State Health Coverage Initiatives
- ACA Marketplace -

NOSORH Webinar

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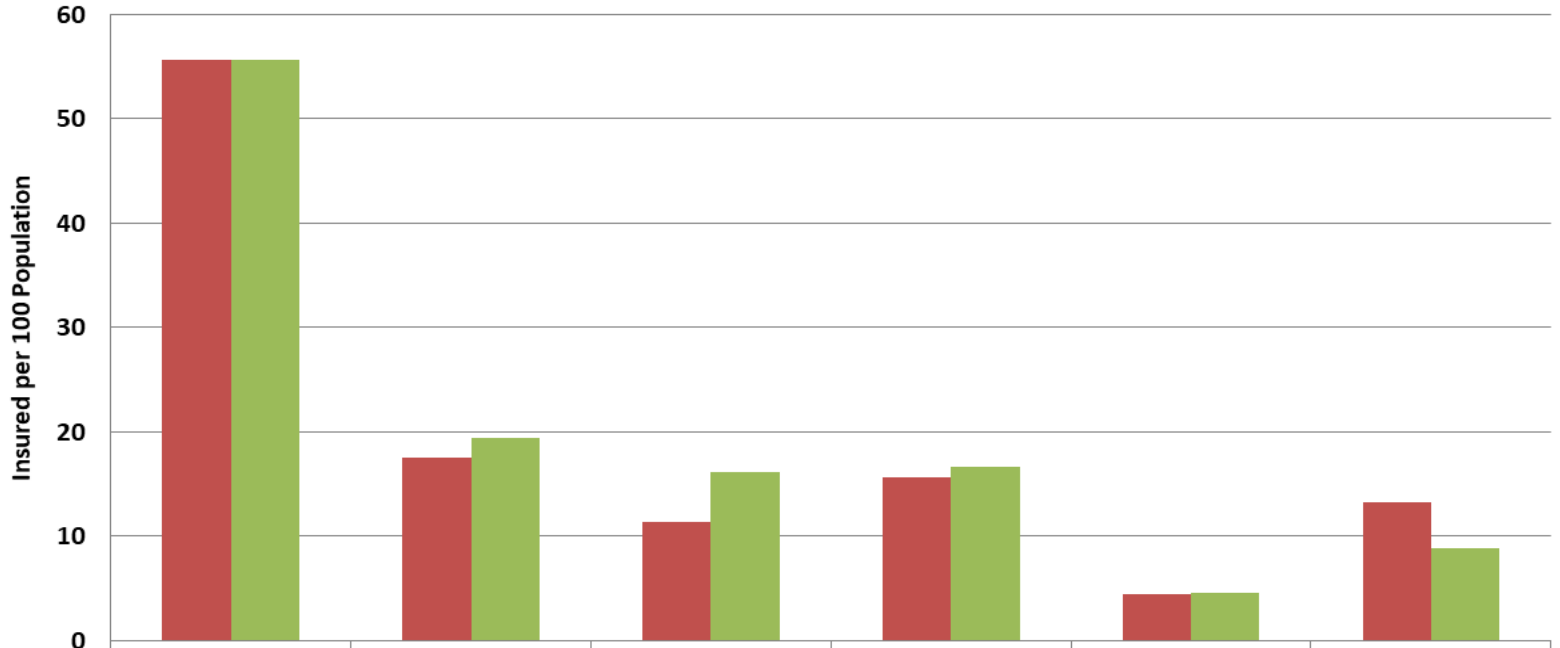
Session Outline

- **Overview of State Initiatives.**
- **Key issues facing State Affordable Care Act (ACA) marketplaces.**
- **Non-waiver State initiatives.**
- **Section 1332 waivers under the ACA.**
- **ACA marketplace exceptions and State decisions.**

State Decisions Which Can Impact Rural Health Systems

- State level decisions can have significant impact on the rural health system environment.
- This is particularly true given the current status of the Affordable Care Act (ACA). State decisions will likely be more important if there is any modification of the ACA.
- State level decisions have greatest impact in two parts of the market:
  - **Direct purchase individual/family health plan market** – both on and off exchange.
  - **Medicaid markets** – both managed care and fee-for-service.
- States have retained powers in these markets as well as potential additional flexibility under Medicaid waivers and ACA Section 1332 waivers.

