

WAIVERS FOR STATE INNOVATION

Joshua D. Goldberg
Health Policy and Legislative Advisor
National Association of Insurance Commissioners

North Dakota Health Care Reform Review Committee
May 14, 2014

Overview

- State Innovation Waivers
 - Scope of Waivers
 - Requirements
 - Application Process
 - Current State Waiver Efforts
 - Targeted Ideas
- State and Federal Exchanges
 - Flexibility
 - Infrastructure Development
 - Cost

State Innovation Waivers

- Added to the ACA by Sen. Ron Wyden (D-OR) during Senate Finance Committee consideration.
“to encourage additional innovative approaches in States, approaches that meet the needs of States’ own residents, that will help us, in my view, to promote choice and competition in the American health care system.”
- Originally allowed for waiver of any market reform and the individual mandate.
- Scaled back before enactment to only allow waivers of specified provisions.
- Empowering States to Innovate Act would have accelerated waivers from 2017 to 2014.

ACA Structure

Market Reforms

(Except QHP Requirements)

Individual
Mandate

Subsidies

Exchanges

Employer
Mandates

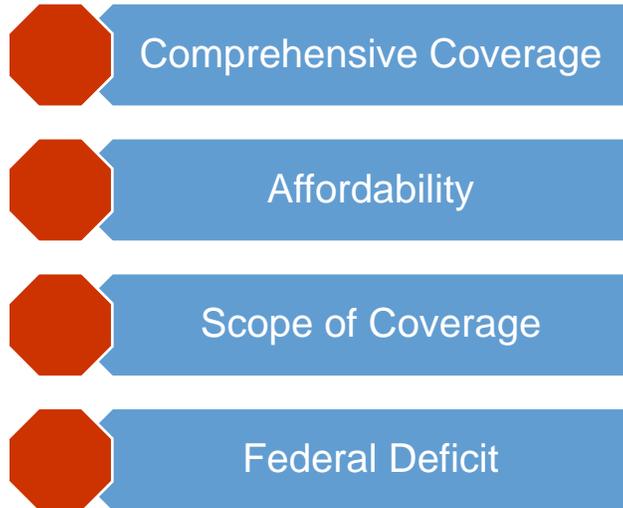
What Can be Waived

- QHP Requirements (Part I of subtitle D)
 - Essential Health Benefits (EHBs)*
 - Annual limits on cost-sharing
 - Actuarial value (Metal tiers)
 - Catastrophic and child-only plans
 - Definitions of large and small employers
- Exchanges (Part II of subtitle D)
 - Establishment of Exchanges
 - Employee choice
 - Rules for determining employer size
 - Single risk pool
 - Preservation of market outside exchanges
 - Access to exchange limited to citizens and lawful residents
- Cost-Sharing Reductions (Section 1402)
- Premium Tax Credits (IRC Section 36B)
- Shared Responsibility for Employers (IRC Section 4980H)
- Requirement to Maintain Minimum Essential Coverage IRC Section 5000A)

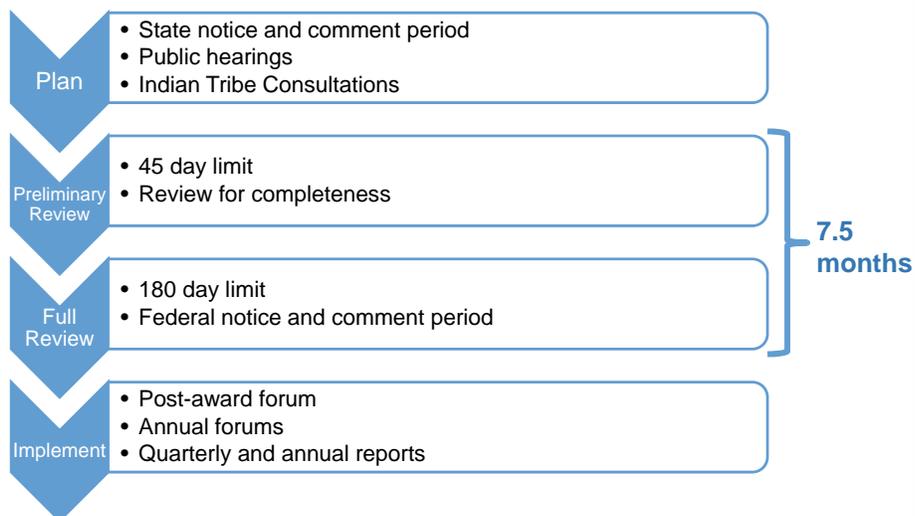
What Cannot be Waived

- Public Health Service Act Requirements
 - Guaranteed issue and renewability
 - Prohibitions on annual and lifetime limits
 - Prohibition on preexisting condition exclusions
 - Adjusted community rating rules
 - Medical loss ratios
 - Extended dependent coverage of adult children up to age 26
 - Coverage of preventive services
- Other ACA Provisions
 - Essential Health Benefits*
 - Risk adjustment
 - CO-OP plans
 - Multi-state plans
 - Small business tax credits
 - Nondiscrimination requirements
- ERISA

Requirements



Application Process



Coordination with other Waivers

- State may submit a single application for a waiver under section 1332 and a waiver under one or more existing waiver processes:
 - Medicare
 - Medicaid
 - CHIP
 - Other federal health care laws.

