

1332 State Innovation Waiver Task Force Quarterly Meeting

December 6, 2017



1332 State Innovation Waiver Task Force Meeting Agenda

December 6, 2017
1:00 p.m.-3:00 p.m.

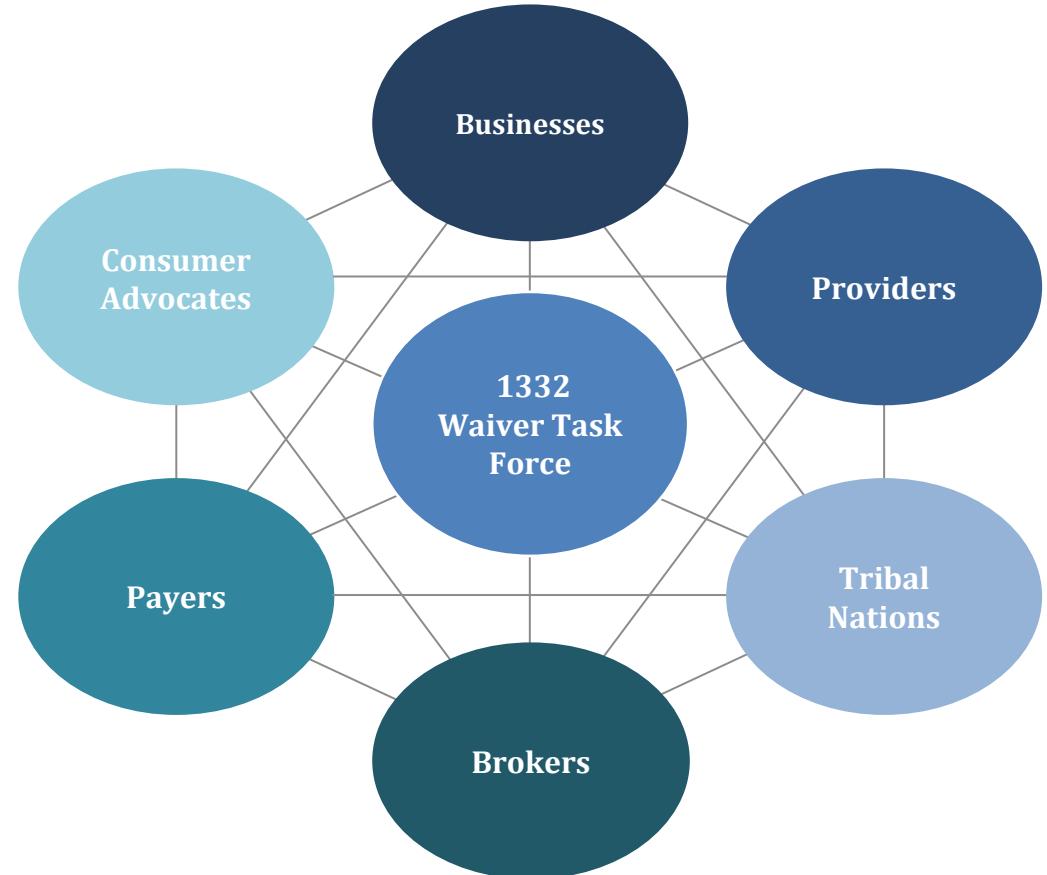
Section	Time		Presenter
Welcome and Introductions	1:00	15 min	Steven Buck, Secretary, Oklahoma Health and Human Services Cabinet Katie Altshuler, Policy Director, Office of Governor Mary Fallin
1332 Reinsurance Waiver & Recent Administrative Actions Update	1:15	20 min	Buffy Heater, HHS Project Lead
Charting the Course Ahead: SWOT Analysis	1:35	25 min	Buffy Heater, HHS Project Lead, Task Force
Timeline Considerations and Options	2:00	25 min	Task Force
Discussion & Recommendation Development by the Task Force	2:25	35 min	Task Force



1332 State Innovation Task Force

Task Force Purpose

- Advisory Task Force to assist in investigating and analyzing options for an Oklahoma 1332 “State Innovation” Waiver
- Develop recommendations and support their pursuit.
- Serves to ensure that representatives from a variety of sectors are included in the development of recommendations and the decision making process



Oklahoma Reinsurance Waiver Update

- Oklahoma's Section 1332 Waiver for reinsurance was submitted on August 16.
- While the State and BCBS worked diligently to complete all the necessary steps for waiver approval on September 25 per guidance from CCIIO, CCIIO informed the State on that day that waiver approval would not be provided – but that the waiver was approvable.
- The HHS and Treasury Departments have not given the State further detail regarding the reasons for the waiver not being approved.
- On September 29 the State submitted its [waiver withdrawal notice](#) to the Treasury and HHS Departments.
- Since the waiver was withdrawn, further waiver development work has been halted.



