



Just When You Thought Things Were
Settled... The Next Big Thing

Prepared for Colorado Health Institute
December 4, 2014



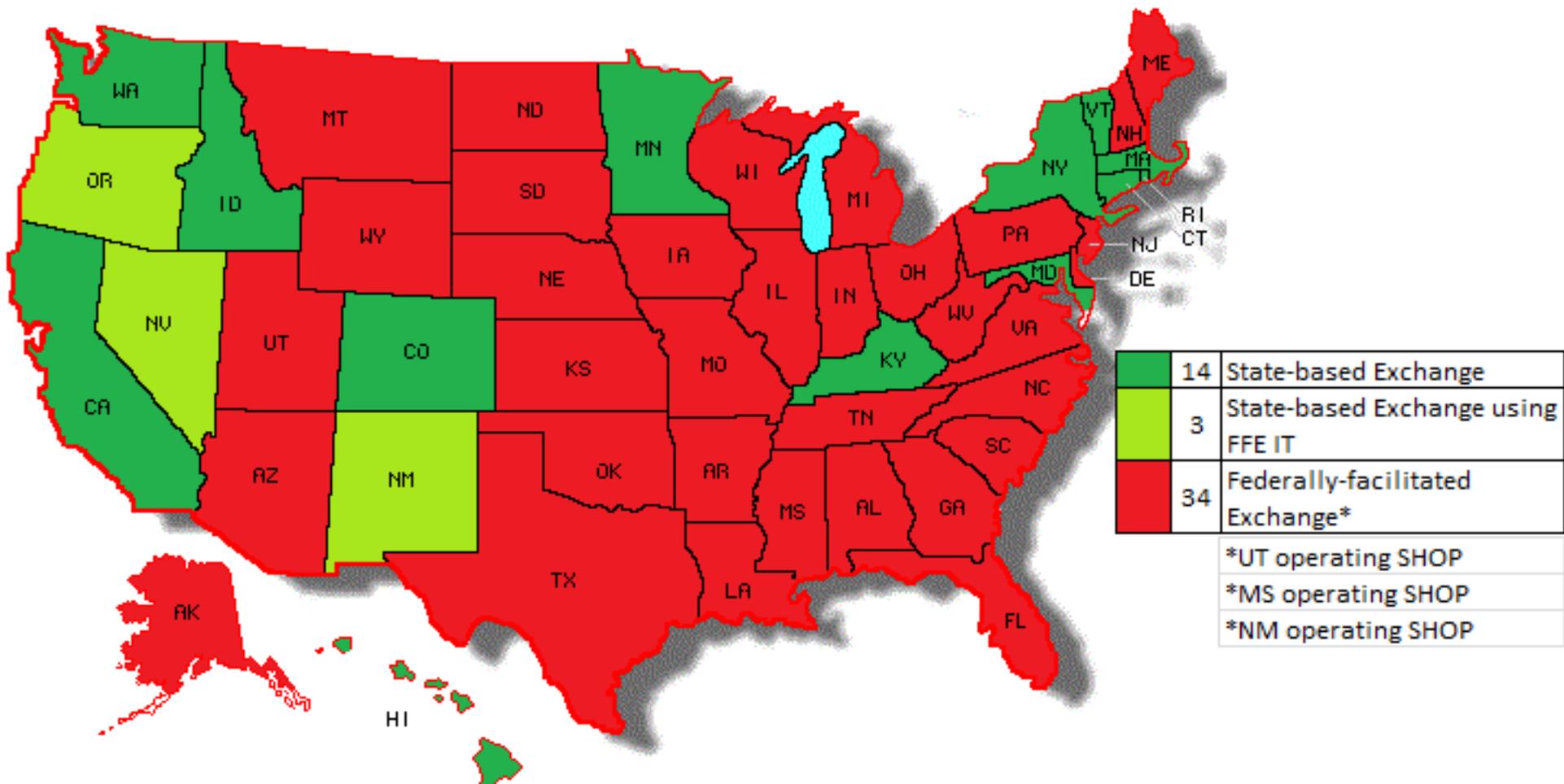
Today's Discussion

- Current national landscape
- The next big thing: State Innovation Waivers: Section 1332



