

1332 Waiver Introduced Cathy Cooper, MAHU Legislative Chair

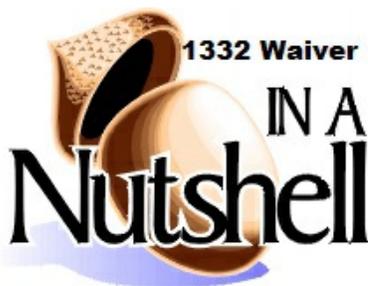
Dear MAHU Member,

We are pleased to announce that our 1332 Waiver bill has finally been introduced in the Michigan Senate ([SB961](#)). Over the next coming weeks, we will be actively engaged with the media and members of the legislature to tell them why this is good for Michigan.



Those of you that work in the individual market know this market is unstable due to many factors including adverse selection. Rate increases continue at unsustainable paces while plan selections and network options decrease. The 1332 Waiver will allow us to come up with a solution that is good for Michigan since the ACA was a "one size fits all" that clearly does not work for Michigan. We believe a Michigan based solution will make health insurance more affordable while giving consumers more choice.

Below you will find detailed information on 1332 waivers, the legislation, and 1332 waivers in other states. **We will update you as the bill progresses and will need your support to reach out to your legislators when the time comes. Thank you for your support of MAHU!**



With Congressional efforts to repeal and/or replace the ACA on hold, states have the opportunity to use the ability granted by 1332 waiver authority to stabilize insurance markets, address other state issues, or request alternate ways to provide coverage to the residents of their state.

What is a 1332 Waiver?

Section 1332 of the ACA allows a state to apply for a State Innovation Waiver to pursue innovative strategies for providing their residents with access to high quality, affordable health insurance while retaining the basic protection of the ACA. State waivers are approved for a five year period and can be renewed. Waiver authority

began January 1, 2017.

What are the requirements of the 1332 Waiver?

The ACA contains guardrails that determine how 1332 waivers can be used in states. The waiver application must demonstrate that the innovation plan will provide coverage that: is at least as comprehensive in covered benefits; is at least as affordable; covers at least as many residents in the state; and does not increase the federal deficit.

What does a 1332 Waiver allow?

States may seek waivers of the following requirements:

- Individual and employer mandates
- Essential health benefits (EHBs)
- Limits on cost sharing for covered benefits
- Metal tiers of coverage
- Premium tax credits and cost-sharing reductions - states are able to request an aggregate payment of what residents would otherwise have received in premium tax credits and cost-sharing reductions
- Standards for health insurance marketplaces, including requirements to establish a website, a call center and a navigator program

What doesn't a 1332 Waiver allow?

States cannot waive certain provisions through 1332, including guarantee issues, age rating, and prohibitions on health status and gender rating.

What needs to happen to submit a 1332 Waiver?

First and foremost, enabling state legislation is needed to file a waiver. [SB961](#) was introduced on April 24th to do just that. An application must also include the following critical pieces:

- List of provisions the state seeks to waive, including rationale
- Data, assumptions, targets and other data sufficient to determine that the waiver will satisfy the waiver requirements stated above
- Actuarial analyses and actuarial certifications to support the state estimates that the waiver will comply with the waiver requirements
- A detailed 10-year budget plan that is deficit neutral to the Federal government
- A detailed analysis of the impact of the waiver on health insurance coverage in the state
- A description and copy of the enacted state legislation providing the state authority to implement the proposed waiver
- A detailed plan as to how the state will implement the waiver, including a timeline

Additional flexibility of 1332 waiver process under the Trump Administration - The Trump Administration has the ability to interpret 1332 waiver authority different than those under the Obama Administration. Several letters have been issued by CMS that offer assistance in developing waivers and encourage states to submit waivers which signals the desire for states to control their own insurance market.

Introduced on April 24, 2017 by Senators Shirkey (R), MacGregor (R), Marleau (R), Hildenbrand (R), Knezek (D), Hopgood (D), Anancich (D), Young (D), Hertel (D), Conyers (D), Zorn (R), and Schmidt (R). This bill has been referred to the Committee on Insurance.



[SB 961](#) seeks to create a Waiver Task Force to develop recommendations to obtain a State Innovation Waiver. The Governor will appoint members of the committee that include the following:

- A member from the Michigan Hospital Association (MHA)
- A member from the Small Business Association of Michigan (SBAM)
- A member from the Michigan Chamber of Commerce
- A member from the Michigan Association of Health Underwriters (MAHU)
- A member from the Michigan Association of Health Plans (MAHP)
- A member from the Department of Insurance
- A member representing members of the state, nominated by the DIFS Director
- A member from each qualified insurer (that person must be a full-time employee of the insurer)
 - NOTE: "Qualified Health Insurer" means a health insurer that is either a HMO or a nonprofit mutual disability insurer that has participated in the exchange in Michigan for each plan year the exchange has been operational and has been certified by CMS to participate in the exchange in 2018.

The Director or his designee shall serve as the Presiding Officer of the Task Force. The Task Force shall meet at the call of the Presiding Officer, not later than Sept. 1, 2018. The Task Force shall make at least one recommendation to the Director no later than March 31, 2019. The recommendations must include all of the following:

- A comprehensive description of the plan to obtain a state innovation waiver, including a timeline for implementation.
- The specific provisions of the ACA that Michigan seeks to waive
- Supporting information as required by federal requirements
- Additional information necessary to comply with applicable federal requirements
- Suggested legislative language to implement the state innovation waivers, if necessary in accordance with federal guidance
- Written evidence of the State Innovation Task Force's compliance with applicable public notice requirements for the waiver

As soon as practical after the recommendations, the Director shall file with the appropriate federal agencies a State Innovation Waiver that will be implemented subject to Federal approval.