Current Federal Waiver Environment

- HHS Secretary Tom Price resigned on September 29
- Eric Hargan was named acting HHS Secretary on October 10; Alex Azar was nominated on November 13
- Alexander-Murray plan continues discussions of market stabilization efforts
- Collins-Nelson bill provides \$2.25 billion for reinsurance programs in 2018 and 2019 for states
- The budget reconciliation deadline passed on September 30, meaning budget reconciliation can no longer be used to make law changes
- Standalone vote on health reform is unlikely, likely to be rolled into end-of-year tax reform plan
- The current Senate version of the tax bill removes the individual mandate; the House version would end certain medical deductions
- The IRS has just recently begun collecting employer mandate penalties from 2015



President Trump's Executive Order

- Directs the Secretary of Labor to consider expanding access to Association Health plans (AHPs)
 - Could allow employers in the same line of business anywhere in the country to join together to offer coverage to their employees; may allow federal pre-emption of existing state law
 - Proposed federal regulations released by DOL within 60 days
- Directs the Departments of the Treasury, Labor, and Health and Human Services to consider expanding coverage through low-cost short-term limited duration insurance (STLDI)
 - STLDI is not subject to ACA rules and costs significantly less than marketplace plans
 - Main beneficiaries would be those who missed open enrollment/special enrollment periods or otherwise want insurance but can't enroll on the marketplace
 - Proposed federal regulations released by HHS, DOL & Treasury within 60 days
- Directs the Departments of the Treasury, Labor, and Health and Human Services to consider changes to Health Reimbursement Arrangements (HRAs)
 - Expanded HRAs could give employees greater flexibility and tax protections to finance health care needs
 - Proposed federal regulations released by HHS, DOL & Treasury within 120 days
- *Separate from the EO - President Trump and HHS have also indicated that they plan to end cost-sharing reduction payments (CSRs) immediately.*
 - Insurers still have obligation for CSRs but will not be reimbursed for their costs for October-December
 - Approximately \$7B was to be paid for CSRs in 2017; ending CSR payments will reduce this amount



Cost-Sharing Reduction Effects in Oklahoma

- The number of marketplace enrollees receiving a CSR plan has increased by 21,000 from 2015 to 2017. In 2017, 65% of marketplace enrollees are estimated to receive a CSR plan.
- For qualifying individuals, CSR subsidies reduced member claim responsibility between approximately \$83 million and \$128 million per year during the three-year period.

Oklahoma Health Insurance Marketplace Enrollment			
	2015	2016	2017
Marketplace Enrollment	98,000	123,000	124,000
Individual Off-FFM ACA Compliant Enrollment	59,000	52,000	44,000
Individuals Receiving APTC	80,000	107,000	115,000
Individuals Receiving CSR Plan	59,000	77,000	80,000
Annual Average APTC	\$2,500	\$3,600	\$6,600
Annual Average CSR Subsidy	\$1,400	\$1,500	\$1,600

Source: Milliman. (2017). State of Oklahoma Individual Health Insurance Market Profile.

Source: Milliman. (2017). Market overview. June 29, 2017 Task Force presentation.



ACA Indian Health CSR Provisions

Cost Sharing Reductions

Section 1402(d)(1-3),
2901(a)

- Eliminates all cost-sharing for Indians under 300% of the federal poverty level enrolled in any individual market plan offered through a federal or state Exchange.
- Indian beneficiaries enrolled in a qualified health plan are not charged cost sharing for any item or service provided directly by IHS, an Indian Tribe, Tribal Organization, or Urban Indian Organization or through referral under contract health services.



