

Private Insurance Provisions that Can and Cannot be Waived Through State Innovation Waivers Under Section 1332 of the Affordable Care Act

What can be waived	What can't be waived
<p>Qualified health plan rules, including:</p> <ul style="list-style-type: none"> • Requirement to offer essential benefits, • requirement for marketplace issuers to sell at least one silver and one gold plan, • requirement to charge same premiums on and off exchange, • maximum out-of-pocket limits on cost-sharing 	<p>Prohibition on lifetime or annual limits on covered essential health benefits (although essential health benefits themselves can be waived)</p>
<p>Essential health benefits and limits on cost-sharing for those benefits</p>	<p>Prohibition on rescission of coverage</p>
<p>Actuarial value requirements, including the requirement to offer bronze, silver, gold, or platinum coverage; or catastrophic only to certain individuals</p>	<p>Required coverage of preventive services</p>
<p>Special rules related to abortion coverage</p>	<p>Dependent coverage must be provided to age 26</p>
<p>Definitions of large group, small group and individual market</p>	<p>Insurers must provide a uniform explanation of coverage</p>
<p>Operation of an exchange (website with plan comparative information and calculation and processing of premium credit eligibility, hotline, navigator/ consumer assistance, referrals to Medicaid/CHIP, enrollment and special enrollment)</p>	<p>Group plans cannot discriminate in favor of highly compensated individuals</p>
<p>Mental health parity applies to qualified health plans</p>	<p>Required quality reporting</p>

What can be waived	What can't be waived
Single risk pool for individual market, and for small group market respectively	Medical loss ratios (limiting the proportion of premiums that insurers can spend on administration and profit)
Consumer choice among available plans; rules for brokers	Appeals rights for consumers
Definition of individuals/employers qualified to enroll	Prohibition of preexisting condition exclusions or discrimination based on health status
Accounting and oversight of exchange	Limits on premium rating (age, tobacco, geography)
Cost sharing reductions	Guaranteed issue
Premium tax credits	Nondiscrimination with respect to a provider practicing within license
Employer shared responsibility (employer mandate)	Prohibition on waiting periods
Individual responsibility (individual mandate)	Grandfathering
	Uniform rating rules within a health insurance market
	Reporting of health insurance coverage (eg, by employers)
	Notice to employees of coverage options
	HHS prohibited from issuing rules that impede access to therapies
	Continuation of black lung benefits
	Nondiscrimination by health programs (including insurers) getting federal \$ (1557)
	Employers can't discriminate against employees getting tax credits