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Wednesday, February 22, 2012

**Contact:**CMS Media Relations  
202-690-6145**THE AFFORDABLE CARE ACT: SUPPORTING STATE INNOVATION**

Today the Departments of Health and Human Services (HHS) and Treasury finalized the proposed rule outlining the steps States may pursue in order to receive a State Innovation Waiver under the Affordable Care Act. Under the law, States are given the option to seek a State Innovation Waiver to expand on the State flexibility that already exists in the Affordable Care Act so they may pursue their own innovative strategies to ensure their residents have access to high quality, affordable health insurance. Today's final rule provides States with additional flexibility to improve health care for their citizens in a way that works for them while retaining the basic protections of the Affordable Care Act.

The final regulation describes the process for filing a waiver application, along with a description of the content of the waiver application and the process for the public to review and comment on proposed waivers.

**State Innovation Waiver Criteria**

In accordance with the statute, in order to apply for a waiver States must have necessary State laws in place and comply with federal regulations that ensure appropriate public notice and transparency. States must also demonstrate that, if the waiver is approved, the State's plan will provide coverage that:

- Is at least as comprehensive as the coverage that would have been provided under the Affordable Care Act.
- Is at least as affordable as the coverage under the Affordable Care Act.
- Covers at least as many residents as would have otherwise been covered under the Affordable Care Act.
- Will not increase the federal deficit.

Currently, the Affordable Care Act allows State Innovation Waivers beginning in 2017. States could use a variety of strategies to innovate through a waiver, provided they meet the above requirements. For example, they could change the benefit levels or add new benefit levels for plans offered in the Exchanges. State Innovation Waivers are provided for up to five years, with the option of renewal. Although the effective date for a Waiver for State Innovation is 2017, the Administration supports bipartisan legislation that would accelerate this effective date to 2014.

**Final Rule**

The rule issued today establishes a process for States to submit initial applications for a State Innovation Waiver. It lays out the content of applications, processes for public notice and comment, and describes standards for post-award reporting and monitoring.

Specifically, the rule addresses:

- **Public Notice:** At the State and Federal level, the rule ensures an opportunity for public input. The regulation outlines how public notice and comment will work, including public hearings, to ensure a meaningful level of public involvement, input, and transparency.
- **Content of the Application:** Consistent with what is required by the law, the rule says that an application must include:
  - The provisions of law that the state seeks to waive;
  - An explanation of how the proposed waiver will meet the goals related to coverage expansion, affordability, comprehensiveness of coverage, and costs;
  - An implementation timeline;
  - A budget plan that does not increase the federal deficit, with supporting information;
  - Actuarial certifications and economic analysis to support the State's estimates that the proposed waiver will comply with the comprehensive coverage requirement, the affordability requirement, and the scope of coverage requirement; and
  - Analyses of the waiver's potential impact on provisions that are not waived, access to health care services when residents leave the state, and deterring waste, fraud, and abuse.
- **Periodic Reports:** Under the regulation, States with waivers would submit quarterly and annual reports. These reports would include the tracking of measures in the four key areas: affordability, comprehensiveness of coverage, number of people covered, and impact on the federal deficit.
- **Post-Award Evaluation:** The regulation suggests criteria that could be used in the evaluation of the waivers once they are in place.

To find the final rule, visit: [http://www.ofr.gov/\(X\(1\)S\(vptsjs314z120avnlgstvgg\)\)/OFRUpload/OFRData/2012-04354\\_PL.pdf](http://www.ofr.gov/(X(1)S(vptsjs314z120avnlgstvgg))/OFRUpload/OFRData/2012-04354_PL.pdf) and here [http://www.ofr.gov/\(X\(1\)S\(04oh2m0\)2iptxqb30tfl0wo\)\)/OFRUpload/OFRData/2012-04395\\_PL.pdf](http://www.ofr.gov/(X(1)S(04oh2m0)2iptxqb30tfl0wo))/OFRUpload/OFRData/2012-04395_PL.pdf). The Final Rules will publish in the Federal Register on February 27, 2012 at which time they can be viewed here – <http://www.gpoaccess.gov/fr/>.

For the press release, including more information on how HHS is working closely with States, visit: <http://www.hhs.gov/news/>

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