



## CALIFORNIA'S STATE INNOVATION WAIVER REQUEST UNDER THE AFFORDABLE CARE ACT

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### STATE INNOVATION WAIVERS

Section 1332 of the federal Affordable Care Act (ACA) allows states to apply for "state innovation waivers." By applying to the federal government for a waiver, states seek approval to waive provisions of the ACA. While the federal government has discretion over granting or denying waiver requests, it may grant one only if (1) federal requirements for comprehensive health insurance benefits and affordability are still met, (2) at least a comparable number of people will be covered, and (3) the proposal will not increase the federal deficit.

State innovation waivers are available beginning January 1, 2017. For more information on these waivers, see the Center for Consumer Information and Insurance Oversight's [website](#).

### ISSUE

Describe what California has done toward allowing undocumented immigrants to purchase health insurance from Covered California, the state's health insurance marketplace established under the federal Affordable Care Act (ACA) (P.L. 111-148, as amended).

### SUMMARY

The ACA requires individuals, with some exceptions, to maintain a minimum level of health insurance. To be eligible to enroll in insurance coverage through a federal or state ACA marketplace, a person must (1) live in the United States, (2) be a U.S. citizen or national (or be lawfully present), and (3) not be incarcerated (ACA, § 1501). As a result, undocumented immigrants cannot obtain health insurance coverage from an ACA marketplace.

On June 10, 2016, California Governor Jerry Brown signed into law a bill ([SB 10](#)) that requires Covered California to apply to the U.S.

Department of Health and Human Services (HHS)

for a Section 1332 state innovation waiver (see side bar) to allow undocumented immigrants to purchase insurance from the marketplace with their own money.



Under the new law, if HHS grants the waiver, Covered California must require insurers issuing qualified health plans in the individual marketplace to also offer a plan (beginning in 2018) to those people previously ineligible for coverage based on their immigration status. The coverage would be available beginning January 1, 2019. Newly eligible undocumented immigrants would have to pay the full cost of their insurance coverage without federal assistance.

For more information about California's new law and its proposed state innovation waiver, see news articles [here](#) and [here](#).

## **HYPERLINKS**

The Center for Consumer Information and Insurance Oversight, Centers for Medicare and Medicaid Services: *Section 1332: State Innovation Waivers*, [https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section\\_1332\\_state\\_Innovation\\_Waivers-.html](https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section_1332_state_Innovation_Waivers-.html)

Los Angeles Times, *Gov. Brown signs bill that could help immigrants get access to health insurance* (July 10, 2016), <http://www.latimes.com/local/california/la-me-ln-brown-immigrant-coverage-20160610-snap-story.html>

The New York Times, *California Moves to Allow Undocumented Immigrants to Buy Insurance* (September 15, 2016), [http://www.nytimes.com/2016/09/16/us/california-moves-to-allow-undocumented-immigrants-to-buy-insurance.html?\\_r=0](http://www.nytimes.com/2016/09/16/us/california-moves-to-allow-undocumented-immigrants-to-buy-insurance.html?_r=0)

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