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NEW REPORT IDENTIFIES OPTIONS FOR ACA INNOVATION WAIVER
Approaches on Benefits, Subsidies, and the Connector Can be Explored and Addressed

Boston – The Blue Cross Blue Shield of Massachusetts Foundation today released a report by Manatt Health Solutions that outlines options available to the state through a federal “1332 Waiver” – which allows the state to modify certain requirements under the Affordable Care Act (ACA) – for the purpose of broadening, improving, and better coordinating health insurance coverage in the state.

Under section 1332 of the ACA, states are given the opportunity to innovate and devise alternatives to key provisions of the law, including the individual and employer mandates; qualified health plans and their covered benefits; premium tax credits and cost sharing; and the expansion, modification or elimination of state insurance marketplaces (the Connector in Massachusetts). However, states must continue to operate within guardrails set by the federal government to ensure coverage is at least as comprehensive and affordable as would have been without the waiver.

“While we have achieved near universal coverage in Massachusetts, we know that there are still gaps in coverage, barriers to care, and fragmentation across programs,” said Audrey Shelto, President of the Foundation. “We commissioned this report to provide policy makers with a solid foundation of information about the options available to them as they explore innovative reform of coverage, payment and delivery systems.”

Specifically, states may propose alternatives to four pillars of the ACA and various related provisions:

- **Individual mandate.** States can modify or eliminate the tax penalties that the ACA imposes on individuals who fail to maintain health coverage.
- **Employer mandate.** States can modify or eliminate the penalties that the ACA imposes on certain employers who fail to offer affordable coverage to their employees.
- **Benefits and subsidies.** States may modify the rules governing the establishment of qualified health plans and their covered benefits as well as those related to premium tax credits and reduced cost sharing. States that reallocate premium tax credits and cost-sharing reductions may receive the aggregate value of those subsidies.
- **Marketplaces.** States can expand, modify or eliminate the marketplaces as the vehicle for determining eligibility for tax credits and enrolling consumers in coverage.

For example, a waiver could fix what is often called the “family glitch,” when low- and moderate-income families are unable to receive tax credits to purchase health insurance coverage because a member of that family has access to employer coverage, even though the coverage available is not affordable for the family. The state could also use the waiver to align budget periods used for determining eligibility for subsidized coverage programs. Currently, MassHealth programs rely on monthly income, while Connector programs use projected annual income often creating confusion for applicants and administrative complications.

Waivers will be available starting January 1, 2017. Regulations jointly promulgated by the US Department of Health & Human Services and the US Department of Treasury provide detailed information about the waiver application process—but not yet about the substantive requirements of section 1332.

“With this comprehensive report we hope to provide a resource that will advance the discussion about continued improvement in the Commonwealth’s system of coverage; enabling us to continue to be a leader on health reform,” said Shelto.

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About the Blue Cross Blue Shield of Massachusetts Foundation

The mission of the Blue Cross Blue Shield of Massachusetts Foundation is to expand access to healthcare for low-income and vulnerable individuals and families in the Commonwealth. The Foundation was founded in 2001 with an initial endowment from Blue Cross Blue Shield of Massachusetts. It operates separately from the company and is governed by its own Board of Directors.

About Manatt Health Solutions

Manatt Health Solutions (MHS) is the interdisciplinary health policy and business strategy advisory division of the law firm of Manatt, Phelps & Phillips, and LLP. As an integrated law and consulting firm, Manatt offers a unique combination of legal, policy, and operational expertise drawn from a team of 80 attorneys, policy advisors, business strategists, project managers, and financial analysts with extensive experience working with foundations, federal and state government, providers, health plans, and other industry leaders.