



John R. Kasich, Governor
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Administrator Seema Verma
Centers for Medicare and Medicaid Services
200 Independence Avenue, SW, Suite 314G
Washington, D.C. 20201
Via email: Seema.Verma@cms.hhs.gov

Dear Administrator Verma,

In recent months, the Centers for Medicare and Medicaid Services (CMS) has encouraged states to consider using Section 1332 innovation waivers as defined under the Affordable Care Act (ACA) to improve health insurance markets across the country. In order to empower states to utilize these waivers to strengthen their health insurance markets, I encourage CMS to provide flexibility in the waiver application process and the application's requirements to allow states to make meaningful impacts on their markets.

Ohio is home to one of the largest insurance markets in the United States and the Ohio Department of Insurance (Department) strives to foster a stable and competitive insurance market that provides consumers and job creators with a wide variety of choices when it comes to all types of insurance. We believe increasing competition in the market drives down the cost of insurance and – as a result – increase access to coverage.

Prior to the ACA, Ohio had a competitive and strong health insurance market with more than 60 companies selling health insurance products. Today, that number has decreased by at least one third and is less than 40. When it comes to Ohio's federal exchange, the changes have been even more dramatic.

In 2016, 17 health insurers offered plans in Ohio and in each of Ohio's 88 counties, consumers had at least four companies to choose from. In 2017, that number has dropped to 11 insurers selling exchange products in Ohio and now more than half of Ohio's 88 counties only have one or two insurers from which to choose. Further exacerbating the problem are rising premiums in Ohio as the ACA's requirements push the cost of health insurance higher. Since 2013, premiums in Ohio's individual and small group markets have increased by 91 percent and 94 percent respectively.

The position of the Department has always been that insurance – auto, health, home, life, etc. – should be regulated at the state level. Across the country, states have a strong track record of protecting consumers while fostering strong insurance markets. Ohio needs flexibility to regulate health insurance in ways that make sense for Ohio's consumers and job creators.

That is why I urge CMS to consider revising or rescinding current regulations and guidance implemented under the previous administration. Specifically, guidance was published related to the application requirements for 1332 Waivers for State Innovation in the Federal Register on December 16, 2015. This guidance goes beyond the scope of the federal statute by imposing additional requirements related to the application that are not specified in the statute. For example:

- The statute provides that the coverage under a waiver must be at least as comprehensive, as affordable and cover as many people as the coverage provided without the waiver – broad standards that promote state flexibility, while maintaining consumer protections. However, the Guidance issued in December 2015 contained prescriptive rules that severely limited states' ability to make meaningful changes that drive down cost, increase alternatives and improve access.
- The statute provides that a waiver must not increase the Federal deficit. However, the guidance states that although a coordinated waiver application can be submitted, savings accrued under either proposed or current Section 1115 Medicaid or CHIP demonstrations cannot be taken into account in assessing whether a Section 1332 waiver would meet the deficit neutrality requirement. This guidance impedes states ability to holistically address access to health insurance across all consumers and simply restrains states by limiting them to continue the policies that have had detrimental impacts in our markets.

By rescinding this guidance, while also considering other opportunities for relief at the state level, CMS can help make Section 1332 innovation waiver applications more meaningful to states like Ohio and truly foster innovation.

I appreciate your prompt consideration of this issue and, as you and your staff contemplate regulatory changes, Ohio stands ready to share our experiences and provide specific feedback as needed.

Sincerely,



Jillian Froment,
Director