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State Innovation Waivers: Frequently Asked Questions

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Summary

Section 1332 of the Patient Protection and Affordable Care Act (ACA; P.L. 111-148, as amended) provides states with the option to waive specified requirements of the ACA. In the absence of these requirements, the state is to implement its own plan to provide health insurance coverage to state residents that meets the ACA's terms.

Under a state innovation waiver, a state can apply to waive ACA requirements related to qualified health plans, health insurance exchanges, premium tax credits, cost-sharing subsidies, the individual mandate, and the employer mandate. The state can apply to waive any or all of these requirements, in part or in their entirety.

To obtain approval for a waiver application, a state must show that the plan it will implement in the absence of the waived provision(s) meets certain requirements. The state's plan must ensure that as many state residents have health insurance coverage under the plan as would have had coverage absent the waiver, and the coverage must be as affordable and comprehensive as it would have been absent the waiver. Additionally, the state's plan cannot increase the federal deficit.

The Secretary of the Department of Health and Human Services (HHS) and the Secretary of the Treasury share responsibility for reviewing state innovation waiver applications and deciding whether to approve applications. The earliest a state innovation waiver could have gone into effect was January 1, 2017.

As of the date of this report, four states—Alaska, Hawaii, Minnesota, and Oregon—have approved state innovation waivers. Wisconsin has submitted a waiver application, and HHS and the Treasury have made a preliminary determination that the application is complete. The entire application is available to the public for review and comment through June 8, 2018. Ohio, Massachusetts, and Vermont have submitted applications and received notification that their applications were incomplete. It does not appear that any of these states has modified its application in response to the notification (as of the date of this report). Three states—California, Iowa, and Oklahoma—submitted waiver applications and have since withdrawn their applications.

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Section 1332 of the Patient Protection and Affordable Care Act (ACA; P.L. 111-148, as amended) allows states to apply for waivers of specified provisions of the ACA. Under a state innovation waiver, a state is expected to implement a plan (in place of the waived provisions) that meets certain minimum requirements. The state's plan must provide coverage to as many state residents as would be covered absent the waiver, and that coverage must be as affordable and comprehensive as it would be absent the waiver. Additionally, the state's plan cannot increase the federal deficit. The earliest a state innovation waiver could have gone into effect was January 1, 2017.

This report answers frequently asked questions about how states can use and apply for state innovation waivers.

Which ACA Provisions May a State Waive Under a State Innovation Waiver?

A state may apply to waive *any or all* of the ACA provisions listed below for plan years beginning on or after January 1, 2017.[1]

- **Part I of Subtitle D of the ACA:** Part I of Subtitle D comprises Sections 1301-1304. In general, the provisions in Part I relate to the establishment of qualified health plans (QHPs).[2]
- **Part II of Subtitle D of the ACA:** Part II of Subtitle D comprises Sections 1311-1313, which largely include provisions related to the establishment of health insurance exchanges and related activities.
- **Section 1402 of the ACA:** Provision of cost-sharing reductions to eligible individuals who purchase individual market coverage through a health insurance exchange.[3]
- **Section 36B of the Internal Revenue Code (IRC):** Provision of premium tax credits to eligible individuals who purchase individual market coverage through a health insurance exchange.
- **Section 4980H of the IRC:** Shared responsibility requirement for large employers (often called the *employer mandate*).[4]
- **Section 5000A of the IRC:** Requirement for individuals to maintain health insurance coverage (often called the *individual mandate*).[5]

[1] 42 U.S.C. §18052(a)(2).

[2] A qualified health plan (QHP) is a plan that meets certain requirements and is certified to be sold through a health insurance exchange (in the nongroup or small-group market). Although QHPs are certified to be sold through exchanges, they also can be sold in the nongroup or small-group market outside of exchanges. For more information, see CRS Report R44065, *Overview of Health Insurance Exchanges*.

[3] For more information about the current status of the cost-sharing subsidies, see CRS Insight IN10786, *Payments for Affordable Care Act (ACA) Cost-Sharing Reductions*.

