

Final Report to the 2017 Oregon Legislative Assembly

Increasing Access to Affordable,
High-Quality Health Care with Section 1332 Affordable Care
Act Waiver or Alternative Strategies

House Bill 4017(2)(1) (2016)

June 30, 2017



Department of Consumer and Business Services
350 Winter St. NE
Salem, OR 97309
855-268-3767
www.oregon.gov/dCBS

Final Report of Recommendations

Background

House Bill 4017, signed into law March 8, 2016, requires the Department of Consumer and Business Services (DCBS) to “convene an advisory group to advise and assist the department in identifying federal provisions subject to waiver that are expected to improve the delivery of quality health care to residents of this state including, but not limited to, alternative approaches for achieving the objectives of the Basic Health Program.” On Nov. 30, 2016, DCBS convened the advisory group. A subcommittee of the Marketplace Advisory Committee, the advisory group met regularly through Jan. 12, 2017. DCBS submitted a progress report to the legislature, as required by the legislation, on March 1, 2017. That document included a commitment to produce an updated final report of recommendations once federal guidance on coverage alternatives became available. The advisory group met for a final time April 4, 2017. The group’s ideas are paired with recent federal guidance in this report.

Previous Report

On March 1, 2017, DCBS submitted the report required by HB 4017 to the Legislature detailing the advisory group’s findings and recommendations. As the report stated, the advisory group identified a number of barriers, gaps, and other issues that prevent Oregonians from receiving affordable, high-quality health care, including the following:

- Existing subsidies for Qualified Health Plans (QHP) do not remove all financial barriers to access
- Provider incentives for providing high-quality health care and improving health outcomes are inconsistent or insufficient
- Bronze plans cover few medical services, except for certain preventive services, until the deductible is met
- Some consumers may be selecting bronze plans when silver plans would better fit their needs
- Unauthorized immigrants are ineligible for coverage through Medicaid or QHPs
- Those with household incomes more than the eligibility levels for advance premium tax credit (APTC) assistance assume the entire cost of insurance with after-tax dollars
- Transition support for consumers who move back and forth (“churn”) between Medicaid and QHP could be improved
- Social determinants of health such as economic, cultural, and language barriers should be addressed in all health care delivery
- Adult dental and nonemergency medical transportation should be part of QHP coverage for those less than 200 percent of the federal poverty level (FPL)

The advisory group focused on the needs of all non-Medicaid-eligible Oregonians in households with incomes of less than 200 percent of the federal poverty level. The advisory group paid special attention to several groups of people, including:

- Families caught in the “family glitch.”¹
- Legal permanent residents who are in households less than 138 percent FPL who would otherwise be eligible for Medicaid except they have been in the country for less than five years.
- Medicare beneficiaries between 135 percent FPL and 200 percent FPL.²

The advisory group identified 12 possible solutions to the identified barriers, gaps, and issues. The group organized the strategies into four categories, based on the estimated time and work needed to operationalize them.

1. Strategies possible to implement within existing Marketplace authority and budget in the 2018 plan year:

- Increase insurers’ use of the coordinated care model in QHPs
- Expand education and outreach efforts to help consumers understand the differences between bronze and silver plans and identify when silver plans might better serve them

2. Strategies that might be achieved with a 1332 waiver or a state-funded wrap-around program:

- Provide limited cost-sharing assistance, similar to federal cost-sharing assistance in silver plans, to bronze plan enrollees
- Expand the Marketplace premium assistance program that, under Oregon law, is now available only to people residing in the United States under the Compact of Free Association (COFA), widening it to include non-COFA lawful permanent residents who have incomes of 138 percent FPL or less, but are ineligible for Medicaid because they have been in the United States for less than five years
- Provide assistance to individuals and families affected by the family glitch
- Provide a BHP-like wrap-around subsidy program to assist low-income Oregonians – those with household incomes of 200 percent FPL or less – who purchase coverage through the Marketplace
- Provide subsidy or other assistance to individuals whose incomes are just over APTC eligibility limits

3. Concepts requiring more consideration and information before strategies can be drafted:

- Provide assistance to reduce the effects of the Medicare cliff – the sharp increase in costs that modest-income households confront when they move from Marketplace to Medicare eligibility

¹Eligibility for premium tax credits depends on income and on whether a family has access to affordable employer-sponsored insurance. If an employer offers family coverage and the employee’s required contribution for only his or her own coverage is determined to be affordable, the entire family is ineligible for a premium tax credit or cost-sharing reductions. Their employer-sponsored coverage for the whole family may require them to pay far more for coverage than similar-income households that purchase on the Marketplace and do not have an offer of coverage at work.

²These individuals pay substantially more for premiums and out-of-pocket costs than they would under QHP coverage.

- Create a smoother transition for individuals who move back and forth between Medicaid and QHPs
 - Address social determinants of health through QHP coverage and health care delivery
 - Expand QHP benefits to include dental and nonemergency medical transportation, similar to Medicaid benefits
4. Strategies prevented by limitations of the federal exchange platform relied upon by the Marketplace:
- Allow unauthorized immigrants to purchase health insurance through the exchange.³

The advisory group determined that in light of the considerable uncertainty about the future of the ACA and 1332 waivers and of significant state budgetary limitations, the commitment of the resources required to submit a 1332 waiver application was not justifiable. So, the advisory group recommended the following:

- DCBS not pursue a 1332 waiver until more is known about the future of the ACA and 1332 waivers.
- The Marketplace begin carrier discussions about increasing use of the coordinated care model in QHPs.
- The Marketplace expand outreach and education to help consumers who may choose bronze plans when a silver plan may better suit their needs.
- DCBS submit a second report to the Legislature by June 30.

Developments Since the March 1, 2017, Report

Consistent with the committee's advice, DCBS has begun discussions with carriers on using the coordinated care model in QHPs sold through the Marketplace. Also, DCBS is developing a 2018 education and outreach plan to inform consumers about the differences between bronze and silver plans and when a silver plan may be better than a bronze plan.

On March 13, 2017, United States Health and Human Services Secretary Thomas Price sent letters to governors encouraging them to consider 1332 waiver applications that seek to establish high risk pools, reinsurance programs, or both. The subtext of the letter and subsequent federal guidance is that these types of waiver requests will have expedited review and consideration. Around this same time, DCBS, the Governor's Office, and members of the legislature began working on legislation to establish an Oregon reinsurance program that relies on a combination of state funds and federal 1332 waiver pass-through funds. Both houses of the Oregon Legislature passed the legislation, HB 2391 (2017), in June of this year. DCBS is

³Although OAR 836-053-0431 already requires Oregon insurers outside the Marketplace to sell all individual health benefit plans "without regard to . . . immigration status or lawful presence in the United States," these plans are available for purchase only directly from insurers. Unauthorized immigrants do not qualify for APTC or other subsidies, but many Oregonians who don't qualify for subsidies choose to use the Marketplace platform for ease of comparison shopping. The advisory group recommends further consideration of this strategy if customization of the federal technology platform becomes available or if Oregon uses a different exchange platform in the future.

working on a 1332 waiver application to obtain federal funds for the reinsurance program.

Final Recommendations

DCBS recommends the following:

1. The agency complete the 1332 waiver application in support of the reinsurance program created by HB 2391
2. The Marketplace continue to implement the advisory group's recommendations related to coordinated care model elements and consumer education about bronze and silver plans
3. The Legislature, when and if appropriate, look for ways to address the advisory group's other recommendations through means other than a 1332 waiver.

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