

FIRST AMENDMENT
TO THE
INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES (CMS)
AND
THE STATE OF MARYLAND
MARYLAND HEALTH BENEFIT EXCHANGE (MHBE)

This Amendment is made to the Intergovernmental Agreement between the U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services (CMS) and the State of Maryland, Maryland Health Benefit Exchange (MHBE) (referred to collectively as the “parties”), effective March 21, 2019, under which CMS agreed to calculate reinsurance payments to issuers participating in the State of Maryland’s reinsurance (RI) program under Maryland’s State Innovation Waiver under Section 1332 of the Patient Protection and Affordable Care Act (PPACA) (the Intergovernmental Agreement). This Amendment is effective upon signature by both parties.

As provided by section XII of the Intergovernmental Agreement, the parties agree to amend that previously executed Intergovernmental Agreement as follows:

I. Section IV of the Intergovernmental Agreement is deleted in its entirety and amended to read:

“IV. BACKGROUND

Section 1332 of the PPACA permits a state to apply for a State Innovation Waiver (referred to as a section 1332 waiver or a State Relief and Empowerment Waiver) to pursue innovative strategies for providing their residents with access to higher value, more affordable health coverage. States can request that the Secretaries of Health and Human Services (HHS) and the Department of the Treasury (collectively, the Secretaries) waive certain provisions of the PPACA provided that a state’s waiver application meets specific statutory requirements: (1) will provide coverage that is at least as comprehensive as coverage defined in PPACA’s section 1302(b) and offered through Exchanges established under title I of the PPACA; (2) the proposal will provide coverage and cost-sharing protections against excessive out-of-pocket spending that are at least as affordable for the state’s residents as would be provided under title I of PPACA; (3) the proposal will provide coverage to at least a comparable number of the state’s residents as would be provided under title I of PPACA; and (4) the proposal will not increase the federal deficit.

On October 24, 2018, the Centers for Medicare & Medicaid Services (CMS) and the Department of the Treasury (collectively, the Departments) published guidance that provided information on how state waiver applications would be evaluated based on the four statutory guardrails. The guidance also stated that CMS may provide services in support of the state’s section 1332 waiver plan under Title III of the Intergovernmental Cooperation Act of 1968

(ICA) OMB Circular No. A-97. The ICA is intended to: 1) encourage intergovernmental cooperation in the conduct of specialized or technical services and provisions of facilities essential to the administration of State or local governmental activities; 2) enable State and local governments to avoid unnecessary duplication of special service functions; and 3) authorize Federal agencies that do not have such authority to provide reimbursable specialized and technical services to State and local governments. Accordingly, the ICA authorizes the head of any Federal agency, within his discretion and upon written request from a State or political subdivision thereof, to provide specialized or technical services, upon payment to the Federal agency by the unit of government making the request, of salaries and all other identifiable direct or indirect costs of performing such services.

Where a state intends to rely on CMS to perform administrative activities in connection with its section 1332 waiver program, the state must cover CMS' costs. For this reason, the Departments will not consider costs for CMS services covered under this Agreement an increase in federal spending resulting from the state's waiver plan for purposes of the deficit neutrality analysis under section 1332.

On May 31, 2018, the State of Maryland, through MHBE, submitted a section 1332 waiver application to waive certain PPACA requirements and implement a reinsurance program called the Maryland State Reinsurance Program for 2019 through 2023 (the Maryland Reinsurance Program). Maryland's waiver application was approved on August 22, 2018, and the waiver is effective for January 1, 2019 through December 31, 2023. MHBE has requested that CMS calculate issuer reinsurance payments in support of the state's waiver plan for the full term of the 1332 waiver, through December 31, 2023."

II. Section V.A.1 of the Intergovernmental Agreement is deleted in its entirety and amended to read:

“V. STATEMENT OF WORK

The parties agree to the following Roles and Responsibilities:

A. CMS' Responsibilities:

1. CMS will identify paid claims eligible for reimbursement under the Maryland Reinsurance Program (eligible claims) for services provided during the waiver period of January 1, 2019 through December 31, 2023. CMS will identify such claims from data submitted to “EDGE Servers” maintained by issuers offering coverage in the State of Maryland. CMS will identify such claims based on the parameters for the Maryland Reinsurance Program as described in the state's section 1332 waiver application approved on August 22, 2018, and as confirmed by MHBE as described under paragraph V.B.1 below.”

III. Section VI of the Intergovernmental Agreement is deleted in its entirety and amended to read:

“VI. DURATION OF AGREEMENT

Effective Date: This Agreement is effective when signed by both parties and will terminate on December 31, 2024. This parties’ performance under this Agreement is contingent on the State meeting the obligations specified in the specific terms and conditions to which the State agreed in connection with its section 1332 waiver.”

IV. Section VII of the Intergovernmental Agreement is deleted in its entirety and amended to read:

“VII. FUNDS

MHBE shall reimburse CMS for all services provided under this Agreement.

MHBE will be invoiced for actual costs incurred by CMS. The state can elect to submit payment to CMS via a CMS-approved method in one or multiple payments during the plan year.

At this time, CMS estimates that the cost for the services CMS will provide for the 2020 plan year pursuant this Agreement will be \$31,000 – 36,000 for support costs. CMS will inform the MHBE of the actual costs for the tasks in section V.A. for Maryland by March 31st of each calendar year during the term of this Agreement as outlined in Section V.A.1 above.

The MHBE should send any documentation or required information to the CMS staff identified below:

Lina Choudhry Rashid
Centers for Medicare & Medicaid Services
Center for Consumer Information and Insurance Oversight
7501 Wisconsin Ave
Bethesda, MD 21814
e-mail: Lina.Rashid@cms.hhs.gov
Phone #: 202-260-6098

Milan Shah
Centers for Medicare & Medicaid Services
Center for Consumer Information and Insurance Oversight
7501 Wisconsin Ave
Bethesda, MD 21814
e-mail: Milan.Shah@cms.hhs.gov
Phone #: (301) 492-4427

John Maynard
Centers for Medicare & Medicaid Services
Center for Consumer Information and Insurance Oversight
7501 Wisconsin Ave
Bethesda, MD 21814
e-mail: John.Maynard@cms.hhs.gov
Phone #: (301) 492-4439

CMS will send any documentation or required information to the MHBE staff identified below:

Johanna Fabian-Marks
Maryland Health Benefit Exchange (MHBE)
750 E Pratt St
Baltimore, MD 21202
e-mail: johanna.fabian-marks@maryland.gov
Phone #: 410-547-1832”

V. Remaining Provisions not Affected by this Amendment

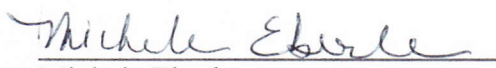
All other terms and conditions of the Intergovernmental Agreement that are not changed by this Amendment shall remain in full force and effect for the duration of the Intergovernmental Agreement, as amended.

VI. Signatures

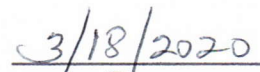
The below parties from CMS and MHBE are agreeing to this Amendment on behalf of their organization.

Jeffrey Grant
Deputy Director for Operations
Center for Consumer Information and Insurance Oversight (CCIIO)

Date



Michele Eberle
Executive Director
Maryland Health Benefit Exchange



Date