Estimated US Health Insurance Coverage Rates 2013-2016



	Employment Based	Medicaid	Direct Purchase	Medicare	Military Health Care	Uninsured
2013	55.7	17.5	11.4	15.6	4.5	13.3
2016	55.7	19.4	16.2	16.7	4.6	8.8

These estimates show the Census-estimated changes in US health coverage over the first 3 years of ACA implementation. Note that State policy affects a relatively small portion of the overall market compared to Federal policy. Nevertheless, these impacts have a significant influence on rural health provider sustainability.

Current State Decision-Making Environment

- The Centers for Medicare and Medicaid Services (CMS) has expanded opportunities for State decision-making related to Medicaid and direct purchase health coverage.
- It has approved multiple new coverage arrangements, including some State-initiated changes which had been denied under previous administrations.
- In these sessions a range of emerging State health coverage initiatives will be explored.
- Today's session will provide an overview of **State health coverage marketplace initiatives**.
- The third and fourth sessions will be a chance to hear directly from four states about their health coverage initiatives and their impact on rural health.

Emerging State Health Coverage Initiatives

- These sessions will cover three categories of State initiatives:
  - **Medicaid Initiatives**
    - 1115 and Other Waivers
    - State Plan Amendments
    - Administrative Decisions
  - **ACA Marketplace Initiatives**
    - 1332 Waivers
    - Other State Actions
  - **ACA Marketplace Exceptions**
    - Federally-Permitted
    - State Initiated
- This session will explore **ACA Marketplace Initiatives and Exceptions**.

Key Issues Facing the ACA Marketplace

- Multiple problems have emerged since the initial implementation of the ACA. While some of these problems have been created or accelerated by recent Federal government actions, others have been developing independently.
- These issues affect both rural and urban residents – with rural residents often being worse off than urban residents. Issues include:
  - **Fewer Insurers**: The number of insurers in local markets has declined.
  - **Higher Premiums**: The price of coverage has increased.
  - **Premium Disparity**: The price of the same insurance coverage is substantially higher in rural communities than urban ones.
  - **Fewer Plan Options**: The number of plans offered has declined.
  - **Increased Cost-sharing**: The enrollee share of health costs has increased – including deductibles, pre-deductible responsibility, and co-pays/co-insurance.

Key Issues Facing the ACA Marketplace - 2

- **Provider Network Adequacy**: The networks of health care providers associated with health plans have become more limited – sometimes falling below accepted availability standards.
- **Provider Network Distribution**: The geographic distribution of health care providers associated with health plans has become more uneven – limiting the accessibility of services to some enrollees.
- **Provider Sustainability**: Payments to providers, particularly those providers in rural and underserved areas, have declined – sometimes below the cost of providing care.
- **Essential Community Provider (ECP) Participation**: Some health plans have limited participation of ECPs, including key rural ECPs.

- Several of these issues are **interrelated**. For example, if there are few insurers in a given market premiums are often higher.

Key ACA Private Market Provisions - 1

- **<u>Establishes Coverage Mandates</u>:** creates health coverage purchase requirements.
  - *Individual mandates*.
    - *Eliminated for 2019.*
    - *Expanded hardship exemptions proposed.*
  - Employer mandates.
- **<u>Creates Purchaser Subsidies</u>:**
  - Premium tax credits for low and moderate income purchasers.
  - Cost-sharing reductions for Silver plans for low and moderate income purchasers. *[payments to insurers eliminated]*
  - Small business assistance program.

Key ACA Private Market Provisions - 2

- **Creates Marketplaces/Exchanges**: Creates Individual/family and Small Business Health Options Program (SHOP) marketplaces for Qualified Health Plans (QHPs).
  - State operated exchanges.
  - Federally-facilitated exchanges.
  - Hybrid exchanges.
- **Sets QHP Standards:**
  - Essential QHP Benefits.
  - Metal levels: including coverage, deduction limits and maximum out of pocket limits.
  - Age Bands: sets premium ratios allowed for key age cohorts.

Key ACA Private Market Provisions - 3

- **Sets Nationwide QHP Operating Requirements**:
  - Pre-existing conditions.
  - Coverage on parents' plans for 26 and under.
  - Loss ratios.
  - Network adequacy. [*]
  - Essential community providers. [*]
  - Behavioral health parity.
- **Requires Federal Approval of QHP Offerings**. [*]
- ***Establishes Insurer Risk Reduction and Stabilization Measures***.
- **State Demonstrations**: Creates opportunity for state demonstrations.

