

## 1332 State Innovation Waivers and Tobacco Cessation



### What is a 1332 State Innovation Waiver (1332 Waiver)?

As part of the creation of state marketplaces, the Affordable Care Act (ACA) created waivers as a tool to provide states with additional flexibilities to modify their private health insurance exchange and/or use the federal funding differently than the law originally intended. This part of the law, located in section 1332, allows states to apply for a waiver to innovate within their state marketplaces. Insurance coverage in any state exchange or federally facilitated exchange is required to cover preventive services as part of the essential health benefits, which means plans must cover tobacco cessation.

These 1332 Waivers provide broad flexibility for states to provide better coverage options to their residents; however, there are four guardrails that proposals must meet. The guardrails are:

- Coverage must be as affordable as it was without the waiver;
- Coverage must be as comprehensive as it was without the waiver;
- The same number of people or more must be covered with the waiver, compared to without the waiver; and
- The waiver must not add to the federal deficit.

Recent guidance from the Department of Health and Human Services (HHS), interpreted these guardrails with more flexibility than before. The impact of this flexibility is still unknown. The potential scope of 1332 Waivers is tremendous, ranging from reinsurance programs to restructuring advanced premium tax credits (APTCs) to allowing for the sale of less comprehensive insurance coverage on the exchange.

### Which states have 1332 Waivers?

[Eight states](#) currently have approved 1332 Waivers by the federal government. These waivers create state reinsurance programs that aim to reduce the cost of insurance premiums in the state's exchange. There are also a handful of states that have submitted waivers, but those waivers have either been withdrawn or deemed incomplete and thus have not been approved.

### Which states might seek a 1332 Waiver?

States are required to have authorizing legislation prior to seeking a 1332 Waiver. The new guidance redefines this requirement, meaning a state does not need to pass new legislation prior to seeking a waiver. As part of the waiver process, states need to provide the public with a 30-day comment period. Once the waiver is submitted to the [federal government](#) for approval, another 30-day comment period will occur. Any state—even those with an existing waiver—can apply for another.

### How can 1332 Waivers impact tobacco cessation coverage?

The potential scope of 1332 Waivers is vast, impacting many aspects of insurance coverage. Some 1332 Waivers, such as the reinsurance programs that are being implemented in a handful of states, aim to lower the cost of premiums. This could help uninsured smokers purchase health insurance, remove barriers to cessation treatments, and encourage them to make a quit attempt. Other proposals might make coverage less comprehensive by not including tobacco cessation treatment. It is important to carefully analyze each new waiver proposal's impact on the private insurance market and tobacco cessation treatment coverage.