

[Patient Protection and Affordable Care Act- Updated Payment Parameters and Improving Health Insurance Markets for 2022 & Beyond](#)

Category: Policy Blog

written by NCUIH | October 22, 2021

[Final Rule: Patient Protection and Affordable Care Act; Updating Payment Parameters, Section 1332 Waiver Implementing Regulations, and Improving Health Insurance Markets for 2022 and Beyond.](#)

On September 27, the Department of the Treasury, collectively with HHS (the Departments), [issued a final rule](#) revising the 2022 user fee rates for issuers offering qualified health plans (QHPs) through federally-facilitated Exchanges and State-based Exchanges. This rule finalizes policies designed to promote greater access to comprehensive health insurance coverage, consistent with applicable law and with the administration's policy priorities detailed in recent Presidential executive orders ([EO 14009](#) and [EO 13985](#)).

NCUIH submitted comments regarding the proposed regulations, the equity goals proposed by the Administration, and how these goals should permeate each policy consideration by HHS and other agencies. These comments included how CMS should provide specific guidance and examples of how agencies and state officials can assess and address systemic barriers within their healthcare systems. Additionally, NCUIH commented on section 1332 waiver regulations and was pleased to that the new waiver regulations aim to explicitly analyze and prioritize health equity by encouraging states to evaluate their proposed section 1332 waivers in line with E.O. 13985. Urban Indian organizations are severely impacted by social determinants of health and experience significant health disparities compared to other racial groups.^[1] Because of these disparities, NCUIH hoped to see explicit analysis of how proposed state waivers will improve the healthcare access of AI/AN people. In response to NCUIH's comments, the Departments responded that, while the comment was outside the scope of the rule, HHS is actively seeking ways to engage with stakeholders to advance health equity- and address the social determinants of health that disparately impact communities of color.

This rule also finalizes modifications to [Section 1332 Waivers](#) for State Innovation of the ACA. Through section 1332 waivers, the Departments aim to assist states with developing health insurance markets that expand coverage, lower costs, and make high-quality health care accessible for every American. The Departments also encourage states to develop their own waiver proposals that reduce barriers for individuals to access benefits. For example, states may propose waiver programs that increase plan options for comprehensive coverage, reduce premiums, improve affordability, and address social determinants of health.

By rescinding the policies and interpretations outlined in the) and repealing the previous codification of its guardrail interpretations in [part 1 of the 2022 Payment Notice final rule](#); the Departments believe that these new policies and interpretations will align with the Administration's goals to strengthen the ACA. Thusly, increasing enrollment opportunity in comprehensive, affordable health coverage among the remaining underinsured and uninsured. Moreover, these policies will further advance this Administration's goal of increasing access to coverage by empowering states to develop innovated health coverage options for their residents through section 1332 waivers that best fit the states' individual. Notably, section 1332 provides the Secretary of HHS and the Secretary of the Treasury the discretion to approve or deny waivers when appropriate even if an application meets [the four statutory guardrails](#).

The Departments received 262 comments on the section 1332 waiver proposals from a mix of stakeholders, including general advocacy organizations, disease advocacy organizations, states, issuers, providers, individuals, and other entities. The overwhelming majority of stakeholders supported the section 1332 waiver proposals and encouraged the Departments to finalize the policies as proposed.

In order to encourage states to develop innovative waivers, the Departments are finalizing the policies, interpretations and regulatory amendments as proposed. This final rule is effective on November 26, 2021.

[1] Monique Adakai et al., Health Disparities Among American Indians/Alaska Natives - Arizona, 2017, 67 Morbidity and Mortality Weekly Report 1314 (2018).