[4] For more information about the employer mandate, see CRS Report R43981, *The Affordable Care Act's (ACA) Employer Shared Responsibility Determination and the Potential Employer Penalty*.

[5] For more information about the individual mandate, see CRS Report R44438, *The Individual Mandate for Health Insurance Coverage: In Brief*. The 2017 tax revision, P.L. 115-97, effectively eliminates the individual mandate penalty beginning in 2019.

Each part noted above is composed of many provisions, which makes the scope of provisions that can be waived under a state innovation waiver quite broad. For example, Part I of Subtitle D of the ACA includes provisions that outline requirements for health plans to be certified as QHPs. It defines the essential health benefits (EHB) package that each QHP must offer, places limitations on the enrollee cost sharing that QHPs may impose, and requires that the QHP provide coverage meeting a minimum level of actuarial value.[6] Additionally, Part I of Subtitle D creates catastrophic health plans and determines eligibility for such plans.

Which Federal Agency Has the Authority to Grant a Waiver?

The Secretary of the Department of Health and Human Services (HHS) is to review waiver requests for provisions not included in the IRC; the Secretary of the Treasury is to review requests to waive provisions in the IRC (the availability of premium tax credits and the application of the employer and individual mandates).[7]

What Are the Minimum Requirements for a Successful Application?

The Secretary of HHS or the Treasury is to assess a waiver application to determine whether the state's plan meets the requirements related to coverage, affordability, comprehensiveness, and federal-deficit neutrality outlined in statute and further described in guidance.[8] These requirements are described in **Table 1**. The Secretary or Secretaries (as appropriate) may grant a request for a state innovation waiver if a state's application meets the requirements.

In guidance, HHS and the Treasury note that their assessment of a state's waiver application considers changes to the state's health care system that are contingent only upon approval of the waiver.[9] Their assessment does not consider policy changes that are dependent on further state action or other federal determinations. For example, the Secretary's or Secretaries' (as appropriate) assessment of a state innovation waiver application would not consider changes to Medicaid or the state Children's Health Insurance Program (CHIP) that require approval outside of the state innovation waiver process, and savings accrued as a result of changes to Medicaid or CHIP would not be considered when determining whether the state innovation waiver meets the deficit-neutrality requirement. HHS and the Treasury indicate that this is the case regardless of whether a state's application for a state innovation waiver is submitted alone or in coordination with another waiver application. (For more information about the coordinated waiver process, see "May States Submit State Innovation Waiver Applications in Coordination with Other Federal Waiver Applications?")

[6] For more information about the essential health benefits package, see CRS Report R44163, *The Patient Protection and Affordable Care Act's Essential Health Benefits (EHB)*.

[7] 42 U.S.C. §18052(a)(6).

[8] 42 U.S.C. §18052(b)(1) and Department of the Treasury, Department of Health and Human Services (HHS), "Waivers for State Innovation," 80 *Federal Register* 78131, December 16, 2015 (Hereinafter "Waivers for State Innovation guidance"). The requirements are not covered in regulations.

[9] Waivers for State Innovation guidance.

Table 1. Requirements for a Successful State Innovation Waiver Application

(as described in statute and guidance)

