

# ML Strategies Health Care Preview

Week of October 22<sup>nd</sup>

Election season is in full swing with 15 days to go until Election Day. There are headline-making debates happening throughout the country, along with the occasional rally featuring the president, who will be in Houston this evening to campaign for Senator Ted Cruz.

Back in Washington, CMS is making headlines this week as it [released new guidance on Section 1332](#) waivers. The Affordable Care Act created 1332 waivers for states to seek additional flexibility to pursue various strategies that provide high quality and affordable health coverage within a defined set of guardrails. Specifically, Section 1332 waivers were created to waive provisions within the ACA, including the possibilities of eliminating the individual and employer mandates, changing the subsidies structure, waiving exchange coverage provisions, and combining 1332 waivers with Medicaid 1115 waivers.

The ACA also included guardrails on what a 1332 waiver must include. Specifically, those guardrails required the waiver to be deficit neutral, cover a comparable number of individuals, and have coverage and affordability equitable to that under the ACA. In 2015, the Obama Administration issued guidance on what would be considered under a 1332 waiver and how they would interpret those guardrails put around 1332 waivers. Through today's guidance on 1332 waivers, we see how the Trump Administration interprets the guardrails and their significant deviation from the Obama Administration in direction on these waivers.

First, while the 2015 guidance focused on the number of individuals actually estimated to receive coverage, the new guidance focuses on the *availability* of coverage. (Through this change the Trump Administration is focusing on access to coverage, rather than the number of people that actually purchase insurance.) Next, the new guidance focuses on the total aggregate effects of a waiver rather than to require that the coverage guardrail be met for specific sub-populations. (Meaning if some sub-populations lose coverage, but other sub-populations gain coverage, and the aggregate coverage effects are neutral the waiver can be approved.) Additionally, this guidance expands the definition of coverage to include to more forms of coverage, including short-term plans and association health plans. The guidance also removes the requirement that 1332 waiver applications be approved/implemented by state legislative authority. Instead, they can be enacted by state regulation or executive order.

To date, several states have exercised this authority and have an approved 1332 waiver, such as [Wisconsin, Maryland, and Alaska](#). States have used 1332 waiver applications to implement reinsurance programs. (Reinsurance programs are systems in which multiple insurance companies share risk by purchasing insurance policies from another party to limit the total loss the original insurer would experience in case of unusually high claims.)

Under the new guidance, states, such as Idaho, that previously had their 1332 waiver application denied might be approved under the new rules. However, like with all waivers, states need to submit a waiver application in order for any policy proposal to move forward.



## **THIS WEEK IN THE HOUSE**

On recess until November 13<sup>th</sup>.

## **THIS WEEK IN THE SENATE**

On recess until November 13<sup>th</sup>.

## **THIS WEEK IN MACPAC**

MACPAC will be holding its October Public Meeting October 25-26<sup>th</sup>. For more information, [click here](#).

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