Federal Operation of Exchanges Continues to Grow

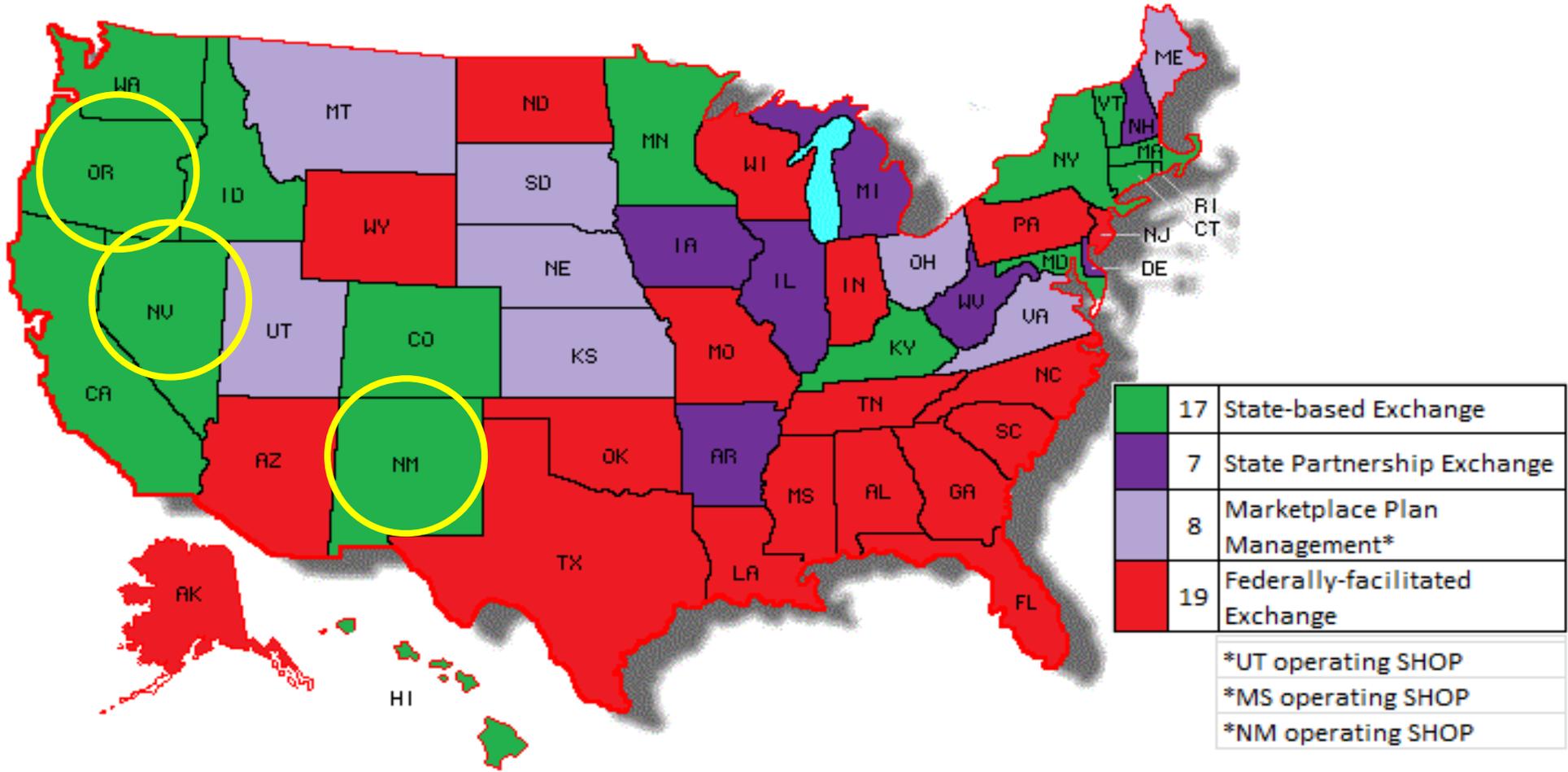
Exchange IT Operations 2014 Open Enrollment