Statute	Guidance
Coverage: The state's plan must provide coverage to at least a comparable number of individuals as the provisions of Title I of the Patient Protection and Affordable Care Act (ACA; P.L. 111-148, as amended) would provide.	At least as many individuals who had minimum essential coverage (MEC) absent a waiver must have MEC under the waiver.[a] This requirement must be forecast to be met for each year the waiver is in effect. In considering whether this requirement is met, the plan's impact on all state residents, regardless of coverage type, will be considered, and the plan's effects on different groups of individuals in the state, particularly those considered vulnerable, will be assessed.[b] Whether the plan sufficiently prevents gaps in or discontinuations of coverage also will be considered.
Affordability: The state's plan must provide coverage and cost-sharing protections that are at least as affordable as the provisions of Title I of the ACA.	An individual's health care coverage under the waiver must be as affordable as coverage absent the waiver. Affordability is generally measured by comparing the sum of an individual's premium contributions and cost-sharing responsibilities for a health plan to the individual's income. Spending on health care services that are not covered by a health plan may be considered if the services are affected by the state's plan. This requirement must be forecast to be met for each year the waiver is in effect. In considering whether this requirement is met, the plan's impact on all state residents, regardless of coverage type, will be considered, and the plan's effects on different groups of individuals in the state, particularly those considered vulnerable, will be assessed.[b] In assessing the plan, the affordability of coverage on average will be considered, and how the plan affects individuals who have large heath care spending burdens relative to their incomes will be examined.
Comprehensiveness: The state's plan must provide coverage that is at least as comprehensive as the essential health benefits (EHB),[c] as certified by the Office of the Actuary of the Centers for Medicare & Medicaid Services (CMS).	Health care coverage under the state plan must be at least as comprehensive overall for individuals as coverage was absent the waiver. Comprehensiveness is measured by comparing coverage under the plan to coverage under the state's EHB benchmark plan or coverage under the state's Medicaid program and/or the State Children's Health Insurance Programs (CHIP), as appropriate.[c] This requirement generally must be forecast to be met for each year the waiver is in effect. In considering whether this requirement is met, the proposal's impact on all state residents, regardless of coverage type, will be considered, and the effects of the proposal on different groups of individuals in the state, particularly those considered vulnerable, will be assessed.[b]
Deficit Neutral: The state's plan must not increase the federal deficit.	Projected federal spending net of federal revenues must be equal to or lower than it would be absent the waiver. The state's plan must not increase the federal deficit over the period of the waiver or in total over the 10-year budget plan submitted by the state as part of its application.[d]

Source: Congressional Research Service's compilation and summary of statute (42 U.S.C. §18052(b)(1)) and guidance (80 *Federal Register* 78131, December 16, 2015). The requirements are not covered in regulations.

Notes: The Secretary of the Department of Health and Human Services (HHS) is to review waiver applications for provisions not included in the Internal Revenue Code (IRC); the Secretary of the Treasury is to review requests to waive provisions in the IRC (the availability of premium tax credits and the application of the employer and individual mandates).

a. MEC is defined in the tax code (26 U.S.C. §5000A(f)) and includes most types of comprehensive coverage, including public coverage, such as coverage under programs sponsored by the federal government (e.g., Medicaid, Medicare), as well as private insurance (e.g., employer-sponsored insurance, nongroup insurance).

b. Vulnerable individuals include "low-income individuals, elderly individuals, and those with serious health issues or who have a greater risk of developing serious health issues" (80 *Federal Register* 78131, December 16, 2015, p. 78132).

c. Under the ACA, certain health plans must cover the EHB. The ACA does not explicitly define the EHB; rather, it lists 10 broad categories from which benefits and services must be included and requires the Secretary of HHS to further define the EHB. For information about the 10 categories as well as how the EHB are currently defined, see CRS In Focus IF10287, *The Essential Health Benefits (EHB)*.

d. The state innovation waivers cannot extend longer than five years unless a state requests continuation and such request is not denied by the appropriate Secretary. Statute requires that an application for a waiver include a 10-year budget plan that is budget neutral for the federal government (42 U.S.C. §18052(a)(1)(B)(ii)).

Are There Any Limitations on the Scope of State Innovation Waivers?

In guidance issued in December 2015, HHS and the Treasury describe some federal operational considerations that may limit the scope of the waivers.[10] HHS administers all federally facilitated health insurance exchanges (FFEs), and it operates the same infrastructure technology platform in each state that has an FFE. The agencies explain that HHS cannot accommodate any state-specific changes to FFE platforms. For example, waivers that would require a state's FFE to use different rules for calculating the financial assistance available to an individual in the state are not feasible. Similarly, the Internal Revenue Service (IRS) cannot accommodate any state-specific changes to tax rules. For example, waivers that would require the IRS to use different eligibility rules for premium tax credits for individuals in one state are not feasible.