CMS/HHS Proposed Rule for 2019

The “[Notice of Benefit and Payment Parameters for 2019](#)” proposes changes to several areas of the ACA, with a focus on enhanced control and flexibility for states. Select areas include:

- EHBs
 - Permits states to modify EHBs to increase affordability in individual and small group markets
 - Permits states to select a new EHB-benchmark plan on an annual basis with more options
- QHPs
 - Proposes to utilize states to review accreditation requirements, compliance plans, QI activity reporting, and service area
 - SBEs using the Federal platform will not have to use Federal exchange standards for network adequacy or essential community providers
 - Proposes eliminating meaningful difference and standardized option requirements for QHPs since there are fewer plan options
 - Increases flexibility in ERR states for rate notification & filing deadlines ; increases rate increase review threshold to 15% from 10%; and allows issuers options to report expenses indicating their medical loss ratio (MLR)
- State-Based Exchanges (SBEs)
 - Seeks to explore strategies to make the SBE on the Federal platform (SBE-FP) a more viable option for states
 - Increases SBE-FP user fee from 2% to 3%
- Navigator Programs
 - Proposes more flexibility and removes certain requirements (such as needing a minimum of two Navigator entities)
- Special Enrollment Periods
 - Standardizes alternate coverage start dates
 - Allows pregnant women receiving health care services through CHIP to qualify for loss of coverage SEP upon losing CHIP coverage



Meeting Objectives

In the wake of Oklahoma's waiver withdrawal, the Task Force has the opportunity to regroup and assess potential next steps toward its recommendations. This meeting's objectives are to:

- assess the marketplace environment
- consider risks and opportunities
- re-secure commitment among Task Force and stakeholders
- make recommendations about 1332 waiver activity
- determine next steps



SWOT Analysis of Oklahoma's Market

Strengths/Weaknesses: internal-facing to the state government and under the control of the State

Opportunities/Threats: external-facing to the market and under control of non-State entities

There are 6 broad categories to frame SWOT analysis:

- Market impacts of reinsurance
- Comprehensive waiver development
- OID/OMSP role within comprehensive waiver
- Marketplace operations for comprehensive waiver
- State legislative actions
- Federal regulatory and political environment



SWOT Analysis: Market Impacts of Reinsurance

Strength

- With reinsurance, non-group premiums decrease and enrollment increases.
- State authorizing legislation for the governance and establishment of the Oklahoma Market Stabilization Program (OMSP) was obtained in the 2017 session.

Opportunity

- Getting comprehensive waiver approval and the indication the state will pursue investment in market stabilization activities for 2019 may strengthen the case for new carriers to enter the market in 2019.

Threat

- Should future stabilization activities be discontinued as proposed (HB1069), assessments for insurers and reinsurers who met the definition per state law would not be implemented, thereby eliminating the source of required funding for federal pass through dollars.
- If full repeal of HB2406 occurs, the State would return to “square 1” on Task Force recommendations and establishing a governance structure for marketplace stabilization efforts.
- The share of premium revenue seen by insurers is large (\$8.8B). As such insurers assistance is needed to determine a reinsurance solution to the assessment methodology that is equitable across the health insurance industry.
- Significant changes to the assessment, including limiting the covered lives it applies to, would likely dramatically increase the assessment borne by the group market, resulting in a reduced scope of the reinsurance program.
- To the extent that modifications are made to the reinsurance program as proposed, the pool of covered lives being assessed shrinks, impact on remaining covered lives increases, parameters of reinsurance program would need to be limited. The remaining program may not be able to achieve objectives and sizable impacts to create stability.
- Without reinsurance, continued increases to premium rates and further destabilization of on/off exchange markets.
- Without reinsurance, enrollment continues to decline, more people leave the market because priced out, further constrictions on/off FFM, health of pool recedes.
- Without reinsurance, increases in uncompensated care and resulting cost shifts to group insurers will result.



Market Impacts of Reinsurance: Premiums

2018	Without OMSP	With OMSP	Net Change	Net Percentage Change
Average Premiums PMPM	\$668	\$440	\$228	34.1%

Changes in Second Lowest Cost Silver Plan Monthly Premium from OMSP Implementation						
Year	21-Year Old Monthly Premium			64-Year Old Monthly Premium		
	Without OMSP	With OMSP	Change	Without OMSP	With OMSP	Change
2017	\$405	\$405	\$0	\$1,215	\$1,215	\$0
2018	\$441	\$290	(\$150)	\$1,322	\$870	(\$451)
2019	\$437	\$311	(\$126)	\$1,310	\$933	(\$377)
2020	\$458	\$327	(\$131)	\$1,375	\$981	(\$394)
2021	\$472	\$337	(\$135)	\$1,415	\$1,011	(\$404)
2022	\$500	\$371	(\$129)	\$1,499	\$1,113	(\$387)

Source: 1332 State Innovation Waiver Application for the State of Oklahoma, Milliman Actuarial Analysis

- If reinsurance were implemented in 2018, premiums would be reduced across the on and off-exchange individual market by over 30%.
- Reinsurance primarily benefits individuals not eligible for APTCs.
- The largest premium reductions in terms of dollar amount would occur for older individuals.
- Total federal APTC and CSR funding (estimated at \$887 million for 2017) would be reduced by an estimated \$309 million and passed through to the state reinsurance program.