New Category Coming: State-Supported Marketplaces (SSM)

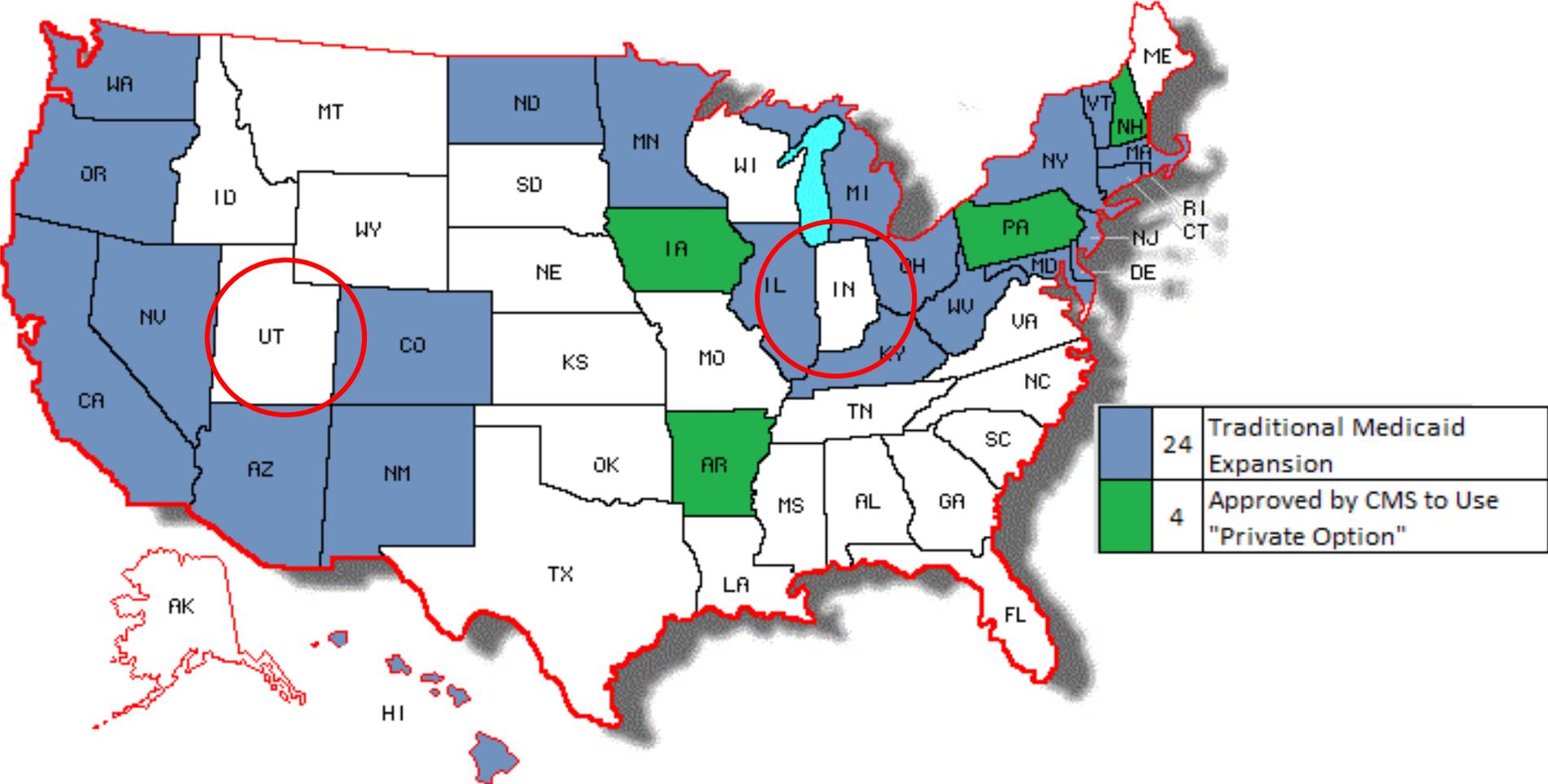
Exchange Organizational Structures - 2014