What Is the Application Process for a State Innovation Waiver?

A state seeking a state innovation waiver must enact a law that allows the state to carry out the actions under the waiver prior to submitting an application for a waiver.[11] Prior to submitting an application, a state must provide a public notice and comment period and conduct public hearings regarding the state's application.[12] Upon conclusion of these activities, a state may submit its application to the Secretary of HHS. The Secretary of HHS is to transmit any application seeking to waive requirements in the IRC to the Secretary of the Treasury for review.

The Secretary or Secretaries (as appropriate) are to review a state's application to determine whether it is complete. A state's application is not considered complete unless it includes the materials identified in regulations.[13] The materials include, but are not limited to, information about the enacted state legislation allowing the state to carry out the actions under the waiver, a description of the plan or program the state expects to implement in place of the waived provisions, and analyses showing that the state's plan or program meets the requirements for granting a waiver. If a state's application is not complete, the state is to be notified about the missing elements and given an opportunity to submit them. Once the Secretary or Secretaries (as

[10] Waivers for State Innovation guidance.

[11] 42 U.S.C. §18052(b)(2).

[12] The public notice and comment period is to be "sufficient to ensure a meaningful level of public input for the application for a section 1332 waiver." 45 C.F.R. §155.1312.

[13] 45 C.F.R. §155.1308(f).

appropriate) make a preliminary determination that a state's application is complete, the entire application is to be made available to the public for review and comment.[14]

The final decision of the Secretary or Secretaries on a state's application must be issued no later than 180 days after the determination that the Secretary of HHS received a complete application from a state.[15]

Is Any Federal Funding Available Under a State Innovation Waiver?

It is possible for a state to receive federal funding under an approved waiver. A state's receipt of a state innovation waiver could result in the residents of the state not receiving the "premium tax credits, cost-sharing reductions, or small business credits under sections 36B of the Internal Revenue Code of 1986 or under part I of subtitle E for which they would otherwise be eligible."[16] If this occurs, the state is to receive the aggregate amount of subsidies that would have been available to the state's residents had the state not received a state innovation waiver—this is referred to as *pass-through funding*.[17] The amount of pass-through funding is to be determined annually by the appropriate Secretary. The state is to use the pass-through funding for purposes of implementing the plan or program established under the waiver.[18]

How Long Can a State Innovation Waiver Be in Effect?

State innovation waivers cannot extend longer than five years unless a state requests continuation and such request is not denied by the appropriate Secretary.[19] Requests for continuation are to be deemed granted if they are not denied by the appropriate Secretary within 90 days after submission.

[14] The public notice and comment period is to be "sufficient to ensure a meaningful level of public input and does not impose requirements that are in addition to, or duplicative of, requirements imposed under the Administrative Procedures Act, or requirements that are unreasonable to unnecessarily burdensome with respect to state compliance." 45 C.F.R. §155.1316(b).

[15] 42 U.S.C. §18052(d)(1) and 45 C.F.R. §155.1316(c).

[16] 42 U.S.C. §18052(a)(3).

[17] Under the Patient Protection and Affordable Care Act (ACA; P.L. 111-148, as amended), eligible small employers can receive small business health insurance tax credits to help pay the cost of providing health insurance to employees. In general, these credits are available only to small employers that purchase coverage through a Small Business Health Options Program (SHOP) exchange. The statutory text quoted above makes it unclear whether the subsidy amounts a state could receive under a state innovation waiver could include amounts that small employers would have received in small business health insurance tax credits, because the text refers to "small business credits" but the following language does not identify the section of the ACA that provides for the credits (which is Part II of Subtitle E of Title I). This ambiguity has not been resolved in regulations or guidance; however, the Centers for Medicare & Medicaid Services (CMS) approved Hawaii's application for a state innovation waiver and is giving small business tax credit funds to the state. For more details, see "How Many States Have Applied for State Innovation Waivers?"

