



August 13, 2021

**VIA ELECTRONIC MAIL:** [michael.conway@state.co.us](mailto:michael.conway@state.co.us)

Michael Conway  
Commissioner of Insurance  
Colorado Division of Insurance  
1560 Broadway, Suite 850  
Denver, CO 80202

Dear Commissioner Conway:

Thank you for your April 30, 2021, submission of Colorado's extension application for a State Innovation Waiver under section 1332 of the Patient Protection and Affordable Care Act (ACA). Colorado has once again requested a waiver of the ACA requirement for the single risk pool in order to extend implementation of its reinsurance program for up to five years beginning with plan year 2022. I am pleased to send this letter from the Department of Health & Human Services (HHS), as well as on behalf of the Department of the Treasury (collectively, the Departments).

This letter is to inform you that the Departments, having completed their review of the waiver extension application, approve Colorado's extension application for its State Innovation Waiver under section 1332 of the ACA. Enclosed with this letter are the specific terms and conditions (STCs) for Colorado's State Innovation Waiver. The Departments' approval of Colorado's extension application is conditioned upon the state's acceptance of these STCs within 30 days of the date of this letter, or by September 12, 2021. This approval is effective for a waiver period of January 1, 2022 through December 31, 2026.

The Departments are granting Colorado's waiver extension application to waive the single risk pool requirement in the individual market under section 1312(c)(1) of the ACA to the extent it would otherwise require excluding total expected state reinsurance payments when establishing the market-wide index rate for the purposes described in the state's waiver extension application.

The Departments remain committed to working with state partners to advance health care coverage policies. Through section 1332 waivers, the Departments aim to assist states with developing health insurance markets that expand coverage, lower costs, and ensure that health care truly is a right for all Americans. The Departments have determined that this waiver plan satisfies the guardrails as set forth in section 1332(b)(1)(A)-(D) of the ACA, and have also determined that implementation of this reinsurance program will lower individual market premiums in the state and the premium tax credits (PTC) to which Colorado residents would have been entitled absent the waiver. These PTC savings will be passed through to the state to be used for implementation of the waiver plan. The Departments have considered public

comments in making this determination. The Departments' written responses to comments received during the federal comment period will be available online.<sup>1</sup>

The enclosed STCs further define the state's responsibilities with respect to implementation of the waiver and use of pass-through funding during the waiver period and the nature, character, and extent of anticipated federal oversight of the project. The state is encouraged to engage with the Departments early in the process if it is interested in amending or extending its waiver plan. The required information and process may vary based on the complexity of the proposed change or extension. A breach of any of the STCs may lead to termination of Colorado's State Innovation Waiver.

Please send your written acceptance and any communications and questions regarding program matters or official correspondence concerning the waiver to [stateinnovationwaivers@cms.hhs.gov](mailto:stateinnovationwaivers@cms.hhs.gov).

Congratulations. We look forward to working with you and your staff. Please do not hesitate to contact us if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Chiquita Brooks-LaSure". The signature is written in a cursive, flowing style.

Chiquita Brooks-LaSure

Enclosure

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<sup>1</sup> [https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section\\_1332\\_State\\_Innovation\\_Waivers-.html](https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section_1332_State_Innovation_Waivers-.html).

cc: Mark Mazur, Deputy Assistant Secretary for Tax Policy, U.S. Department of the  
Treasury  
Jared Polis, Governor, State of Colorado

DEPARTMENT OF HEALTH & HUMAN SERVICES (HHS)  
U.S. DEPARTMENT OF THE TREASURY  
PATIENT PROTECTION AND AFFORDABLE CARE ACT SECTION 1332 STATE  
INNOVATION WAIVER  
SPECIFIC TERMS AND CONDITIONS  
TITLE: State of Colorado— Patient Protection and Affordable Care Act Section 1332 Waiver  
Approval  
AWARDEE: The State of Colorado

I. PREFACE

The following are the specific terms and conditions (STCs) for the State of Colorado’s (“the state”) Patient Protection and Affordable Care Act (ACA) section 1332 State Innovation Waiver (“the waiver”), which has been approved by the U.S. Department of Health & Human Services (HHS) and the U.S. Department of the Treasury (collectively, the Departments). These STCs govern the operation of the waiver by the state. The STCs set forth, in detail, the state’s responsibilities to the Departments related to the waiver. These STCs are effective beginning January 1, 2022, through December 31, 2026, unless the waiver is extended or otherwise amended by the parties in accordance with the process set forth in and provided by these STCs; however, the Departments reserve the right to amend these STCs when the Departments make the annual determination of the pass-through amount for plan years 2022 through 2026. The state’s waiver extension application to waive certain provisions of the ACA, dated April 30, 2021, is specifically incorporated by reference into these STCs, except with regard to any proposal or text in the waiver extension application that is inconsistent with the Departments’ approval of the waiver or these STCs.