States Currently Seeking Approval of Expansion Waivers

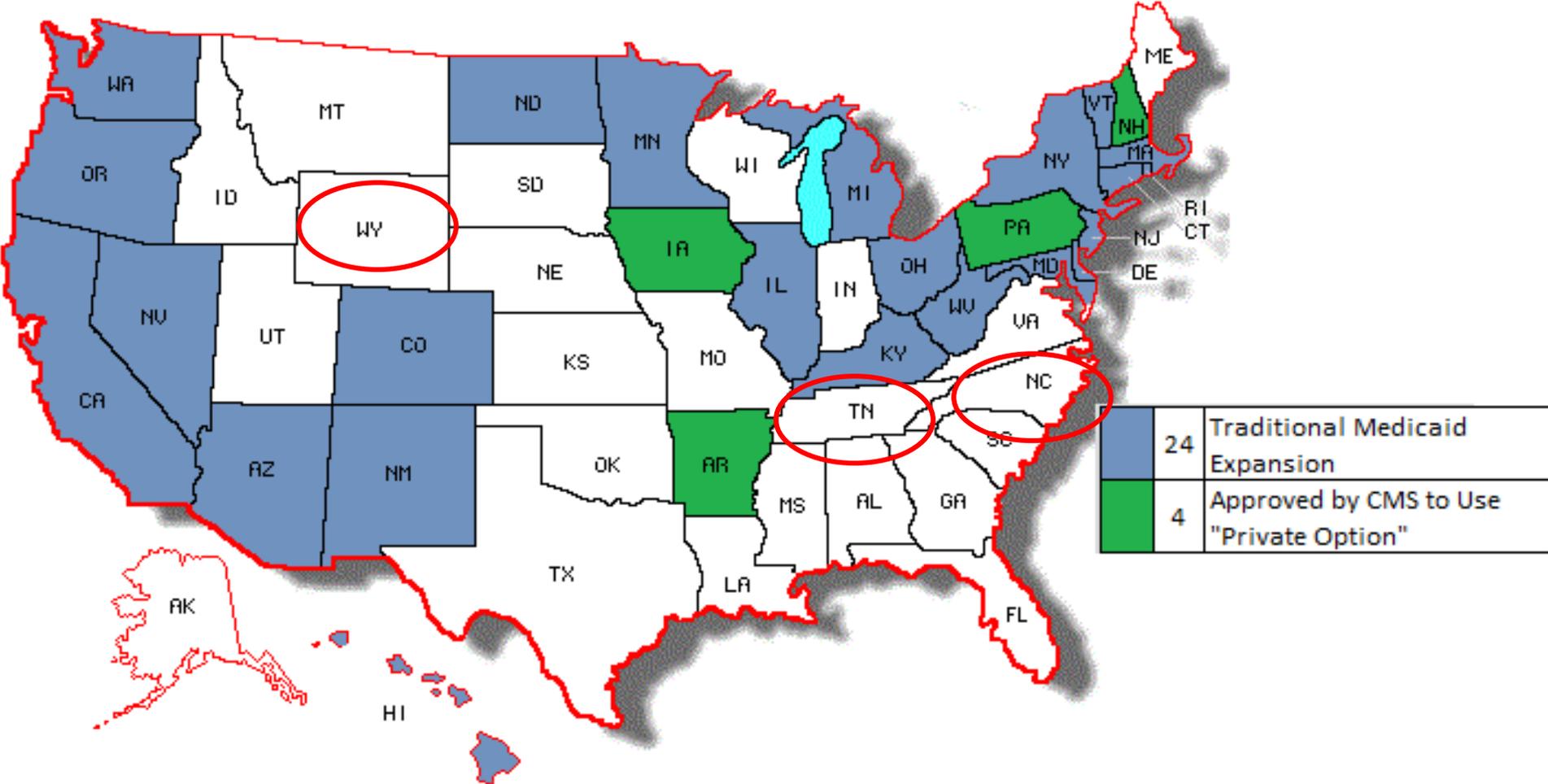
Medicaid: ACA Expansion vs. "Private Option"