State Policy Goals for the Direct Purchase Market

- With limited Federal response related to these issues, some states have taken action to improve direct purchase marketplace performance.
- **Targets for State policy**: States have sought to achieve several outcomes:
  - Increase **insurer competition** – number of insurers and offered plans.
  - Assure **affordable premium** levels.
  - Assure key **pre-deductible benefits** for enrollees.
  - Assure **provider network adequacy**, particularly in rural areas.
  - Assure **provider viability**.
- Much of this can be accomplished under existing State authority **without** the use of Section 1332 waivers.

Increase Insurer Competition - 1

- **Design appropriate QHP Rating Areas:** States can establish insurance rating areas which improve the offerings of insurers in rural counties.
  - **CA** regional Rating Areas combining urban and rural counties in single areas.
  - **CO** redesign of Rating Areas shifting resort counties from a separate Rating Area to a composite Rating Area with a larger risk pool.
  - **NH, VT, HI, NJ, RI** have a single statewide Rating Area.
- **Mandate wide or statewide provision of plans:** States can establish rules which require that plans on the exchange be offered in more than the one county federal requirement.
  - **NM** QHP regulations require insurers offer plans in at least two metal levels. NM also requires at least one statewide plan for any metal level plan offered on a sub-state basis.

Increase Insurer Competition - 2

- **Prevent rapid, unpenalized, exit/re-entry into market:** States can add rules establishing Federal penalties for insurers who leave the exchanges. These rules could extend the waiting period before marketplace re-entry.
- **Link participation in exchange to participation in other markets:** States can establish policies which make successful participation in other, larger markets contingent upon participation in health insurance exchanges.
  - **NY** denial of Medicaid managed care contracts to companies exiting exchange.
  - **NV** provision of Medicaid contract preference to companies on exchange.
- **Establish a public option:** States can establish a public option alternative to private insurers, at a minimum in local areas without competition.
  - The **NV** Legislature passed a bill seeking to modify the Medicaid Program to permit individuals to buy-in.

Assure Affordable Health Plan Premiums in Rural Areas

- **Establish public high risk mechanism:** States can create high risk financing mechanisms to assume costly claims/patients that would otherwise drive up the rates of insurers. [* may include waiver]
  - **AK** established a State-funded high risk reinsurance program to support high cost patients. AK is seeking partial Federal offset for the costs of this program.
  - **ME** previously had a similar State-funded invisible high risk pool.
- **Establish Rating Area premium differential maximums:** States can establish a maximum premium ratio between highest and lowest Rating Areas. This would be similar to the age ratio maximums established under the ACA.
- **Establish State-funded tax credits and cost-sharing reductions.**
- **Establish a Statewide Individual Insurance Mandate.**

Assure Key Pre-Deductible Benefits

- **Establish schedule of pre-deductible plan benefits:** State can establish a pre-deductible benefits schedule, including a detailed cost-sharing breakout, for plans at all metal levels. All key categories of health service can be part of the schedule – primary care, specialty care, behavioral health care, hospitalization, pharmacy services, laboratory services and emergency care.
  - Several states have established these requirements. **NY** has one of the most developed schedules of coverage.

Assure Provider Network Adequacy

- **Establish supplemental network adequacy standards:** States can establish their own standards for qualified health plan provider networks as a supplement to the Federal guidance.
  - **NM** has established standards, including population to provider ratios, maximum distance requirements and maximum wait time requirements.
  - **CA** has established standards and has an extensive effort for monitoring and enforcing compliance.
- **Establish supplemental standards for Essential Community Provider contracts:** States can establish their own standards for guaranteed contracting with ECPs, either in all areas or in shortage areas. This would supplement Federal guidance.

Assure Rural Provider Viability

- **Establish default reimbursement schedule for underserved areas:** States can establish default reimbursement standards to assure that participating providers in underserved areas can get reasonable levels of service reimbursement. Federal standards can be used for this baseline including the Medicare Inpatient/Outpatient Payment Schedules and Prospective Payment System rates. Providers will be free to negotiate lower rates.
- **Establish payment incentives for underserved areas:** States can establish payment incentives to be applied on top of negotiated reimbursement rates for providers in underserved areas. This would be similar to Medicare bonus payments in underserved areas.

