

## **State Waivers: How a State Could Do Health Reform Its Own Way**

Authored by U.S. Senator Ron Wyden, Section 1332 of the Patient Protection and Affordable Care Act - the “Waiver for State Innovation” – will allow states to waive out of some of the requirements of federal health reform if they meet certain standards.

Here’s how it would work:

Step 1: The state passes a law to provide health insurance to its citizens.

Step 2: The Secretary of Health and Human Services and the Secretary of the Treasury review the law, and determine that the plan meets the following tests:

- a) The state waiver ensures that individuals get insurance coverage that is at least as comprehensive as provided under federal law;
- b) The state waiver ensures that individuals get insurance coverage that is as affordable (i.e. cost-sharing and protections against out-of-pocket spending) as it would otherwise be under federal law;
- c) The state waiver ensures that as many people are covered as under the federal plan; and
- d) The state waiver will not increase the Federal deficit.

Step 3: Starting in 2017, if the Secretaries of Health and Human Services and Treasury find that the state’s law can meet the above requirements without certain federal requirements, states can get a waiver from having to comply with those federal requirements. Depending on the specifics, the state plan could waive out of the following aspects of federal health reform:

- **The individual mandate.**
- The employer penalty for not providing coverage.
- The exact standards for a basic health insurance policy.
- The health insurance exchange.
- The design for how federal subsidies would have to reduce premiums and copays for people
- A state could then collect all of the federal money – the subsidies for premiums, the subsidies for co-pays, and the tax credits for small businesses – in total, and put the money into financing coverage for individuals in its own way.

- The Section 1332 waiver doesn't affect other requirements of the health reform law. However, 1332 includes a coordinated waiver process that allows other programs that allow state waivers (e.g. Medicaid) to be waived through this coordinated process.

### **What Does the Empowering States to Innovate Act Do?**

- 1) It moves the date the waiver for state innovation can become effective from 2017 to 2014. This ensures that a state does not have to comply first with the full design of the Affordable Care Act before being able to set up its own approach. Requiring a state to effectively design two different health reform systems is overly burdensome, and would likely result in wasted resources.
- 2) It requires that the Secretary start receiving state waiver applications within 6 months of enactment of this stand-alone legislation. That will give states the leeway they need to know they have approval to implement their unique waiver prior to 2014, when the waiver will go into effect.