States Seriously Contemplating Expansion

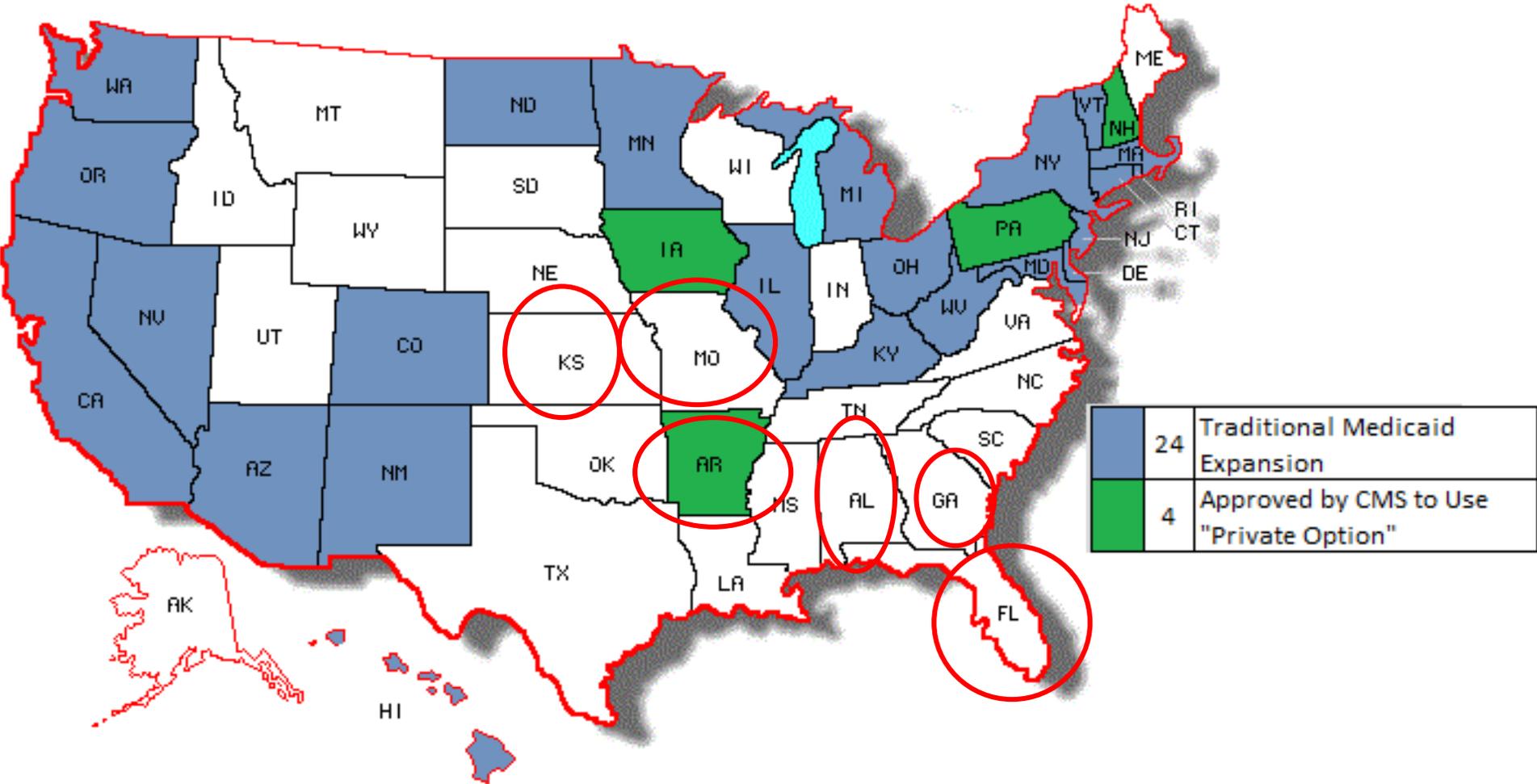
Medicaid: ACA Expansion vs. "Private Option"





