to states and the steps to take to implement them, please refer to our [website](#).

Questions? Contact Heather Howard at heatherh@princeton.edu.

Sketch out a calendar for activities.

Providing carriers with increased certainty in the Affordable Care Act market is a key policy goal of a reinsurance program. States should take into consideration their own rate filing deadlines, Qualified Health Plan rate finalization deadlines and the time needed for issuers to revise rates based on reinsurance in their calendar. The Centers for Medicare and Medicaid Services (CMS) and Department of the Treasury (Treasury), which jointly oversee the waiver program, advise that waivers be submitted by March for the subsequent calendar/plan year, though they did markedly shorten the time for review on several waivers in 2018. However, states should still build a conservative calendar for waiver submission to increase chances that the waiver is in effect by the following plan year. Also, remember that CMS and Treasury generally review waiver applications in the order they are received. An influx of applications could slow down the approval process. The following steps will dictate the calendar that a state will need.

Start conversations with carriers.

Carriers in your state will likely be enthusiastic about the prospect of a supported reinsurance program. Leverage their enthusiasm by inviting them to the table early. If your state does not have an All Payer Claims Database—or if its data are too old for current plan year analysis—carriers will be a key source of data for actuarial modeling and decisions on programmatic details. If carrier data are required, be sure to build the data call into the calendar of activities. Carriers can also serve as a partner in legislative efforts for waiver authority. Also, by keeping carriers engaged from the beginning, discussions about funding models that could include carrier assessments may be a bit easier.

Secure expertise for actuarial and economic modeling.

Section 1332 waiver applications require actuarial and economic modeling that are reviewed by the CMS Office of the Actuary and by Treasury's Office of Tax Analysis. Additionally, actuarial modeling can help a state determine if reinsurance is the best policy choice for a market, depending on the stability of the risk pool. State officials should start any required procurement early, to avoid delays in submission. There are several national actuarial firms with significant reinsurance modeling experience, and some regional firms with experience as well.

✓ Check in with federal partners.

Even if your state is simply investigating the opportunities for reinsurance, CMS recommends reaching out to its officials who focus on 1332; they can be contacted via email at StateInnovationWaivers@cms.hhs.gov. Developing relationships with federal partners will encourage open and honest dialogue during the application process.

✓ Start conversations with your legislature.

Section 1332 waivers require legislative authorization, though new guidance may allow that authorization to be general rather than specific. Additionally, CMS and Treasury have required that states seeking to implement a reinsurance program demonstrate the legal authority to manage the reinsurance program. This authority could be new, or could be authority from previous reinsurance or high-risk pool programs that remained in statute. New funding mechanisms may also require legislative approval. These conversations should be tempered until actuarial analyses are returned that provide data to support the policy conversation.

✓ Review the process requirements.

In May 2017, CMS released a [checklist](#) for states seeking to apply for a Section 1332 waiver to operate a high-risk pool or reinsurance program. The checklist summarizes the process requirements and expectations for states to submit a complete application. CMS and Treasury also released [new 1332 guidance](#) in October 2018 and a [discussion paper](#) that highlights reinsurance and high-risk pools in December 2018.

✓ Consider the program details.

There are a number of policy decisions required to craft a reinsurance program. There are many variations on reinsurance models, including claims-based models, where all claims are partially reimbursed above an attachment point; condition-based models, where people with certain conditions are reinsured; and hybrids that combine elements of both models. States should consider which model would best suit their state and what policy decisions underpin each model. Additionally, states will need to consider the options available to provide the non-federal portion of the funding for the program, which might include general revenues, special assessments on carriers, or other funding streams. States should also consider capping their funding obligation by placing a flat dollar cap on the state share and/or allowing the state to revise the program if reinsurance losses are significantly larger or smaller than projected. States should also be aware that the federal portion of the funding is based on calculations that are updated on an annual basis.

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This summary was prepared by Daniel Meuse. State Health and Value Strategies (SHVS) assists states in their efforts to transform health and health care by providing targeted technical assistance to state officials and agencies. The program is a grantee of the Robert Wood Johnson Foundation, led by staff at Princeton University's Woodrow Wilson School of Public and International Affairs.

The program connects states with experts and peers to undertake health care transformation initiatives. By engaging state officials, the program provides lessons learned, highlights successful strategies and brings together states with experts in the field. Learn more at www.shvs.org.