

State Innovation Waivers

(Section 1332 Waivers)

1. What is a state innovation waiver?

Permission from the federal government to waive certain requirements of the Affordable Care Act (ACA). State innovation waivers will be available starting in January 2017.

2. What ACA provisions can be waived?

Several, including the individual mandate, the employer mandate, and the health exchange.

3. What are the requirements for a waiver program?

A. Coverage must be at least as comprehensive and affordable as it would be under the ordinary provisions of the ACA. This means:

- At least as many people would have to be covered (or have the option of coverage);
- All essential health benefits would have to be covered; and
- There must be protection against excessive out-of-pocket spending.

B. The waiver program would have to be federal deficit-neutral. (The state wouldn't get more federal funding than it would under the ordinary provisions of the ACA.)

C. The state must commission a study showing that its waiver program would meet these requirements.

4. Which states have applied for state innovation waivers?

Hawaii, Massachusetts, and Vermont. All seek to preserve aspects of their state health care systems that were in place prior to enactment of the ACA.

5. Have other states considered applying for state innovation waivers?

At least 17 states have considered legislation on state innovation waivers:

- Bills PASSED in Alaska, California, Hawaii, Massachusetts, Minnesota, Ohio, Oklahoma, Rhode Island, Texas, and Vermont.
- Bills DID NOT PASS in Arkansas, Colorado, Georgia, Maine, New Mexico, South Carolina, and Washington.
- Colorado has a proposed constitutional amendment on the ballot this November, Amendment 69, which would use a waiver to implement a single-payer health care system. The amendment is not expected to pass.

6. What ideas have other states considered?

- Single-payer systems (did not pass in Maine, Minnesota, and Vermont; on the ballot in Colorado)
- Allowing Medicaid-eligible individuals to opt out of Medicaid and purchase qualified health plans instead (did not pass in Minnesota)
- Working groups to study options available under these waivers, including alternatives to Medicaid (passed in Minnesota; did not pass in New Mexico)
- Waiving individual and employer mandates and establishing a system of affordable health insurance for state residents (passed in Ohio)

Sources: 42 USC § 18052; 31 CFR Part 33; 45 CFR Part 155; 80 FR 78131; Centers for Medicare and Medicaid Services; National Conference of State Legislatures