**1. ACA Provisions Waived under Section 1332 State Innovation Waiver.** Section 1312(c)(1) of the ACA is waived to the extent it would otherwise require excluding total expected state reinsurance payments when establishing the market-wide index rate for the purposes described in the state’s waiver extension application.

**2. Changes in State Law and Technical Changes to the Reinsurance Program.** The Colorado Division of Insurance (DOI) must inform the Departments of any change in Colorado state law or regulations that would impact the waiver, including any changes to the requirements to the Colorado reinsurance program and any technical changes to the Colorado reinsurance program, occurring after the date of this approval letter, within seven days of any such changes. Technical changes are changes that do not impact the guardrails or any obligations of the state or the Departments, such as changes to the state-approved program funding level or program parameters like altering the attachment point, cap, coinsurance rate, or eligible conditions. If the Departments determine that the change in state law or regulation or the change to the state reinsurance program is not a technical change but instead would be an amendment, the state must immediately suspend implementation of the change and submit an amendment as set forth in STC 9.

Consistent with the state’s waiver extension application, the state is responsible for any reconciliation of reinsurance payments that Colorado wishes to make to account for any

duplicative reimbursement through the Colorado reinsurance program for the same high-cost claims reimbursed through the HHS-operated risk adjustment program. This is also considered a technical change to the state reinsurance program.

**3. Funds to Operate the Colorado Reinsurance Program.** The Colorado Reinsurance Program will be funded through federal pass-through funding and state funding from the Colorado Health Insurance Affordability Enterprise. The state must ensure sufficient funds, on an annual or other appropriate basis, for the Colorado reinsurance program to operate as described in the state's waiver extension application.

**4. Compliance with Federal Non-Discrimination Statutes.** The state must comply with all applicable federal statutes relating to non-discrimination. These include the Americans with Disabilities Act of 1990, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, title I and II of the Genetic Information Nondiscrimination Act of 2008 and section 1557 of the ACA.

**5. Compliance with Applicable Federal Laws.** Per 31 C.F.R. § 33.120(a) and 45 C.F.R. § 155.1320(a), the state must comply with all applicable federal laws and regulations, unless a law or regulation has been specifically waived. The Departments' state innovation waiver authority is limited to requirements described in section 1332(a)(2) of the ACA. Further, section 1332(c) of the ACA states that while the Secretaries of the Departments have broad discretion to determine the scope of a waiver, no federal laws or requirements may be waived that are not within the Secretaries' authority. *See* 77 Fed. Reg. 11700, 11711 (February 27, 2012). Therefore, for example, section 1332 of the ACA does not grant the Departments authority to waive any provision of the Employee Retirement Income Security Act of 1974. The state must also comply with requirements of the Cash Management Improvement Act (CMIA).

**6. Changes to Applicable Federal Laws.** The Departments reserve the right to amend, suspend, or terminate the waiver, these STCs, or the pass-through funding amount as needed to reflect changes to applicable federal laws or changes of an operational nature without requiring the state to submit a new waiver proposal. The Departments will notify the state at least 30 days in advance of the expected implementation date of the amended STCs, if applicable, to allow the state to discuss the changes necessary to ensure compliance with law, regulation, and policy, to allow the state adequate time to come into compliance with state and federal regulatory requirements (including rate review and consumer noticing requirements), and to provide comment, if applicable. Changes will be considered in force upon the Departments' issuance of amended STCs. The state must accept the changes in writing within 30 days of the Departments' notification for the waiver to continue to be in effect. The state must, within the applicable timeframes, come into compliance with any changes in federal law or regulations affecting section 1332 waivers, unless the provision being changed has been expressly waived for the waiver period. If any of the waived provision(s) are eliminated under federal law, the Departments would re-evaluate the waiver to see if it still meets all of the section 1332 waiver requirements. If the Departments determine that the waiver needs to be suspended or terminated as a result of a change to federal law, the Departments will provide further guidance to the state as to that process.