[18] 42 U.S.C. §18052(a)(3).

[19] 42 U.S.C. §18052(e).

May States Submit State Innovation Waiver Applications in Coordination with Other Federal Waiver Applications?

The Secretaries are required to develop a process for coordinating applications for state innovation waivers and for other existing waivers under federal law relating to the provision of health care, including waivers available under Medicare, Medicaid, and CHIP.

Under the coordinated process, a state must be able to submit a single application for a state innovation waiver and any other applicable waivers available under federal law.[20] The single application must comply with the procedures described for state innovation waiver applications and the procedures in any other applicable federal law under which the state seeks a waiver.[21]

As discussed in the answer to the question "What Are the Minimum Requirements for a Successful Application?," HHS and the Treasury have indicated that an application for a state innovation waiver will be assessed on its own terms and that assessment of the state innovation waiver will not consider the impact of changes that require separate federal approval. This is the case even if the state submits a single application for multiple waivers.

How Many States Have Applied for State Innovation Waivers?

As of the date of this report, 11 states have submitted applications for state innovation waivers—Alaska, California, Hawaii, Iowa, Massachusetts, Minnesota, Ohio, Oklahoma, Oregon, Vermont, and Wisconsin.[22] HHS and the Treasury have approved four applications, from Alaska, Hawaii, Minnesota, and Oregon, and they made a preliminary determination that Wisconsin's application was complete. Wisconsin's application is available to the public for review and comment through June 8, 2018. Ohio, Massachusetts, and Vermont received notification from HHS and the Treasury that their applications were incomplete, and it does not appear that any of these states has modified its application in response to the notification. California, Iowa, and Oklahoma have withdrawn their applications.[23]

See **Table 2** for more details.

[20] Ibid.

[21] 45 C.F.R. §155.1302(a).

[22] For information about each state's application, see CMS, Center for Consumer Information and Insurance Oversight (CCIIO), "Section 1332: State Innovation Waivers," at https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section_1332_State_Innovation_Waivers-.html.

[23] To read the withdrawal letters, see CMS, CCIIO, "Section 1332: State Innovation Waivers," at https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section_1332_State_Innovation_Waivers-.html.

Table 2. States That Have Applied for State Innovation Waivers

(as of June 5, 2018)

	Application Information		Waiver Information		
State	**Submitted**	**Status**	**Overview**	**Pass-Through Funding**	**Effective Period**
			Approved Waivers		
Alaska	December 29, 2016	Approved—July 17, 2017	Alaska established a state-based reinsurance program, the Alaska Reinsurance Program (ARP), to help health insurance issuers offering plans in the individual market offset the cost of covering specified high-cost conditions for enrollees. Under the approved waiver, the Patient Protection and Affordable Care Act (ACA; P.L. 111-148) provision requiring issuers to consider all enrollees in individual plans offered by the issuer to be members of a single risk pool is waived,[a] to the extent the provision prohibits issuers from including expected reinsurance payments from the ARP when establishing its market-wide index rate. The expected effect of allowing issuers to consider the ARP payments when setting market-wide rates is to reduce premiums in the individual market, and the expected effect of the reduced premiums is reduced federal spending on premium tax credits for residents of Alaska. The state is to receive the resulting reductions in federal spending as pass-through funding. Under the waiver, Alaska is to use the pass-through funding for ARP payments to issuers beginning in CY2018. The approved waiver does not modify the eligibility criteria for premium tax credits for residents of Alaska.	The Centers for Medicare & Medicaid Services (CMS) estimated Alaska will receive $58.5 million for calendar year (CY)2018	CY2018-CY2022
Hawaii	June 16, 2016	Approved—December 30, 2016	Under the approved waiver, multiple ACA provisions relating to the establishment and operation of a Small Business Health Options Program (SHOP) exchange, as they pertain to small employers and SHOP exchanges, are waived.[b] As a result, Hawaii is no longer required to operate SHOP exchanges for small employers. The amount that small employers in Hawaii would have received in small business tax credits for coverage purchased through a SHOP exchange is provided to the state in pass-through funding to support a program that assists small employers with the cost of health insurance coverage.	CMS estimated Hawaii would receive $459,169 for CY2017, $999,069 for CY2018	CY2017-CY2021

