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## **Obama Administration takes new steps to support Innovation, Empower States**

*New regulations implementing the Affordable Care Act propose a process for how states can apply for Innovation Waivers*

Building on President Obama's commitment to ensure states have the power and flexibility to innovate and implement the health care solutions that work best for them, the Departments of Health and Human Services (HHS) and Treasury today proposed new rules outlining the steps states may pursue in order to receive a State Innovation Waiver under the Affordable Care Act.

The Affordable Care Act gives states the flexibility to receive a State Innovation Waiver so they may pursue their own innovative strategies to ensure their residents have access to high quality, affordable health insurance. Under the law, State Innovation Waivers are available in 2017. President Obama supports bipartisan legislation that would make waivers available to states beginning in 2014.

"Innovation Waivers empower states to take the lead on implementing the Affordable Care Act," said HHS Secretary Kathleen Sebelius. "Today's announcement demonstrates the flexibility available to states as they continue to move forward on fixing our broken health insurance marketplace."

State Innovation Waivers are designed to allow states to implement policies that differ from those in the Affordable Care Act so long as they:

- Provide coverage that is at least as comprehensive as the coverage offered through Health Insurance Exchanges – new competitive, private health insurance marketplaces.
- Make coverage at least as affordable as it would have been through the Exchanges.
- Provide coverage to at least as many residents as otherwise would have been covered under the Affordable Care Act.
- Do not increase the Federal deficit.

Under the Affordable Care Act, states have significant flexibility in implementing the law, from how they design Exchanges to cracking down on the worst of insurance company abuses. They also have new resources to improve and lower costs in their Medicaid programs. For example, if states choose to operate their own Exchange, they are eligible for grants to help design them and determine the rules, including whether to allow all companies to offer insurance in the Exchange or to select only plans that improve the quality and affordability of the choices. To read more about new resources and flexibilities for states under the Affordable Care Act, visit [www.HealthCare.gov/center/reports/states02252011a.pdf](http://www.HealthCare.gov/center/reports/states02252011a.pdf).

States could use a variety of strategies to innovate through a waiver, provided they meet the above requirements. For example, they could develop a new system for providing tax credits, which links small business tax credits to the tax credits for moderate-income families. Or they could change the benefit levels or add new benefit levels for health plans offered in the Exchanges, providing consumers and employers even more choices.

The proposed regulation announced today describes the content of the waiver application and how such proposals may be disclosed to the public, monitored, and evaluated. The Administration welcomes suggestions for improving this process from States, patients, health care providers, and the general public. As the President said in his State of the Union address, he is open to ideas on how to improve the Affordable Care Act.

For more information on the regulations announced today, visit [www.HealthCare.gov/news/factsheets/stateinnovation03102011a.html](http://www.HealthCare.gov/news/factsheets/stateinnovation03102011a.html). To read the new regulations, visit [www.ofr.gov/inspection.aspx](http://www.ofr.gov/inspection.aspx).

## **Fact Sheet**

### **Preparing for Innovation: Proposed Process for States to Adopt Innovative Strategies to Meet the Goals of the Affordable Care Act**

Building on President Obama's commitment to give States the flexibility to innovate and implement the health care solutions that work best for them, the Departments of Health and Human Services (HHS) and Treasury today proposed new rules outlining the steps States may pursue in order to receive a State Innovation Waiver under the Affordable Care Act.

The proposed regulation describes the content of the waiver application and how such proposals may be disclosed to the public, monitored, and evaluated. Because this rule is a proposed regulation, the Administration welcomes suggestions for improving this process from States, patients, health care providers, and the public.

This action underscores President Obama's commitment to providing States the flexibility to find the health care solutions that work best for them. The Affordable Care Act gives States the flexibility to receive a State Innovation Waiver so they may pursue their own innovative strategies to ensure their residents have access to high quality, affordable health insurance. Under the law, State Innovation Waivers are available in 2017. President Obama supports bipartisan legislation that would make waivers available to states beginning in 2014. The "Empowering States to Innovate Act," is sponsored by Senators Ron Wyden, Scott Brown, Mary Landrieu, Ben Nelson, Joe Manchin, and Patrick Leahy.

#### **State Innovation Waiver Criteria**

In order to apply for a waiver, States must enact a law 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:

1. Is at least as comprehensive as the coverage that would have been provided under the Affordable Care Act.
2. Is at least as affordable as the coverage and cost sharing protections under the Affordable Care Act.

3. Covers at least as many residents as would have otherwise been covered under the Affordable Care Act.
4. Will not increase the Federal deficit.

Already, under the law, most insurance companies:

- Cannot impose lifetime limits on the dollar amount they spend on health benefits.
- Must offer young adults without access to job-based coverage the option of remaining on their parent's plan until their 26<sup>th</sup> birthday.
- Must cover recommended preventive services without cost sharing.
- Must allow patients to choose their own doctor in their network.
- Cannot drop your coverage because you get sick.
- Must spend at least 80 percent of premium dollars on health care, rather than executive salaries and administrative costs.

And starting in 2014, insurance companies cannot charge more, carve-out benefits, or deny coverage because of a pre-existing health condition. States that receive a State Innovation Waiver would be required to maintain these important consumer protections that prevent insurance companies from denying, capping or limiting care.

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 develop a new system for providing tax credits, which links small business tax credits to the tax credits for moderate-income families. Or 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.

### **Proposed Rule to Implement State Innovation Waivers**

Today's proposed rule outlines a process and asks for public input on how States can apply for an Innovation Waiver, as well as how the Administration will monitor and evaluate such waivers. Specifically, the proposed rule contains information on:

**Public Notice:** At the State and Federal level, the law ensures an opportunity for public input. The proposed regulation outlines how public notice and comment should 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 proposed 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;

- o A budget plan that does not increase the Federal deficit, with supporting information;
- o 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

- o 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 proposed regulations, States with waivers would submit quarterly and annual reports. They would track measures in the four key areas: affordability, comprehensiveness of coverage, the number of people covered, and impact on the Federal deficit.
- **Post-Award Evaluation:** The proposed regulations suggest criteria that could be used in the evaluation of the waivers while they are in place, covering such topics as:
  - o Choice of health plans for individuals and employers;
  - o Stability of coverage for individuals and employers;
  - o Small businesses, individuals with pre-existing conditions, and the low-income population;
  - o The overall health care system in the State; and
  - o Other States and the Federal government.

Public comment is welcome on the State Innovation Waiver process outlined in this proposed regulation. To find the proposed regulation, visit [www.ofr.gov/inspection.aspx](http://www.ofr.gov/inspection.aspx).

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