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# United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

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November 18, 2015

The Honorable Sylvia Mathews Burwell  
Secretary of Health and Human Services  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

**Sent via electronic transmission**

Dear Secretary Burwell,

I am writing to express my keen interest in the implementation of Section 1332 of the Affordable Care Act (ACA) known as the State Innovation Waiver (SIW). As the author of this provision, I am excited to see interest from states to apply for a 1332 waiver. However, I also want to ensure this provision is implemented as intended.

I strongly believe the ACA is a major step forward for health care in the United States. As a result of the ACA, millions of individuals have health insurance today that they could not get before. The law ended many abusive insurance company practices like denying coverage because of a pre-existing condition or charging someone more based on their gender, and created a minimum standard for access, quality, and affordability for all Americans. The ACA also made a huge difference for millions of low-income Americans across the country through the expansion of Medicaid. In short, the ACA has reshaped health care in America to be more accessible, just, and transparent than ever before.

The SIW allows pioneering states to take the reins and find ways to build upon the core objectives set by the ACA. These 1332 waivers provide opportunities for states to tailor how they provide health coverage to their constituents that best aligns with their unique attributes and circumstances.

The SIW allows a state to waive out of certain requirements of the ACA if it can meet four criteria. Specifically, an approved state 1332 waiver must:

1. Ensure that individuals get insurance coverage that is at least as comprehensive as provided under the ACA.
2. Ensure that insurance coverage offered to individuals is as affordable as it would be under the ACA.
3. Ensure that as many people are covered as would have been under the ACA.
4. Not increase the Federal deficit.

The SIW should be seen as a tool for states to meet or surpass the progress made by the ACA, not as an opportunity to deconstruct the law, remove protections or make it harder for Americans to get affordable, quality health coverage. The law must be used to move forward, not back. There has also appears to be some confusion as to how SIWs work with Medicaid. A SIW does not give states authority to change Medicaid and CHIP. However, it is my hope that a state will be able to use a SIW in conjunction with a Medicaid waiver to align health coverage, innovate to improve quality outcomes, ensure better continuity of care.

Interested states may apply to use a 1332 waiver for plan years on or after January 1, 2017. With the first implementation year fast approaching I have a few questions surrounding implementation and the readiness of the Department;

1. What opportunities do you see for states to use the SIW? Are there particular reforms that have been discussed that would enhance access to affordable, quality coverage?
2. How do you envision the SIW working in conjunction with Medicaid and any corresponding Medicaid waivers? What checks are in place to ensure that those individuals entitled to Medicaid receive the full benefits and protections afforded to them under Title XIX?
3. What precautions are you putting in place to ensure consumers are protected in states that choose to move forward with a 1332 waiver application?
4. What steps has the Department taken to implement this provision, as intended by Congressional drafters, to ensure it is not used to undermine the ACA in the future? What further actions are necessary to ensure this provision is used to promote the tenets of the ACA?

I am encouraged by the interest that has been conveyed by some states, and look forward to your update on how the Department is helping states build off the important progress made by the ACA to bring affordable, quality health coverage to all Americans. Thank you for your cooperation and attention.

Sincerely,



Ron Wyden  
U.S. Senator