	Application Information		Waiver Information		
State	**Submitted**	**Status**	**Overview**	**Pass-Through Funding**	**Effective Period**
Minnesota	May 5, 2017	Approved[c]—September 22, 2017	Minnesota established a state-based reinsurance program, the Minnesota Premium Security Plan (MSPS). Starting in CY2018, the MSPS will reimburse issuers selling coverage in the state's individual market for a percentage of enrollees' claims between an attachment point and a cap. Minnesota's approved waiver is similar to Alaska's and Oregon's in that the ACA provision requiring issuers to consider all enrollees in individual plans offered by the issuer to be members of a single risk pool is waived,[a] which allows issuers to consider MSPS payments when setting market-wide index rates. The expected effect is that individual market premiums will decrease and federal spending on premium tax credits for residents of Minnesota will decrease. The state will receive the resulting reductions in federal spending as pass-through funding. Under the waiver, Minnesota will use the pass-through funding for MSPS payments to issuers beginning in CY2018. The approved waiver does not modify the eligibility criteria for premium tax credits for residents of Minnesota.	CMS estimated Minnesota will receive $130.7 million for CY2018	CY2018-CY2022
Oregon	August 31, 2017	Approved—October 18, 2017	Oregon established a state-based reinsurance program, the Oregon Reinsurance Program (ORP). Starting in CY2018, the ORP will reimburse issuers selling coverage in the state's individual market for a percentage of enrollees' claims between an attachment point and a cap. Oregon's approved wavier is similar to Alaska's and Minnesota's. The ACA provision requiring issuers to consider all enrollees in individual plans offered by the issuer to be members of a single risk pool is waived,[a] which allows issuers to consider ORP payments when setting market-wide index rates. The expected effect is that individual market premiums will decrease and federal spending on premium tax credits for residents of Oregon will decrease. The state will receive the resulting reductions in federal spending as pass-through funding. Under the waiver, Oregon will use the pass-through funding for ORP payments to issuers beginning in CY2018. The approved waiver does not modify the eligibility criteria for premium tax credits for residents of Oregon.	CMS estimated that Oregon will receive $54.5 million for CY2018	CY2018-CY2022

	Application Information		Waiver Information		
State	**Submitted**	**Status**	**Overview**	**Pass-Through Funding**	**Effective Period**
			Pending Applications		
Massachusetts	September 8, 2017	Received notification of incomplete application—October 23, 2017	Massachusetts is seeking to create a Premium Stabilization Fund (PSF), which would be used to reimburse issuers amounts equal to what would have been provided by cost-sharing reduction payments. Under the proposed waiver, the ACA provision that provides for cost-sharing subsidy payments to issuers from HHS would be waived,[e] which Massachusetts indicates would allow the state to substitute these payments with allocations from the PSF. The expected effect is that individual market premiums would decrease and federal spending on premium tax credits for residents of Massachusetts also would decrease. The state would receive the resulting reductions in federal spending as pass-through funding. Under the proposed waiver, Massachusetts would use the pass-through funding for PSF payments to issuers for an initial period of one year, beginning in CY2018, and the state would request the opportunity to renew the waiver through CY2022.	Massachusetts estimated it would receive between $143 and $146 million for CY2018	N.A.
Ohio	March 30, 2018	Received notification of incomplete application—May 17, 2018	Ohio is seeking to waive the requirement that individuals must maintain minimum essential coverage, as established under the ACA's individual mandate provision.[f] Under the proposed waiver, the requirement would be waived beginning in CY2019.[g]	Ohio is not requesting pass-through funding	N.A.
Vermont	March 15, 2016	Received notification of incomplete application—June 9, 2016	Vermont is seeking an exemption from the requirement that a state must establish a SHOP exchange for small employers. Under the proposed waiver, Vermont seeks to waive multiple ACA provisions relating to the establishment and operation of a SHOP exchange.[h] As a result, Vermont indicates that employers in the small-group market would purchase qualified health plans directly from an issuer.	Vermont is not requesting pass-through funding	N.A.