Other State Waivers

source: Kaiser Family Foundation

Approved Waivers

Alaska - Allows federal pass-through funding to partially finance the state's Alaska Reinsurance Program (ARP). The ARP would fully or



partially reimburse insurers for incurred claims for high-risk enrollees diagnosed with certain health conditions.

Submitted: Dec. 29, 2016

Approved: July 7, 2017

Hawaii - Waive ACA Small Business Health Options Program (SHOP) requirements that conflict with the state's Prepaid Health Care Coverage Act (PHCA). Enacted in 1974, the PHCA requires employers to provide more generous coverage than the ACA. It also waives the requirement that the small business tax credits only be available through the SHOP.

Submitted: Aug. 10, 2016

Approved: Dec. 30, 2016

Minnesota - Allows federal pass-through funding to partially finance the Minnesota Premium Security Plan (MPSP), a reinsurance program that would reimburse insurers 80% of claims above \$50,000 and up to a cap of \$250,000. The waiver also seeks federal pass-through funding equal to the amount the federal government would have spent on tax credits and cost sharing subsidies for residents eligible for the State's Basic Health Program, MinnesotaCare if the reinsurance program were not in place.

Submitted: May 5, 2017

Approved: Sept. 22, 2017

Oregon - Allows federal pass-through funding to partially finance the Oregon Reinsurance Program (ORP). The ORP would reimburse insurers 50% of claims between an attachment point (TBD) and an estimated \$1 million cap.

Submitted: Aug. 31, 2017

Approved: Oct. 18, 2017

Pending or On Hold Waivers

Massachusetts - Waive cost sharing reduction (CSR) payments to insurers in Massachusetts and use pass-through funding of those CSR payments and any advance premium tax credit payments resulting from lower premiums to partially finance a Premium Stabilization Fund (PSF). The PSF will make payments to insurers that are equivalent from the payment that would have been made through the federal CSR program.

Submitted: Sept. 8, 2017

Status: Pending at CMS, but currently on hold

Ohio - Waive the individual mandate requirement. Although Congress "zeroed out" the penalty requirement beginning 2019, it did not eliminate the requirement.

Submitted: Mar. 30, 2018

Status: Pending at CMS

Vermont - Allow small employers to enroll directly with health insurance carriers rather than through an online SHOP web portal. The state had adopted the direct enrollment approach for small business after the SHOP portal for the state failed to launch in 2014.

Submitted: March 15, 2016

Status: Pending at CMS but currently on hold

Wisconsin - Allow federal pass-through funding to partially finance the Wisconsin Healthcare Stability Plan (WIHSP). The WIHSP would reimburse insurers 50%-80% (exact percentage to be determined) of claims between \$50,000 and \$250,000

Submitted: April 19, 2018

Status: Pending at CMS

Withdrawn Waivers

California - The state requested approval to provide California Qualified Health Plans (CQHPs) to individuals ineligible to purchase coverage through Covered California, the state's marketplace, due to their immigration status. Individuals purchasing CQHPs would not be eligible for premium tax credits or cost sharing subsidies.

Submitted: Dec. 16, 2016

Withdrawn: Jan. 18, 2017

Iowa - The state sought to establish the Iowa Stopgap Measure (ISM) to restructure the coverage offered in the state's individual market and to establish a reinsurance program.

- Require participating insurers to offer a single, standard health plan in the ACA-compliant market with an actuarial value of 68%-72% and a deductible of

\$7,350/individual and \$14,700/family

- Provide flat premium credits based only on income and age in lieu of ACA premium tax credits, and provide premium credits to eligible consumers with income above 400% of poverty who purchase the standard plan.
- Continue to provide cost sharing subsidies for individuals with incomes up to 200% FPL by increasing the actuarial value (AV) of the standard plan to 94% for those with income 133%-150% FPL and 83% for those 150%-200% FPL; eliminate cost sharing subsidies for those with incomes 200%-250% FPL
- Create an alternative process for applying for premium credits and enrolling in coverage.
- Use federal pass through funding to establish a reinsurance program to reimburse insurers for 85% of claims between \$100,000 and \$3 million, and 100% of claims above \$3 million

Submitted: Aug. 21, 2017

Withdrawn: Oct. 23, 2017

Oklahoma - The state requested federal pass-through funding to partially finance the Oklahoma Individual Health Insurance Market Stabilization Program (OMSP). The OMSP would reimburse insurers 80% of claims above \$15,000 and up to \$400,000. The state estimated OMSP would reduce premiums by over 30% and requested that funds the federal government would have paid in premium tax credits to eligible marketplace enrollees had the reinsurance program not been in place be provided to the state to finance the program.

Submitted: Aug. 15, 2017

Withdrawn: Sept. 29, 2017



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MAHUPAC, which is MAHU's Political Action Committee. MAHUPAC differs from HUPAC in that the contributions for MAHUPAC go to our state Legislators, where HUPAC contributions go to our Federal Legislators. MAHUPAC was on hiatus for a while but now since the health care discussion is happening at the state level, it is more important than ever that we have money to support the Legislators that support agents and our industry.

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