



# CALCARE

California Guaranteed Health Care for All

**To capture federal health care dollars in a state single-payer system, states can obtain waivers for administering health care programs paid for with federal funding. These waivers would make it easier for California to consolidate federal health care dollars and be more flexible with how it uses them.**

- ♥ **While the federal government pays for about 40% of direct health care spending in California, the State is limited in how it can use this money.** A single-payer system involves consolidating all health care spending into a single fund and implementing a single coordinated system of administration. Medicare, Medicaid, and the Affordable Care Act are all administered under separate federal regulations that allocate federal health care dollars in different ways. Under existing federal statute, the U.S. Department of Health and Human Services (HHS) can use waivers to allow states to simplify health care administration, reducing administrative waste and leaving more money to be spent on providing care.
- ♥ **Existing federal waiver authorities could be used to integrate federal health care programs into a state single-payer system.** Federal waiver authorities under Medicare and Medicaid can be used to allow States to deliver Medicare and Medicaid beneficiaries health care services through a state single-payer system and change how benefits are paid out under these federal programs to align within the structure of the state system. In California, this would include expanding benefits and eliminating cost-sharing.
- ♥ **Section 1332 of the Affordable Care Act, codified under 42 USC § 18052,** creates a federal health care waiver process that allows Affordable Care Act funds to pass through to state health programs, HHS to waive a state's ACA obligations, and states to apply for Medicare, Medicaid, and ACA waivers in a consolidated process. It also sets the requirements that a state must meet before HHS can approve a waiver application. These requirements are further clarified in implementing regulations at 45 CFR § 155.1308.
- ♥ **Federal statute requires that state law be enacted before waiver applications can be approved by HHS.** Federal waiver authority under the Affordable Care Act provides a consolidated waiver process which allows a state to apply for all necessary federal health care waivers in one application. This waiver authority specifies that states must have enacted necessary state laws to implement their proposed health care programs prior to HHS approving a consolidated waiver request.
- ♥ **The requirement that a bill must be signed into law before a consolidated waiver request is approved by the federal government means that waivers are not an excuse for inaction on state single-payer legislation.** Since California must pass a bill enacting the state single-payer program before HHS could approve related waivers, legislators cannot explain their inaction on single-payer by claiming that we need waivers before we go forward. In reality, the reverse is true. Consolidated waiver applications cannot be approved until a bill is passed, and it is the job of those legislators to pass a bill that would meet the requirements of the federal waiver statutes before we can go forward with obtaining them.

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## The Need for State Legislation, Elaborated

- ♥ **Section 1332 of the Affordable Care Act describes the state law enactment requirement in several places.** Together, these provisions make it clear that HHS cannot lawfully approve a consolidated waiver unless a state has enacted legislation that both (1) authorizes the state to implement the proposed state program, and (2) authorizes the state to apply for a waiver under Section 1332. AB 1400 meets both of these requirements, as it gives the CalCare Board authority under state law to implement a single-payer system (CalCare) and it authorizes the CalCare Board to apply for waivers under Section 1332 of the Affordable Care Act.
  - ▶ **42 USC § 18052(a)(1)(b):** Requires that a state's ACA waiver application include "a comprehensive description of the State legislation and program to implement a plan meeting the requirements for a waiver under this section[.]"
  - ▶ **42 USC §§ 18052(a)(1)(C):** Requires that a state's ACA waiver application "provide an assurance that the State has enacted the law described in subsection (b)(2)."
  - ▶ **42 USC § 18052(b)(2)(A):** Clarifies that the state law required in a state's waiver application is "a State law that provides for State actions under a waiver under this section, including the implementation of the State plan [described in the waiver application]."
- ♥ **HHS regulation further outlines the state law enactment requirements of Section 1332 waiver applications.**
  - ▶ **45 CFR § 155.1308(f)(3)(i):** Clarifies that Section 1332's requirement that the state "enact a law authorizing a waiver under section 1332 of the PPACA" means that "State legislation provides statutory authority to enforce PPACA provisions or the State plan[.]"
  - ▶ **45 CFR § 155.1308(f)(3)(ii):** Requires a state to attach to its Section 1332 waiver application "[a] copy of the enacted State legislation that provides the State with authority to implement the proposed waiver[.]"

### For Reference:

- *Section 1332 of the Affordable Care Act (42 U.S. Code § 18052 - Waiver for State innovation)*
- *Centers for Medicare & Medicaid Services application page: State Innovation Waivers*
- *VIDEO: CalCare Q&A with National Nurses United Regulatory Policy Specialist Carmen Comsti*

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