

Colorado: State Innovation Waiver under section 1332 of the PPACA

July 31, 2019

The U.S. Department of Health and Human Services and the U.S. Department of the Treasury (the Departments) approved Colorado's application for a State Innovation Waiver under section 1332 of the Patient Protection and Affordable Care Act (PPACA) (the waiver). Colorado's application seeks to implement a reinsurance program for plan years 2020 and 2021. As a result of the waiver approval, more consumers in Colorado may have coverage, consumers are expected to see lower premiums, and Colorado will receive Federal funds to cover a substantial portion of state costs for the reinsurance program.

Colorado's State Innovation Waiver under section 1332 of the PPACA is approved subject to Colorado accepting the specific terms and conditions (STCs). This approval is effective for January 1, 2020 through December 31, 2021.

Summary of Colorado's Application for a State Innovation Waiver under section 1332 of the PPACA

Colorado's application for a State Innovation Waiver under section 1332 of the PPACA seeks to waive section 1312(c)(1) of the PPACA, the requirement to consider all enrollees in a market to be part of a single risk pool, to the extent it would otherwise require excluding total expected state reinsurance payments when establishing the market-wide rate, in order to implement the state reinsurance program for plan years 2020 and 2021. The reinsurance program will operate like a traditional, claims-based attachment point reinsurance program by reimbursing qualifying non-group health insurers for a percentage of an enrollee's claims costs exceeding a specified threshold (attachment point) and up to a specified ceiling (reinsurance cap). Specifically, in 2020, the program will reimburse claims at an average 60 percent coinsurance rate for claims between the attachment point of \$30,000 and an estimated \$400,000 cap. The Colorado Department of Insurance (DOI) will set the final program parameters through an administrative rule by September 15, 2019 for the 2020 plan year. The state's law (HB19-1168) targets claims cost reduction using a three-tier structure with targeted reduction in the costs of claims by rating area to address the inequality of premiums in different geographic areas of the state and to encourage carriers to enter the parts of the state with less carrier participation (rural and mountain areas) as compared to areas with somewhat lower costs and premiums (metropolitan areas).

The three-tier requirements for the reinsurance program are:

- Rating Areas 1, 2, & 3: Claim costs shall be reduced by between 15% and 20%
- Rating Areas 4, 6, 7, & 8: Claim costs shall be reduced by between 20% and 25%
- Rating Areas 5 & 9¹: Claim costs shall be reduced by between 30% and 35%

As a result of the waiver approval, consumers are expected to see lower premiums, which should attract new consumers while also keeping current consumers in the individual marketplace. Colorado will

¹ Areas 5 (Grand Junction) and 9 (Mountain Areas, Western Slope and western half of Colorado) are targeted for the highest claims reductions costs as they typically have the highest health care costs in Colorado and thus the highest insurance premiums.

receive pass-through funding to help offset a substantial portion of state costs for the state-established reinsurance program. Colorado projects that under the section 1332 waiver, statewide premiums will be about 16% lower in 2020 than they would be without the waiver. In addition, Colorado predicts that individual market enrollment will increase by about 2.9% due to the lower premiums resulting from stabilization of the individual market. These projections were certified by independent actuaries and reviewed by the Departments.

Because the Colorado reinsurance program is expected to lower premiums on the second lowest cost silver plan, the plan used to establish the value of premium tax credits, the Federal government will spend less in premium tax credits under the waiver. As such, Colorado will receive pass-through funding to support the reinsurance program based on the amount of premium tax credits that would have been provided to Coloradans absent the waiver, but will not be provided under the waiver, reduced, if necessary, to ensure deficit neutrality.

The Departments have determined that Colorado's application for a State Innovation Waiver under section 1332 of the PPACA meets the requirements outlined in section 1332(b)(1) of the PPACA. Specifically, the waiver is projected:

- to provide coverage at least as comprehensive as the coverage defined in section 1302(b),
- to provide coverage as affordable as would otherwise be provided,
- to provide coverage to at least a comparable number of people as would otherwise be covered, and
- to not increase the Federal deficit.

Section 1332: State Innovation Waivers

Section 1332 of the PPACA permits a state to apply for a State Innovation Waiver to pursue innovative strategies for providing their residents with access to high quality, affordable health insurance. These waivers provide states with the opportunity to develop strategies that best suit their individual needs. Through innovative thinking, tailored to specific state circumstances, states can lower premiums for consumers, improve market stability, and increase consumer choice.

State Innovation Waivers allow states to implement innovative ways to provide access to quality health care that is at least as comprehensive and affordable as would be provided absent the waiver, provides coverage to a comparable number of residents of the state as would be provided coverage absent a waiver, and does not increase the Federal deficit.

State Innovation Waivers are available beginning January 1, 2017. State Innovation Waivers are approved for up to five-year periods, and can be renewed. The Departments welcome the opportunity to work with states on Section 1332 State Innovation Waivers. Read more about State Innovation Waivers [here](#). States interested in applying for a section 1332 waiver can find application tools and resources, including an application checklist and application templates, on our website [here](#).

The approval letter and STCs for Colorado can be found here: https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section_1332_State_Innovation_Waivers-.html