	Application Information		Waiver Information		
State	**Submitted**	**Status**	**Overview**	**Pass-Through Funding**	**Effective Period**
Wisconsin	April 18, 2018	Received preliminary determination of completeness—May 9, 2018 The federal public comment period extends through June 8, 2018.	Wisconsin established a state-based reinsurance program, the Wisconsin Healthcare Stability Plan (WIHSP). Starting in CY2019, the WIHSP will reimburse issuers selling coverage in the state's individual market for a percentage of enrollees' claims between an attachment point and a cap. Wisconsin's pending wavier is similar to the currently approved waivers in Alaska, Oregon, and Minnesota. If approved, the ACA provision requiring issuers to consider all enrollees in individual plans offered by the issuer to be members of a single risk pool would be waived,[a] which would allow issuers to consider WIHSP payments when setting market-wide index rates. The expected effect is that individual market premiums would decrease and federal spending on premium tax credits for residents of Wisconsin would decrease. The state would receive the resulting reductions in federal spending as pass-through funding. Under the waiver, Wisconsin would use the pass-through funding for WIHSP payments to issuers beginning in CY2019. The waiver would not modify the eligibility criteria for premium tax credits for residents of Wisconsin.	Wisconsin estimated it would receive $166 million in CY2019 and approximately $164 million in each year over the period CY2020-CY2023	CY2019-CY2023
Withdrawn Applications					
California	December 6, 2016	Withdrawn—January 18, 2017	California sought to provide undocumented immigrants with the ability to purchase unsubsidized insurance through its exchange. Under this waiver, the ACA provision that prohibits the marketing of nonqualified health plans (QHPs) on the exchanges would have been waived,[i] which California indicates would have allowed "California Qualified Health Plans (CQHP)" to be offered through its exchange. CQHPs would have differed from QHPs only in that undocumented individuals could purchase CQHPs and enrollment in CQHPs would disqualify individuals from receiving premium tax credits and cost-sharing subsidies.	California did not request pass-through funding	N.A.

	Application Information		Waiver Information		
State	**Submitted**	**Status**	**Overview**	**Pass-Through Funding**	**Effective Period**
Iowa	August 21, 2017	Withdrawn—October 23, 2017	Iowa sought to allow issuers in its individual market to offer one standard health plan, to provide age- and income-based premium tax credits to individuals purchasing the standard plans, and to support a state-based reinsurance program. Under this waiver, Iowa sought to waive the following ACA provisions.[j] • Iowa applied to waive the provisions establishing premium tax credits and cost-sharing reductions. Iowa indicates that it would have received the resulting reductions in federal spending as pass-through funding and would have allocated this funding to its age- and income-based premium tax credit and its reinsurance program. • Iowa applied to waive the provision that defines the coverage levels based on actuarial value. Iowa indicates waiving the provision would authorize issuers to offer one standard plan to consumers. The standard plan would be similar in actuarial value to a silver-tier plan and would be purchased directly from an issuer. • Finally, Iowa applied to waive the provision that provides the Secretary with 180 days to review all state innovation waiver requests. Iowa indicates that waiving the provision would have allowed for expedited review of its waiver application. The Iowa waiver would have begun in CY2018 and would have allowed Iowa to request renewal of the program for CY2019 if necessary.	Iowa estimated it would have received $422 million for CY2018	N.A.
Oklahoma	August 16, 2017	Withdrawn—September 29, 2017	Oklahoma established a state-based reinsurance program, the Oklahoma Individual Health Insurance Market Stabilization Program (OMSP). Had the waiver been approved, the OMSP would have reimbursed issuers selling coverage in the state's individual market for a percentage of enrollees' claims between an attachment point and a cap. Oklahoma's withdrawn waiver was similar to Minnesota's, Alaska's, and Oregon's approved waivers in that the ACA provision requiring issuers to consider all enrollees in individual plans offered by the issuer to be members of a single risk pool would have been waived,[a] which would have allowed issuers to consider OMSP payments when setting market-wide index rates. The expected effect was that individual market premiums would have decreased and federal spending on premium tax credits for residents of Oklahoma also would have decreased. The state would have received the resulting reductions in federal spending as pass-through funding. Under the waiver, Oklahoma would have used the pass-through funding for OMSP payments to issuers beginning in CY2018.	Oklahoma estimated it would have received $309 million for CY2018 and $1,395 million over the period CY2018-CY2022	N.A.