Market Impacts of Reinsurance: Enrollment

2018	Without OMSP	With OMSP	Net Change	Net Percentage Change
Enrollment	150,000	172,000	22,000	14.7%

Changes in Uninsured and Non-Group Market Resulting from OMSP Implementation						
	Uninsured			Individuals Insured in Non-Group Market		
Year	Without OMSP	With OMSP	Change	Without OMSP	With OMSP	Change
2017	590,000	590,000	-	150,000	150,000	-
2018	592,000	570,000	(22,000)	150,000	172,000	22,000
2019	601,000	574,000	(27,000)	144,000	171,000	27,000
2020	604,000	576,000	(28,000)	144,000	172,000	28,000
2021	607,000	580,000	(27,000)	144,000	171,000	27,000
2022	610,000	584,000	(26,000)	144,000	170,000	26,000

Source: 1332 State Innovation Waiver Application for the State of Oklahoma, Milliman Actuarial Analysis

- If reinsurance were implemented in 2018, individual market enrollment is estimated to increase by nearly 15%.
- Increased enrollment is estimated to result primarily from individuals not eligible for premium assistance.
- The correlating decrease in uninsured individuals is estimated at 22,000 people for 2018.
- An estimated 22,000 individuals will not enroll absent reinsurance; an additional reduction in enrollment due to an 8% premium increase for 2018 is also likely – even before the EO & CSR elimination.



Market Impacts of Reinsurance: Assessment

Estimated Available Pass-Through Funding and State-Based Assessment (Based on \$325 Million Reinsurance Funding Level)				
Calendar Year	Federal Pass-through Funding (\$ Millions)	State-Based Assessment (\$ Millions)	Estimated Assessment Enrollment Base	State-Based Assessment PMPM
2018	\$ 309	\$ 16	1,780,000	\$0.76
2019	\$ 262	\$ 63	1,790,000	\$2.96
2020	\$ 274	\$ 51	1,790,000	\$2.38
2021	\$ 282	\$ 43	1,800,000	\$2.00
2022	\$ 269	\$ 56	1,800,000	\$2.59
Totals	\$ 1,395	\$ 230	8,970,000	\$2.14

Source: 1332 State Innovation Waiver Application for the State of Oklahoma, Milliman Actuarial Analysis

- If reinsurance were implemented in 2018, the state-based assessment totals less than 0.5% of aggregate premium revenues.
- Federal transitional reinsurance ranged from \$2.25 PMPM to \$5.25 PMPM.
- Alaska: appropriated by state legislature and funded through existing 2.7% premium tax on all insurers (including non-health).
- Minnesota: financed by state's general fund and Health Care Access Fund - 2% provider tax (85% of funding) and an existing 1% Gross Insurer Premium Tax (15% of funding).



Market Impacts of Reinsurance: Assessment

Summary of Financial Results in Oklahoma: 2017			
	Covered Lives	Average PMPM Premium	Aggregate Premium (Millions, Rounded)
Small Group Commercial	179,000	\$413	\$888
Large Group Commercial	400,000	\$435	\$2,088
Self-Funded* (including Non-Medicare EGID)	1,119,000	\$435	\$5,842
Total	1,698,000		\$8,818

Source: Milliman. (2017). Reinsurance program parameters.
June 29, 2017 Task Force presentation.

*Self-funded employers who do not purchase stop-loss insurance are assumed to be excluded from assessment base

Assessment as Percentage of 2017 Premiums		
	5 Year Assessment (\$2.14) as Percentage of Average PMPM Premium	Total State Reinsurance Funding** as Percentage of Aggregate Premium
Small Group Commercial	0.5%	5.2%
Large Group Commercial	0.5%	2.2%
Self-Funded* (including Non-Medicare EGID)	0.5%	0.8%
Total		0.5%

**Five year average: \$46 million

0.5% PMPM premium increase is not anticipated to have material impact on offering coverage.



