I. What is a section 1332 waiver and why was it included in the ACA?
   a. Allows states to ask the Federal Government to modify certain parts of their implementation of
      the ACA.
   b. It was included to give states the option to come up with their own version of health care
      reform, but not until January 1, 2017.

II. What provisions of the ACA can and cannot be waived under a section 1332 waiver?
   a. CAN be waived: Individual and employer mandate; how premium subsidies and cost-sharing
      reduction funds are used to impact affordability; Exchange and qualified health plan
      requirements.
   b. CANNOT be waived: Consumer protections preventing denial of coverage or increased
      premiums for people with pre-existing conditions; how premiums are set; single risk pool
      requirements.

III. What test must be met for approval of a section 1332 waiver?
   a. There are several “guardrails” under current requirements.
   b. Bottom line – The waiver must:
      i. Cover at least as many people,
      ii. With coverage that is at least as affordable,
      iii. And, as comprehensive, as coverage would be under the Exchange;
      iv. Does not increase the federal deficit.

IV. Why are we thinking about a section 1332 waiver now?
   a. As a way to get federal funding to help pay for a market stability program -- NOT necessarily
      to fully fund a program.
   b. Concept of “pass through” funding:
      i. IF we can meet the guardrails above; and
      ii. For reinsurance:
         1. IF our analysis shows that a policy will significantly reduce the rate of increase
            in individual health insurance premiums (especially the 2nd lowest cost silver
            plan),
         2. THEN we ask for the federal “savings” in premium subsidies due to lower
            premiums to be “passed through” to the state to help pay for a market
            stability program.
iii. **For a state offered option:**

1. **IF** we think we can offer the coverage for less than health plans traditionally offered through the Exchange would cost,

2. **THEN** we ask that premium subsidies and cost sharing reduction payments that would have been paid be given to the state to finance the coverage that is offered.

V. **What’s the process to apply for a section 1332 waiver?**

a. It’s a heavy lift.

b. A waiver application must include:
   i. Actuarial analysis
   ii. Economic analysis
   iii. Implementation timeline
   iv. Ten-year budget plan.

c. Before an application is submitted to CMS, public comment period, hearings and tribal consultation.

d. The legislature MUST authorize final submission and implementation of the waiver to CMS.

e. The state MUST show that state funding is available to pay for the program, and that approval of the waiver will offset part of the cost of the program.

f. Lengthy federal review process – States have asked CMS to develop an expedited process. CMS has shown willingness to do this in order to maintain market stability.

VI. **Are other states doing this?**


b. Minnesota – claims-based reinsurance – submitted, application has been determined to be “complete”.

c. Oklahoma, New Hampshire, Maine, Oregon all are varying stages of developing waiver proposals.
   i. Of these, only Oklahoma is going beyond reinsurance to ask for substantial changes to their system.

VII. **Helpful Resources:**