Source: Various documents available on the CMS website, "Section 1332: State Innovation Waivers," at https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section_1332_State_Innovation_Waivers-.html, viewed June 5, 2018.

Notes:

a. Specifically, ACA §1312(c)(1).

b. Specifically, the following ACA §§: 1301(a)(1)(C)(ii); 1301(a)(2); 1304(b)(4)(D)(i) and (ii); 1311(b)(1)(B); 1312(a)(2); 1312(f)(2)(A); and 1321(c)(1).

c. In addition to what is described in the table about Minnesota's approved waiver, Minnesota's waiver application also requested that the state receive, in pass-through funding, the amount that the federal government would save in payments to Minnesota's Basic Health Program because of premium reductions due to MSPS. This request was not granted under the approved waiver. For details, see Letter from Mark Dayton, Governor of Minnesota, et al. to Thomas Price, Secretary of the U.S. Department of Health and Human Services, September 19, 2017, http://mn.gov/gov-stat/pdf/2017_09_19_Governor_Dayton_Letter_to_Secretary_Price_1332_Waiver.pdf, and Letter from Mark Dayton, Governor of Minnesota, to Seema Verma, Administrator of the Centers for Medicare & Medicaid Services, October 16, 2017, https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Downloads/Approval-Letter-MN.pdf.

d. In the Specific Terms and Conditions agreed to by HHS and Oregon, HHS indicates pass-through funding for 2019-2022 will be calculated annually and communicated to Oregon no later than October 31 of the preceding year.

e. Massachusetts applied to waive ACA §1402(c)(3)(A).

f. Ohio applied to waive 26 U.S.C. §5000A(a), which was added to the Internal Revenue Code by ACA §1501.

g. Ohio's House Bill 49 requires Ohio's department of insurance to submit a 1332 waiver application that includes a request to waive the ACA's individual and employer mandates. In its waiver application, Ohio acknowledges that the 2017 tax revision (P.L. 115-97) effectively eliminates the penalty associated with the individual mandate beginning in CY2019 but points out that the law does not eliminate the individual mandate. As such, Ohio's 1332 waiver application requests to waive the individual mandate (however, the application does not include a request to waive the employer mandate).

h. Vermont applied to waive the following ACA §§: 1311(b)(1)(B); 1311(c)(3); 1311(c)(4); 1311(c)(5); 1311(d)(1); 1311(d)(2); 1311(d)(4)(A); 1311(d)(4)(B); 1311(d)(4)(C); 1311(d)(4)(D); 1311(d)(4)(E); 1311(d)(4)(G); 1311(k); 1312(a)(2); 1312(f)(2)(A).

i. California applied to waive ACA §1311(d)(2)(B)(i).

j. Iowa applied to waive ACA §§1402; 1401(a); 1302(d); and 1332(d).

Author Information

Annie L. Mach
Specialist in Health Care Financing

Ryan J. Rosso
Analyst in Health Care Financing

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