**7. Finding of Non-Compliance.** The Departments will review and, when appropriate, investigate documented complaints that the state is failing to materially comply with requirements specified in the approved waiver and these STCs. In addition, the Departments will promptly share with the state any complaint that they may receive and will notify the state of any applicable monitoring and compliance issues.

**8. State Request for Suspension, Withdrawal, or Termination of a Waiver.** The state may only request to suspend, withdraw, or terminate all or portions of a waiver plan consistent with the following requirements:

- (a) Request for suspension, withdrawal, or termination: If the state wishes the Departments to suspend, withdraw, or terminate all or any portion(s) of the waiver, the state must submit a request to the Departments in writing specifying: the reasons for the requested suspension, withdrawal, or termination; the effective date of the requested suspension, withdrawal or termination; and the proposed phase-out plan (with the summary of comments received, as described below). The state must submit its request and draft phase-out plan to the Departments no less than six (6) months before the proposed effective date of the waiver's suspension, withdrawal, or termination. Prior to submitting the request and draft phase-out plan to the Departments, the state must publish on its website the draft phase-out plan for a 30-day public comment period and conduct Federal tribal consultation as applicable. The state must include with its request and proposed phase-out plan a summary of each public comment received, the state's response to the comment and whether or how the state incorporated measures into a revised phase-out plan to address the comment.
- (b) Departments' approval: The state must obtain the Departments' approval of the phase-out plan prior to the implementation of the phase-out activities. Implementation of phase-out activities must begin no sooner than 14 calendar days after the Departments' approval of the phase-out plan, unless otherwise directed by the Departments.
- (c) Recovery of unused funding: Any unused pass-through funding will be recovered. The state will comply with all necessary steps to facilitate the recovery within a prompt timeframe.

**9. State Request for Amendment.**

- (a) Definition: For purposes of these STCs, an amendment is a change to a waiver plan that is not otherwise allowable under these STCs or that the Departments determine could impact any of the section 1332 statutory guardrails or program design for an approved waiver. Such potential changes include, but are not limited to, changes to eligibility, coverage, benefits, premiums, out-of-pocket spending, and cost sharing.
- (b) Amendment Process: To amend a waiver:
  - (1) The state must submit a letter to the Departments notifying them in writing of its intent to request an amendment to its waiver plan(s). The state must include a

detailed description of all of the intended change(s) in the letter of intent. The state is encouraged to submit its letter of intent at least 15 months prior to the waiver amendment's proposed implementation date and to engage with the Departments early on in their amendment proposal process. The state may wish to submit this letter of intent earlier than 15 months prior to the waiver amendment's proposed implementation date, depending on the complexity of the amendment request.

- (2) The Departments will review the state's letter of intent requesting changes to its waiver plan. Within approximately 30 days of the Departments' receipt of the letter of intent, the Departments will confirm whether the change requested requires an amendment and to indicate the required information that the state would need to submit in its amendment request. This written response will also include whether or not the proposed waiver amendment(s) would be subject to any additional requirements outlined in STC 9(c)(6).
- (3) The state should generally plan to submit its waiver amendment application, as outlined in STC 9(c), no later than the end of the first quarter of the year prior to the year the amendment would take effect in order to allow for sufficient time for review of the application. Consistent with the regulations at 31 C.F.R. § 33.108(b) and 45 C.F.R. § 155.1308(b), the state is required to submit the waiver application sufficiently in advance of the requested waiver implementation date, particularly when the waiver impacts premium rates, to allow for an appropriate implementation timeframe. In developing the implementation timeframe for the state waiver amendment(s), the state must maintain uninterrupted operations of the Exchange in the state and provide adequate notice to affected stakeholders and any issuers of health insurance plans that would be (or may be) affected by the amendment to take necessary action based on approval of the waiver amendment.
- (4) The Departments reserve the right to deny or withhold approval of a state waiver amendment based on non-compliance with these STCs or any additional direction and information requests from the Departments, including a failure by the state to submit required reports and other deliverables in a timely fashion.
- (5) The state is not authorized to implement any aspect of the proposed amendment without prior approval by the Departments.