Affordable Care Act Section 1332 Waivers

- Section 1332 of the Affordable Care Act (ACA) permits a state to apply for a **State Innovation Waiver** (Section 1332 waiver)to pursue innovative strategies for providing their residents with access to high quality, affordable health coverage.
- CMS solicits waivers that would:
  - **lower premiums** for consumers,
  - **improve market stability**, and
  - **increase consumer choice**.
- States must demonstrate that the waiver will:
  - provide access to quality health care that is at least as **comprehensive and affordable** as would be provided without the waiver,
  - will provide **coverage to at least a comparable number of residents** of the state as would be provided coverage without a waiver, and
  - will not increase the **federal deficit**.

What Can Be Waived Under 1332 Waivers

- The ACA requirements states may seek to waive using Section 1332 authority include:
  - **Individual and employer mandates**;
  - **Essential health benefits** (EHBs);
  - **Limits on cost sharing** for covered benefits;
  - **Metal tiers** of coverage;
  - **Standards for health insurance marketplaces**, including requirements to establish a website, a call center, and a navigator program; and
  - **Premium tax credits and cost-sharing reductions**.

1332 Waiver Request Requirements

- Any waiver request should document required provisions related to:
  - **Public Notice**
  - **Public Comment**
  - **Public Hearings, and**
  - **Tribal Consultation**.
- Waiver requests should include:
  - **Actuarial analysis** and certification of all requirements. This should include all relevant data and planning assumptions.
  - **Economic analysis** estimating Federal budget impact. This should include all costs, not just ACA related costs.
- Waiver requests should include a description of **quarterly/annual reporting plans**. These plans should assure detailed reporting of the actual impact of the waiver.

Selected State 1332 Waiver Requests

- **Reinsurance Programs**: Allow Federal pass-through funding to offset part of the cost of a reinsurance program.
  - Approved for **AK, MN, OR**.
  - Pending for **WI**. **OK** request withdrawn.
- **Insurance Purchase by Immigrants**: permit purchase of coverage on the exchange by individuals/families currently ineligible due to immigrant status. No premium or cost-sharing subsidies would apply.
  - **CA** request withdrawn.
- **Revamp Metal Tiers and Subsidy Mechanism**: permit creation of a new standard health plan and alternative process for applying premium tax credits and cost-sharing reductions.
  - **IA** request withdrawn.

ACA Marketplace Exceptions - 1

- **Short-Term Limited-Duration (STLD) Health Plans**:
  - The Federal government has proposed allowing insurers to issue short-term limited-duration health plans for direct purchase by consumers. These plans are not ACA-compliant and could have significantly **limited coverage** and could be offered with **enrollment limitations** that are exclusionary.
  - The Federal government has indicated that it would see these plans as a **low cost alternative** to plans offered on the ACA marketplace. It would consider allowing such offerings for terms of up to 12 months with the possibility of automatic renewal.
  - Under final rules, States would likely have regulatory authority over these plans. Some states have indicated that STLD plans would be subject to significant requirements that would make them more like ACA-compliant plans. Other states have suggested that STLD plans might be banned. This will likely be an area for development of new State policy.

ACA Marketplace Exceptions - 2

- **Association Health Plans (AHPs)**:
  - The Federal government has proposed allowing an **expanded definition** of who could participate in multi-employer health plans. Under the proposal individuals and small employers would be allowed to form professional or trade associations and enroll in federally redefined Association Health Plans (AHPs). The definition of common interest, required for these plans, would be loosened to allow these plans to be extended to new enrollees.
  - The proposed rules would treat AHPs like large-employer federal Employee Retirement Income Security Act (ERISA) plans, which are **exempt from many existing ACA requirements**, and potentially from state insurance regulations and oversight.
  - Clearer definition is needed to assess the potential role for State regulation of expanded AHPs, particularly for multi-state offerings.

ACA Marketplace Exceptions - 2

- **Idaho Exception – State-Based Health Plans**
  - Idaho has proposed permitting the issuance of health plans which are not ACA-compliant – eliminating several of the most important ACA requirements. While States can set more stringent requirements for health plans, it is legally questionable whether they can permit less stringent plans. CMS sent Idaho a letter of warning on this issue.
  - Idaho has responded to the CMS letter and is negotiating to see how non-compliant State-based health plans might be implemented legally. The aim is to permit issuance of lower cost plans with more limited benefits and enrollment exclusions.
  - This case will test the limits of State authority outside of the ACA and its waiver mechanism.