States Where Expansion Will be a Hot Topic

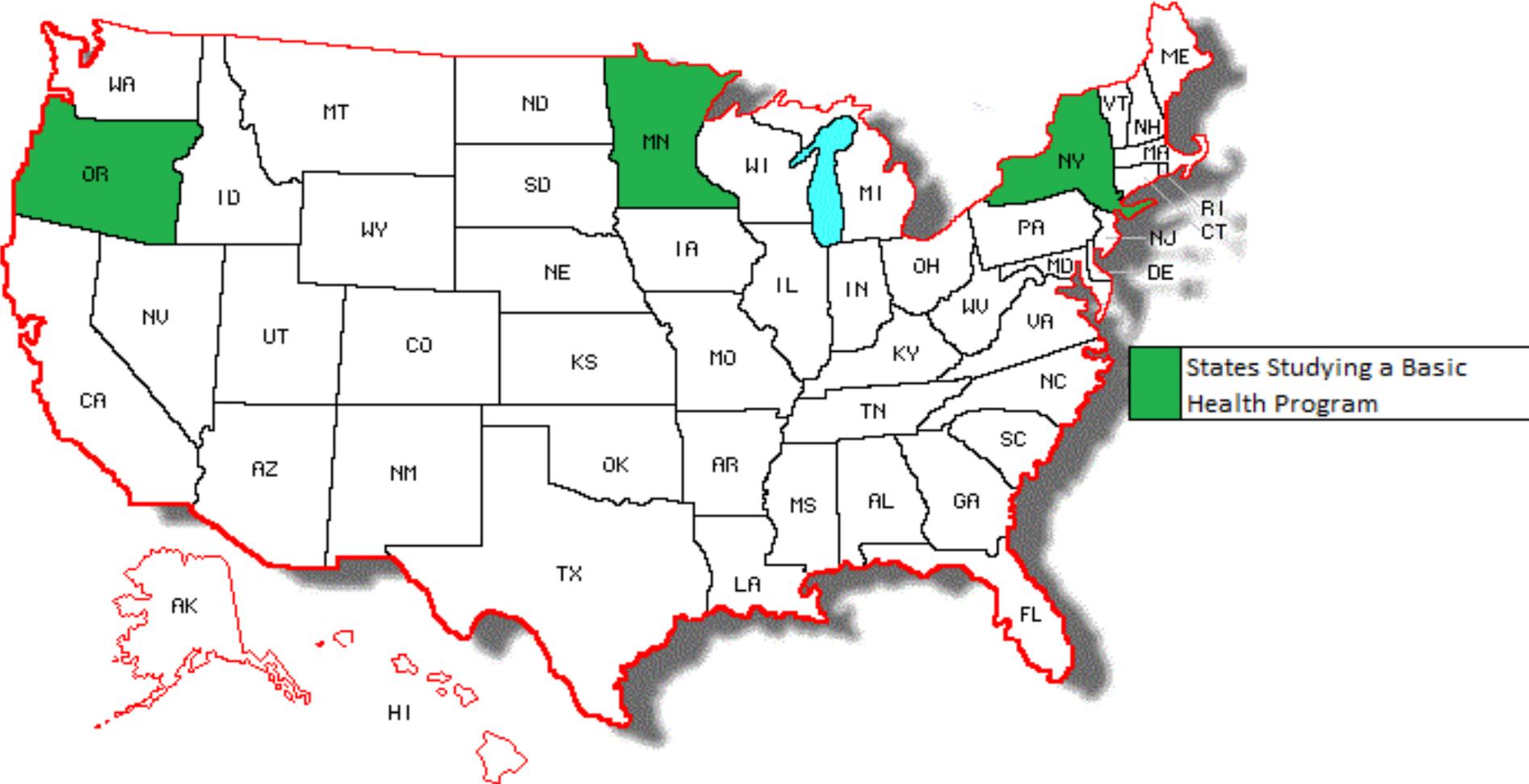
Medicaid: ACA Expansion vs. "Private Option"