SWOT Analysis: Comprehensive Waiver Development

Strength

- The task force has recommended a wide set of marketplace changes, many of which can be included in a comprehensive 1332 waiver (including reinsurance and task force recommendations).
- If reinsurance is packaged together with other broader waiver changes (from concept paper), there is potential for additional federal pass through savings via increased pool health and enrollment, and downward effect on premiums.
- Oklahoma's 1332 task force has considered multiple recommendations and conducted analysis on the comprehensive waiver changes that are most beneficial to our state.
- As additional federal actions are taken, the task force is well positioned to continue analyzing the impacts to Oklahoma's market, and discussing how the state can benefit from flexibility provided.

Weakness

- The reinsurance waiver was withdrawn. Efforts to repeal the OMSP in its entirety removes board experts from helping to actively shape a comprehensive waiver proposal, including but not limited to reinsurance.
- An actuarial refresh and update to the future waiver impacts will be needed; the assumptions will change for future plan years; state resources have not been identified for this work.

Opportunity

- As APTC funding increases, additional federal pass through funds become available for the state to use as the baseline for future comprehensive waiver requests (assuming enrollment levels remain stable).
- Congressional healthcare plans retain use of and continue support for 1332 waivers, with expanded flexibilities proposed.

Threat

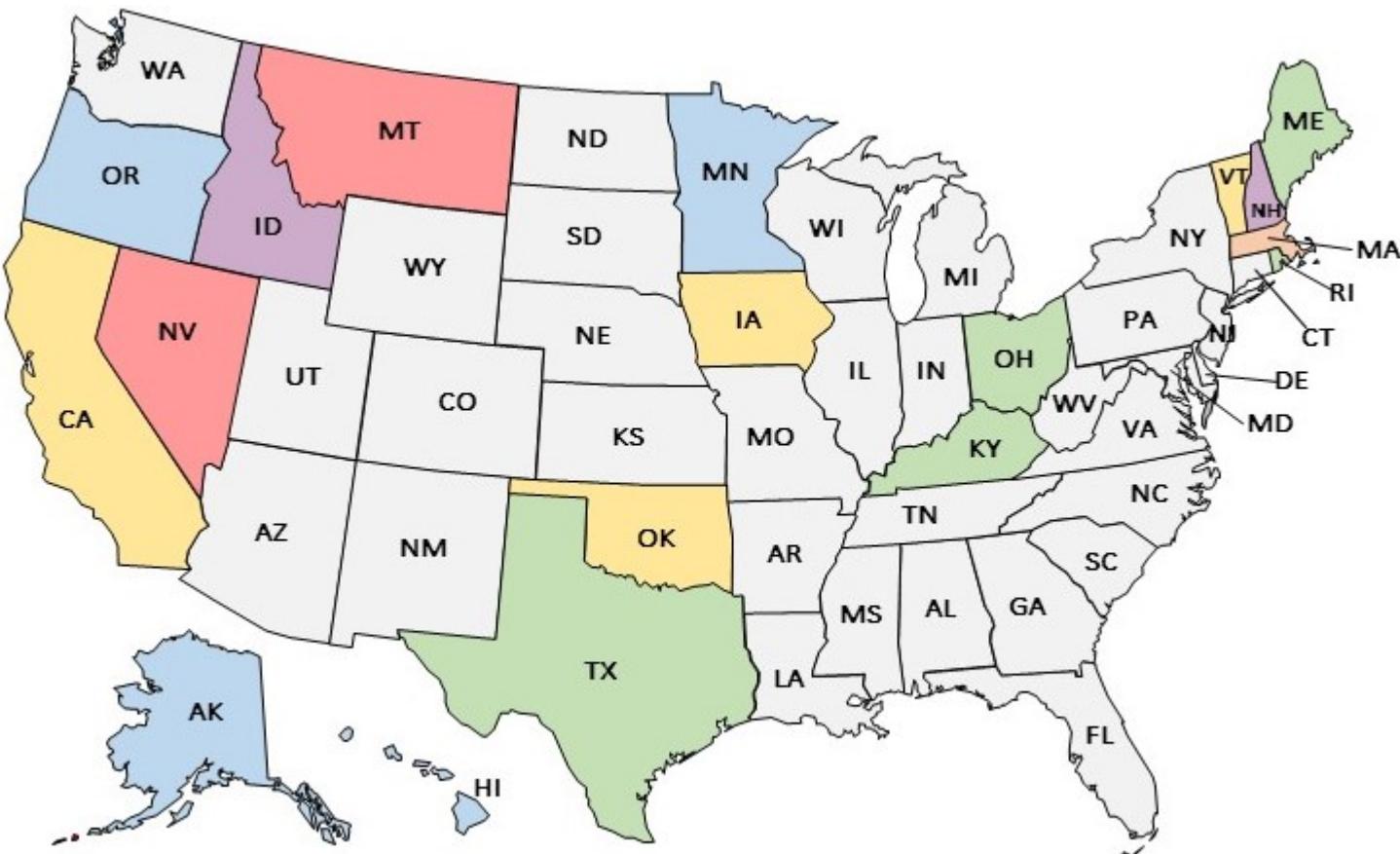
- The Federal government's recent marketplace changes, evidenced by Presidential action, proposed rule changes, and turnover in cabinet leadership, increases uncertainty for the future waiver policy environment.
- Impacts of recent changes on enrollment and premiums is needed to fully model the comprehensive waiver impacts.
- Enacting congressional healthcare plans (including 1332 flexibility) will be challenging, especially in the House.