Current state efforts



Vermont

- Passed legislation in 2011
- Transition to single-payer "Green Mountain Care" (GMC) system in 2017
- GMC will be secondary coverage if employer offers coverage
- Medicaid and CHIP will be integrated into GMC under waiver
- GMC will be secondary to Medicare
- Funded in part with redirected Exchange subsidies
- Legislature must still pass funding legislation



Hawaii

- Formed waiver task force in 2014
- Considering changes to SHOP Exchange to better work with the Hawaii's Prepaid Health Care Act, which has required most employers to offer coverage since 1974
- Very early in the process

Targeted Ideas

Actuarial Value

- More tiers
- Wider tiers

Catastrophic Plans

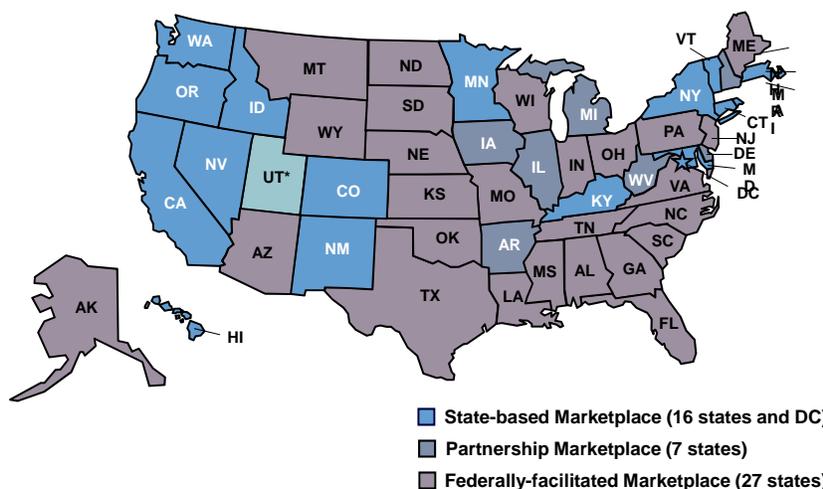
- Expanded eligibility

Subsidies

- Subsidy structure
- Eligibility
- Eligible plans

States should balance benefit of waiver with burden of plan development and ongoing monitoring requirements.

State and Federal Exchanges



* In Utah, the federal government will run the marketplace for individuals while the state will run the small business, or SHOP, marketplace.

SOURCE: State Decisions For Creating Health Insurance Marketplaces, 2014, KFF State Health Facts:
<http://kff.org/health-reform/state-indicator/health-insurance-exchanges/>.

Flexibility

Plan selection

- Required offer of bronze, platinum, and/or catastrophic plans
- Limited number of plans per insurer
- Standardized benefit packages
- Meaningful difference

Employee Choice

- Broader choice of plans

Network Adequacy

- Federal standards for FFEs are likely in the works

IT issues

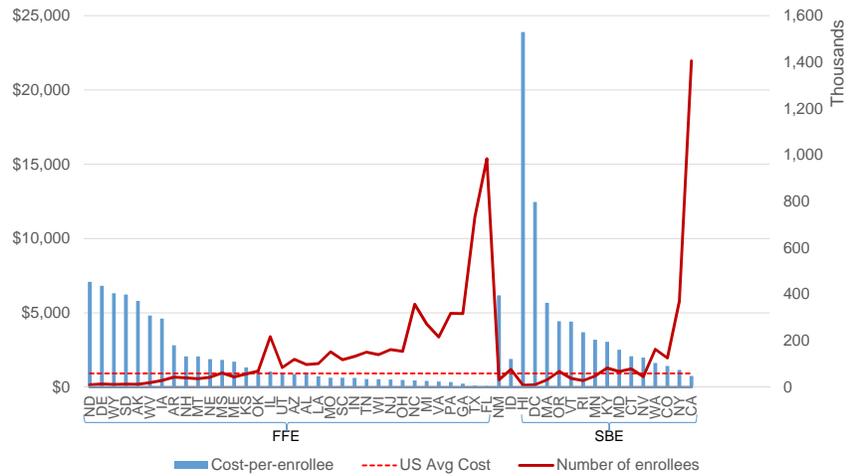
Federal Experience

- Consumer eligibility and enrollment site
- Plan data errors
- Back end not built
- IT is driving policy decisions

State Experience

- Many had problems similar to federal exchange
- Some strong successes
- Some catastrophic failures
- IT is tailored to policy

Per-Enrollee Costs



Source: Angoff, Jay. Memo to the Interested Parties re: Cost-per enrollee in state Exchanges, 7 May 2014, accessed at <http://capsules.kaiserhealthnews.org/wp-content/uploads/2014/05/5-7-14-Exchanges-report.pdf>.

Questions?