BHP Changes Exchange Customers & Risk Pool

Basic Health Program: States to Watch

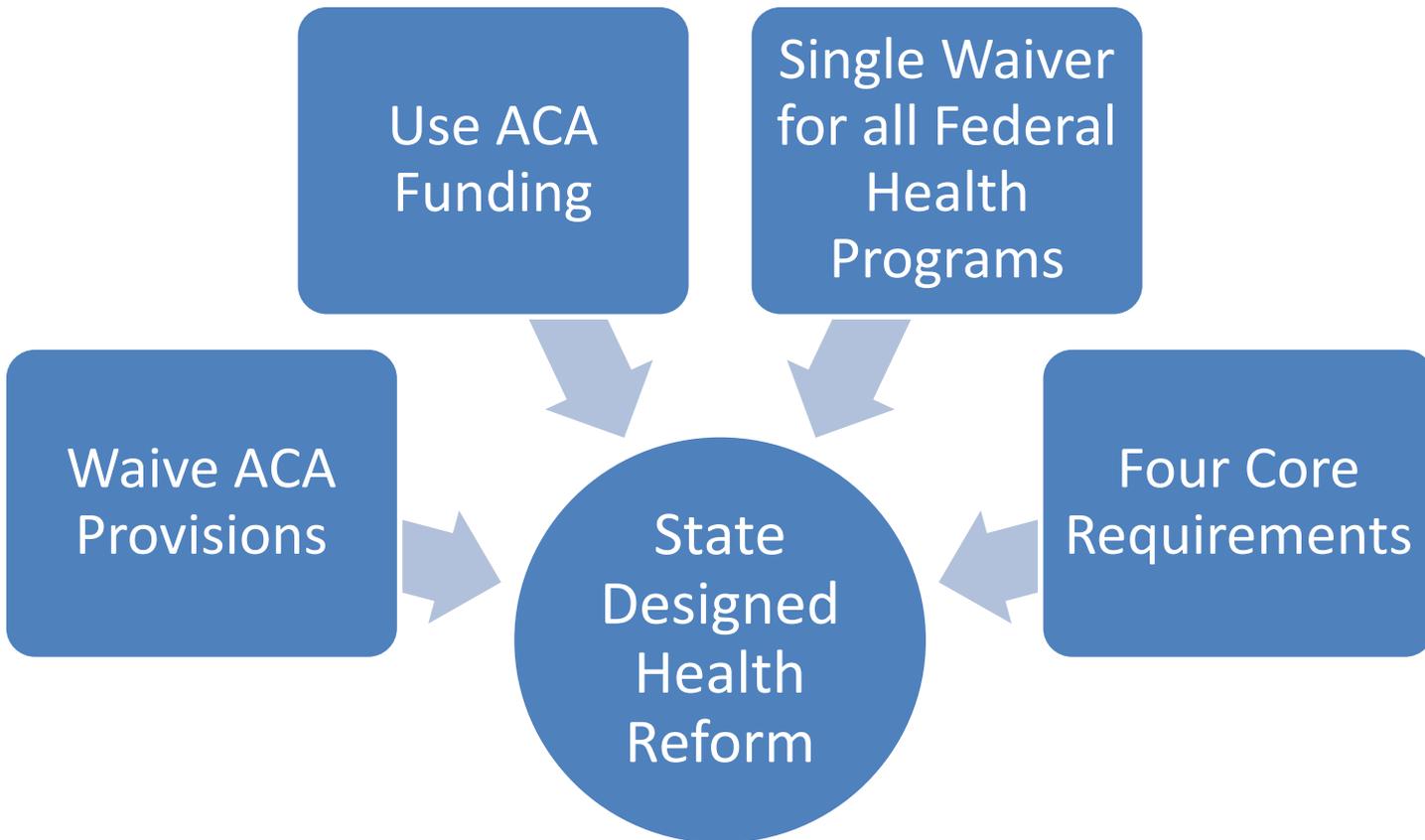




The Next Big Thing: ACA Section 1332 State Innovation Waivers

- What are Section 1332 State Innovation Waivers?
- What could a State do with a 1332 Waiver?
- What can't a State do with a 1332 Waiver?
- What is the process for a Section 1332 Waiver?
- What now?