Summary

- States are exploring initiatives designed to improve the operations of the ACA marketplace. Many of these initiatives can be implemented without Federal review or approval.
- The impact of these initiatives on rural populations can be substantial. State policymaking can have significant impact on health plan availability and pricing in rural areas.
- Similarly, State policymaking can have a positive impact on the rural health service system. The impact on the rural health safety net – rural health clinics, Federally qualified health centers, Critical Access Hospitals, Disproportionate Share Hospitals and Sole Community Hospitals - is particularly important.
- SORHs can help inform policymakers of the potential impact of State initiatives on rural health and health services. SORHs can also help inform rural communities and rural health services providers about these health coverage initiatives and their potential impact.

Resources on State Marketplace Initiatives - 1

- **Rating Areas Design**
  - https://www.cms.gov/cciio/programs-and-initiatives/health-insurance-market-reforms/state-gra.html
  - https://steveshorr.com/steveshorr/individual_and_family/Covered.CA/legislation/standard.rating.regions.pdf
- **Network Adequacy**
  - http://www.urban.org/sites/default/files/publication/88946/2001184-ensuring-compliance-with-network-adequacy-standards-lessons-from-four-states_0.pdf
  - https://www.nmlegis.gov/handouts/LHHS%20091014%20Item%2014%20Claire%20McAndrew,%20PIPD%20Families%20USA%20part%202.pdf
- **Cost-Sharing Standards / Pre-Deductible Benefits**
  - http://www.dfs.ny.gov/insurance/health/nysoh_std_benefit_cost_chart.pdf
- **Linked Markets**
  - https://www.governor.ny.gov/news/governor-cuomo-announces-aggressive-actions-protect-access-quality-affordable-health-care-all

Resources on State Marketplace Initiatives - 2

- **Public Option**
  - http://www.thefiscaltimes.com/2017/06/18/Nevada-s-Medicaid-All-Bill-First-Single-Payer-Plan-Vetoed
  - http://www.jsonline.com/story/news/politics/2017/07/05/wisconsin-democrats-double-down-expanding-public-health-coverage/452489001/
- **Overview of Three State Marketplace Initiatives**
  - https://www.americanprogress.org/issues/healthcare/news/2018/01/09/444607/3-ways-states-can-stop-ongoing-health-care-sabotage/
- **Discussion of MA and MD Individual Coverage Mandate**
  - https://nashp.org/considering-a-state-individual-mandate-what-policymakers-can-learn-from-massachusetts-experience-and-marylands-proposal/
- **Model Legislation for State Individual Coverage Mandate**
  - https://www.shvs.org/resource/model-legislation-for-state-individual-mandate/
- **CMS Resource Page – Section 1332 Waivers**
  - https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section_1332_State_Innovation_Waivers-.html

Resources on State Marketplace Initiatives - 3

- **Kaiser Family Foundation – 1332 Waiver Overview and Tracking**
  - https://www.kff.org/health-reform/fact-sheet/tracking-section-1332-state-innovation-waivers/
- **Families USA - 1332 Waiver Questions**
  - http://familiesusa.org/product/whats-new-federal-guidance-about-1332-state-innovation-waivers
- **1332 Waiver Guardrails**
  - https://www.healthaffairs.org/do/10.1377/hblog20180125.788237/full/
- **Overview of State Reinsurance Programs**
  - http://www.shadac.org/news/state-1332-waiver-reinsurance-proposals-wisconsin-releases-draft-1332-waiver-seeking-170
- **Overview of STLD Plans**
  - https://www.kff.org/health-reform/issue-brief/understanding-short-term-limited-duration-health-insurance/

Resources on State Marketplace Initiatives - 4

- **STLD Plans and State Regulation**
  - https://stateofreform.com/featured/2018/03/states-considering-protections-regulations-on-short-term-plans/
- **Actuarial Assessment of AHPs**
  - https://www.actuary.org/content/association-health-plans-0
- **NCSL Assessment of AHPs**
  - http://www.ncsl.org/blog/2018/03/01/association-health-plans-pre-empting-states-for-2018.aspx
- **Idaho Health Plan Proposal**
  - https://healthandwelfare.idaho.gov/Portals/0/Medical/MedicaidCHIP/1115%20Waiver/IdahoHealthCarePlanSummary.pdf
- **Analysis of Idaho Proposal**
  - http://www.idahostatesman.com/news/politics-government/state-politics/article198322574.html
- **CMS Letter on Idaho Proposal**
  - https://www.cms.gov/CCIIO/Resources/Letters/Downloads/letter-to-Otter.pdf