Waiver Status in Other States

- Waiver approved
- Waiver application submitted, no longer pending
- Waiver application submitted, pending
- Authorizing legislation enacted
- Authorizing legislation passed, vetoed
- Public draft of application

State	Sub- mission	Federal Comment Period Start	Federal Comment Period End	Decision
Alaska	1/3/17			7/7/17
Minnesota	5/30/17	6/30/17	7/30/17	9/22/17
Oklahoma	8/16/17	8/23/17	9/23/17	withdrawn
Iowa	8/21/17	9/19/17	10/19/17	withdrawn
Oregon	8/31/17	9/11/17	10/11/17	10/19/17



Source: State Coverage Network. (2017). Website

*WA is beginning waiver development



SWOT Analysis: OID/OMSP Role within Comprehensive Waiver

Strength

- The OID has been an engaged task force member since initiation of the 1332 waiver efforts.
- The OMSP Board was authorized in 2017 through state statute, and per state law can exist for 2 years to “develop” aspects of market stabilization within the comprehensive waiver program.
- The OMSP Board is charged with developing certain program aspects, and may choose to reconsider a different approach (reinsurance, HRP, hybrid) and funding for a comprehensive 1332 waiver.
- As additional federal actions are taken, the OID and board can provide expert advice on effects to Oklahoma’s market.

Weakness

- Without 1332 waiver approval, OID does not pursue becoming an effective rate review state (retains DE).
- Pursuit of effective rate review is not implemented until comprehensive waiver is approved.
- Recent challenges to the OMSP authorizing statute (HB1069), if successful, would negate the ability of the OMSP board to actively shape a comprehensive waiver proposal.
- Without OMSP expertise the state risks developing a comprehensive waiver without considering all market impacts.

Opportunity

- If established, the OMSP board is able to contribute to the comprehensive waiver development. The board may help revise, recraft and develop the program and comprehensive waiver submission after adequate public notice and input.
- As the impact of recent federal actions is analyzed, the OMSP board provides expertise on ways to mitigate negative effects for Oklahoma.

Threat

- Delays establishing the OMSP board in 2017 may continue. Without Board establishment and engagement, details regarding operational plans will remain uncertain and threaten to hinder further comprehensive waiver development.



SWOT Analysis: Marketplace Operations for Comprehensive Waiver

Strength

- Oklahoma's 1332 task force has considered multiple recommendations and conducted analysis on the waiver changes that are most beneficial to our state.
- Having comprehensive waiver approval with a future implementation date ensures additional time for the State to act upon and communicate program details, prior to the deadlines for plans to file rates for the affected plan year.

Weakness

- Recent federal changes will cause plans to re-assess and potentially modify rate assumptions for future plan years. The timing of such analysis and the date the impacts may be seen are unknown.

Opportunity

- Consumer outreach and education points are available online, a free resource for use by stakeholders to promote enrollment.
- 2018 rates, coupled with the CSR elimination, appear to make \$0 premium plans available for a larger number of Oklahoma consumers. Maintaining enrollment levels could also maintain future federal pass through fund levels.
- Plans have modified rates, following waiver withdrawal, to remove the reinsurance parameters and assessment factors for 2018 plan year. For future plan years, factors and parameters may be revisited and revised in a comprehensive waiver. Plans may choose to engage, review and provide feedback on the proposed waiver.