What is a State Innovation Waiver?





Allows Waiver of ACA Provisions

- Beginning January of 2017, allows HHS/Treasury to waive significant portions of the ACA, including requirements related to:
 - Establishment of qualified health plans, including:
 - EHB requirements*
 - Annual limits on total cost sharing
 - Actuarial value standards for “metal level” plan categories
 - Definition of individual, small group & large group markets, aggregation rules for small and large employers
 - Establishment of health benefit exchanges, including:
 - SHOP & Individual
 - Products sold through exchanges
 - Medicaid eligibility and enrollment facilitation
 - Self-sustaining requirements
 - Navigators
 - Single Risk Pool
 - Who can use the exchange



Allows Waiver of ACA Provisions

- Allows HHS/Treasury to waive significant portions of the ACA, including requirements related to:
 - Cost-sharing subsidies
 - Refundable tax credits
 - Small business tax credits
 - Employer mandate
 - Individual mandate



Funds Available to States to Finance Reforms

- If the waiver eliminates the premium tax credits, cost sharing subsidies and/or small business tax credits, state governments can receive the money that would have gone to their residents and business to fund the alternative health reform design
 - Aggregate, lump sum, periodic payments
 - Annually adjusted



Single Waiver for All Federal Health Programs

- Section 1332 also permits states to apply in a coordinated fashion for waivers from
 - Medicare, Medicaid, the Children’s Health Insurance Program, and
 - “any other federal law relating to the provision of health care items or services.”



Four Core Requirements

- The Secretary may grant a request for a 1332 waiver only if the Secretary determines that the State plan—
 - will provide coverage that is at least as comprehensive as the coverage defined in section 1302(b) and offered through Exchanges
 - will provide coverage and cost sharing protections against excessive out-of-pocket spending that are at least as affordable as the provisions of this title would provide;
 - will provide coverage to at least a comparable number of its residents as the provisions of this title would provide; and
 - will not increase the Federal deficit.



What Doesn't Section 1332 Waive?

- Market reforms:
 - No Pre-existing conditions
 - Rating bands
 - Preventative Care
 - Guaranteed issue
- Hospital and care provisions
 - CMMI
 - Readmissions reduction
 - DSH reductions
- And hundreds of pages of other provisions



The Waiver Process

- Application to the Secretary of HHS; she will refer to the Secretary of Treasury any provisions where he has the waiver authority
- Application must address six major areas:
 - The provisions of federal law that a state seeks to waive
 - How the innovation waiver will meet the ACA's goals of coverage expansion, affordability, comprehensiveness of coverage, and costs
 - An implementation timeline
 - Include a budget plan that must not increase the federal deficit
 - Actuarial certifications and economic analysis
 - An analysis of the waiver's impact on provisions of the ACA that are not waived



The Waiver Process

- For a state to act, its application must be backed up by a state law.
- The Secretary must make a determination within 180 days (but we know how that goes....)
- No waiver can last longer than five years, but can be renewed by the state and the secretary
- Initial regs are final; more to come

On a practical level, a state planning to implement a broad waiver in 2017 must be working in 2015



What Could States Do?

- We are hearing ideas big and small – but all are based on the individual state’s health care and insurance markets
 - Manage churn between exchange and Medicaid
 - Maximize employer sponsored insurance
 - Address affordability and structural issues that put families in different health programs
 - Address impacts on the small group market/small employers
 - Single Payer System with Medicare Included
 - Private plan or ESI-based exchange designs
 - Eliminate the exchange and direct enroll in Medicaid or state-selected plans
 - Possibilities are limitless...



The Years Ahead...

After climbing a great hill, one only finds that there are many more hills to climb.

Nelson Mandela



For More Information

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