

Oklahoma 1332 State Innovation Waiver Task Force

August 30, 2016

Oklahoma Senate Bill 1386, enacted during the 2016 legislative session, has been created to explore potential methods to reduce the financial burden for Oklahoma residents and employers seeking affordable, quality healthcare coverage. As a result of this legislation, a task force comprised of numerous Oklahoma stakeholders will investigate and analyze the options for Oklahoma pursuing a 1332 “State Innovation” Waiver. The 1332 State Innovation Waiver was included in the Affordable Care Act to allow states to waive certain provisions of the Affordable Care Act (ACA) and develop innovative, state-based solutions to address its healthcare coverage needs.

The 1332 Waiver task force will explore what Oklahoma needs to ensure affordable and robust healthcare coverage for its residents and, with public input, decide how best to address our state’s needs and whether to develop a 1332 Waiver. The goal is to create an alternative pathway for affordable, high quality healthcare coverage in Oklahoma’s commercial insurance market that meets the needs of Oklahomans.

1332 “State Innovation” Waiver Overview

A 1332 waiver allows states to request federal authority to pursue innovative strategies for providing state residents access to high quality, affordable health insurance. These renewable five-year waivers may propose modifications to provisions of the ACA within a set of parameters that could alter the way tax credits or subsidies are delivered in a state. Medicaid **is not** included or impacted by a 1332 waiver, since the waiver focuses on the commercial health insurance market in a state allowing some modifications to the insurance regulations imposed by the ACA.

A state’s 1332 waiver proposal may alter one or many of the following four ACA regulatory areas:

- **Individual Mandate:** States can modify or eliminate tax penalties.
- **Employer Mandate:** States can modify or eliminate penalties for large employers.
- **Benefits and Subsidies:** States can modify rules related to covered benefits and subsidies.
- **Exchanges and Qualified Health Plans (QHPs):** States can modify or eliminate exchanges and QHPs as the means for determining subsidy eligibility and insurance enrollment.

Waiver Guardrails

While the waiver allow states flexibility with provisions of the ACA, the federal government has imposed the following criteria in their review and approval of 1332 waiver proposals:

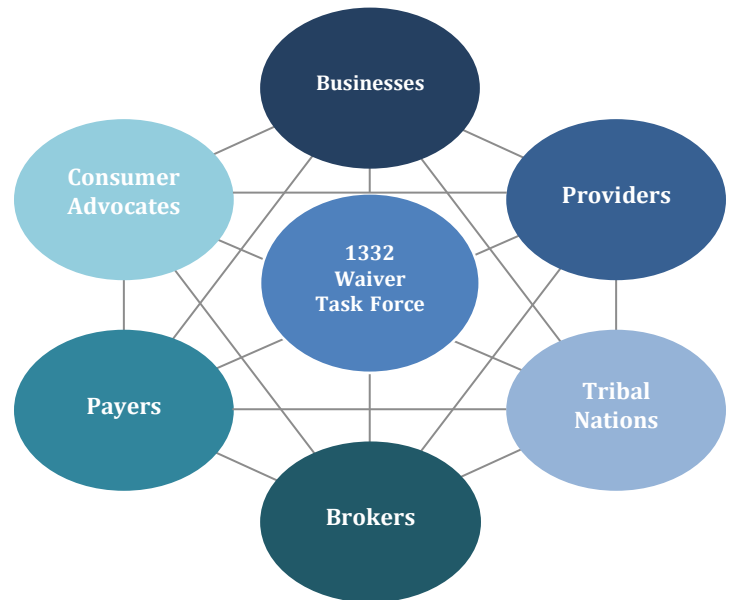
- **Scope of Coverage:** States must provide coverage to at least as many people as currently covered under the ACA.
- **Comprehensive Coverage:** Coverage provided by states through the waiver must be at least as comprehensive as coverage offered through exchanges.
- **Affordability of Coverage:** Coverage must be as affordable as exchange coverage, and states must have cost sharing and out-of-pocket protections that are comparable.
- **Federal Deficit:** State waivers must not increase the federal deficit.

1332 “State Innovation” Waiver Task Force

To support SB1386, a 1332 Waiver task force has been created to identify and analyze options, and provide advice on the development of a 1332 Waiver. The 1332 Waiver task force consists of private and public stakeholders that will meet regularly to discuss possibilities for an Oklahoma 1332 waiver proposal. Public meetings will be held periodically, and any interested stakeholder may provide input throughout the development process. Stakeholder feedback will assist the state with development of a waiver. A high-level concept paper is anticipated to be presented to the public and elected officials in early 2018.

The task force includes representatives of:

- Consumer Advocates
- Businesses
- Tribal Nations
- Commercial Health Insurance Carriers
- Healthcare Providers
- Health Insurance Brokers



1332 Waiver Support Staff

To help support 1332 waiver development, actuarial and technical assistance consultants, project managers, and program coordinators will be provided to capture taskforce and stakeholder feedback, as well as draft taskforce recommendations. Additionally, at the request of the Oklahoma Health and Human Services Cabinet Secretary, state agencies have been asked to participate as conveners, assisting the task force in an advisory role. The Oklahoma agencies include: State Department of Health; Health Care Authority; Insurance Department; Department of Mental Health and Substance Abuse Services; Employee Group Insurance Division; and Department of Human Services.

Waiver Development and Implementation Timeline

Per federal regulation enactment of a 1332 waiver cannot begin before January 1, 2017. There is no deadline for submission of waiver applications. States must provide opportunities for public review and input prior to submission of the waiver. Once the waiver is determined to be complete, the Secretary of Health and Human Services (HHS) will notify the state of waiver approval or denial within 180 days.

HHS recommends submission of a 1332 waiver one year in advance of enactment. In Oklahoma, should a waiver be pursued and approved, the waiver could be effective no earlier than January 1, 2018. Waiver requirements include:

- The list of provisions the state seeks to waive, including the rationale for the specific requests;
- Data, assumptions, targets, and other information sufficient to determine that the proposed waiver will comply with federal waiver guidelines;
- Actuarial analyses and actuarial certifications to support state estimates that the waiver will comply with the comprehensive coverage requirement, the affordability requirement, and the scope of coverage requirement;
- A detailed 10-year budget plan that is deficit neutral to the federal government;
- A detailed analysis of the impact of the waiver on health insurance coverage in the state;
- A description and copy of the enacted state legislation providing the state authority to implement the proposed waiver;
- A detailed plan as to how the state will implement the waiver, including a timeline.