Threat

- Should additional federal actions be taken, impacts upon the comprehensive waiver (as well as QHPs participating in the FFM) would need to be determined.



SWOT Analysis: State Legislative Action

Strength

- The 1332 task force is an engaged group and has developed broad recommendations to improve the marketplace.
- The broad recommendations include not only reinsurance, but multiple, suggested improvements to be pursued in a comprehensive waiver.
- Oklahoma has enacted authorizing statute for 1332 waivers, movement to direct enforcement, and OMSP.

Weakness

- The state has no money or resources to pursue continued comprehensive waiver development needs or for operationalizing broad waiver changes.
- Recent challenges to the OMSP authorizing statute (HB1069), if successful, would negate the ability of the OMSP board to actively shape the market stabilization component of a comprehensive waiver proposal.

Opportunity

- Changes to task force recommendations and/or existing state statute could be pursued in 2018 to strengthen the development of a comprehensive 1332 waiver; changes could be made that would garner broader support.

Threat

- Implementation of a comprehensive 1332 waiver requires funding and governance to be established for infrastructure and operations of the marketplace.
- Upcoming statewide elections will likely yield new leadership, vision and direction. The future marketplace direction could remain similar or change course.
- Establishing a champion for the 1332 waiver changes is critical to forward progress, otherwise the State is at risk to develop and expend resources on programs without clear state leadership, priority, or direction.



SWOT Analysis: Federal Regulatory and Political Environment

Opportunity

- Relationship with Federal Departments (CCIIO, Treasury, CMS) has been established.
- Possibility of increased state flexibility and 1332 waiver latitude within several Congressional healthcare plans. Continued interest by the President and Congress to modify/repeal the ACA regulation & rules.
- Federal actions to modify federal rules may provide the state flexibility to pursue task force recommendations.

Strength

- Members of Oklahoma's Congressional delegation are engaged in federal reform developments.
- Increased flexibility is a cornerstone of Oklahoma's concept paper recommendations.
- As additional federal actions are taken, the task force is well positioned to continue analyzing the impacts to Oklahoma's market, and discussing how the state can benefit from flexibility provided.

Threat

- Federal ACA reform efforts will likely continue in the current session (e.g., Alexander/Murray, etc.) as well as the next session. Late 2017 and early 2018 may provide the next window for a Congressional vote. The outcome will not be known for several months.
- Continued Administrative actions will impact marketplace conditions moving forward, additional analysis is needed.
- Continued uncertainty surrounding the EO, Presidential directives, as well as proposed federal rulemaking, makes definitive planning, analysis and state decision making challenging.
- Oklahoma's comprehensive waiver compliance with the federal sub-regulatory guidance and ACA regulatory guardrails is challenging. Federal flexibility (not currently found within the existing regulations) is needed to fully pursue all task force recommendations.



March 2017 Concept Paper Recommendations

2017: Planning and Authorization

- ✓ Engage federal partners
- ✓ Secure actuarial expertise
- ✓ Submit initial 1332 Waiver
- ✓ OID operational planning
- ✓ Secure OMSP enabling legislation

2018: Operational and Infrastructure Planning

- OMSP Board organizes
- Fine tune reinsurance elements
- Establish governance and infrastructure
- Develop and submit comprehensive waiver
- Health Outcomes Focus
- Support for Broadening Age Ratios & CSRs
- Streamline Timely & Direct Enrollment (CMS Rule)

2019+: Oklahoma's Modernized Marketplace

- Implement comprehensive waiver
- Market Stabilization via Reinsurance
- State Regulatory Control
- Leverage IO
- Change Subsidy Eligibility & Calculation
- Simplify Plans
- Create Consumer Health Accounts
- State-designed QHP requirements (2020)
- Gain Benefit Flexibility (2020)



Key Questions

- What parts of the SWOT are most promising to you? Most concerning?
- What activities are ‘critical path’ meaning that without them the 1332 effort is at high risk for failure?
- Do you recommend the state pauses or discontinue 1332 waiver development? Why? Until when?
- Do you recommend the state proceeds with 1332 waiver development? Why? Which task force recommendations should be included?
- What alternative course of action should the state pursue?

Finalize Task Force recommendation on next steps.