(c) Content of Amendment Application: All amendment applications are subject to approval at the discretion of the Secretaries in accordance with section 1332 of the ACA. The state must furnish such information and analysis regarding the amendment as the Departments may request. An amendment application must include the following:

- (1) A detailed description of the requested amendment, including the impact on the guardrails, and related changes to the waiver program elements as applicable, including sufficient supporting documentation;
- (2) The state must conduct the state public notice process that is specified for new applications at 31 C.F.R. § 33.112 and 45 C.F.R. § 155.1312. The amendment request must include an explanation and evidence of the process used by the state to ensure meaningful public input. It may be permissible for a state to use its

- annual public forum for the dual purpose of public input on an amendment application request;
- (3) Evidence of sufficient authority under state law(s) in order to meet the ACA section 1332(b)(2)(A) requirement for purposes of pursuing the requested amendment(s);
  - (4) An updated actuarial and/or economic analysis demonstrating how the requested amended waiver will meet section 1332 statutory guardrails. Such analysis must identify the “with waiver” impact of the requested amendment on the statutory guardrails. Such analysis must include a “with waiver” and “without waiver” status on both a summary and detailed level through the current approval period using data from recent experience, as well as a summary of and detailed projections of the change in the “with waiver” scenario;
  - (5) An explanation of the impact, if any, of the proposed amendment on pass-through funding; and
  - (6) Any further requested information and/or analysis that is determined necessary by the Departments to evaluate the proposed amendment.

**10. State Request for Waiver Extension.** The state must inform the Departments if the state will apply for extension of its waiver at least one year prior to the waiver’s end date. The Departments and the state will engage in further discussions regarding next steps for extension of its waiver. In addition to the periodic reports required by 31 C.F.R. § 33.124 and 45 C.F.R. § 155.1324, the Departments may require additional data and information to be submitted to review the extension request in accordance with 31 C.F.R. § 33.120(f)(2) and 45 C.F.R. § 155.1320(f)(2). An extension application must include information requested by the Departments, which may include the following, unless otherwise provided in these STCs:

- (a) Updated economic or actuarial analyses for the extension period in a format and manner specified by the Departments;
- (b) Preliminary evaluation data and analysis from the existing waiver program;
- (c) Evidence of sufficient authority under state law(s) in order to meet the ACA section 1332(b)(2)(A) requirement for purposes of pursuing the requested extension;
- (d) An explanation of the process to ensure meaningful public input on the extension request. The state may use its annual public forum for the dual purpose of public input on an extension application request; and
- (e) Other information as requested by the Departments to reach a decision on the requested extension.

The waiver extension request and approval process is separate from the amendment process described in STC 9, with separate timelines and requirements. An extension application under these STCs can only include an extension of the existing waiver terms, not other changes to the existing waiver. If a state also seeks to make changes to its existing waiver when submitting an extension request, the Departments will treat those changes as amendments and the requirements of STC 9 will also apply.



The Departments may extend an existing reinsurance waiver program on a temporary basis for an additional year while a waiver extension request is under review, without regard to the date when the application was submitted.

If the state does not apply for an extension of the waiver, the Departments will provide guidance on wind-down of the state's waiver consistent with STC 8.

**11. Reporting.** The state must submit quarterly and annual reports as specified in 31 C.F.R. § 33.124 and 45 C.F.R. § 155.1324. Each such annual report must include:

- (a) The progress of the section 1332 waiver;
- (b) Data sufficient to show compliance with section 1332(b)(1)(A) through (D) of the ACA;
- (c) A summary of the annual post-award public forum, held in accordance with 31 C.F.R. § 33.120(c) and 45 C.F.R. § 155.1320(c), including all public comments received at such forum regarding the progress of the section 1332 waiver and action taken in response to such concerns or comments; and
- (d) Other information the Departments determine is necessary to calculate pass-through amounts or to evaluate the waiver.

The state must submit a draft annual report to the Departments within 90 days after the end of the first waiver year and each subsequent year that the waiver is in effect. The state will publish the draft annual report on the state's public website within 30 days of submission to the Departments. Within 60 days of receipt of comments from the Departments on the report, the state must submit to the Departments the final annual report for the waiver year, summary of the comments, and all public comments received as part of the post-award forum process. The state must publish the final annual report on the state's public web site within 30 days of approval by the Departments.

*Annual Reports:* The annual reports must include the following:

- (1) Metrics to assist evaluation of the waiver's compliance with the statutory requirements in section 1332(b)(1):
  - a. Actual individual market enrollment in the state.
  - b. Actual average individual market premium rate (i.e., total individual market premiums divided by total member months of all enrollees).
  - c. The actual Second Lowest Cost Silver Plan (SLCSP) premium under the waiver and an estimate of the SLCSP premium as it would have been without the waiver, for a representative consumer (e.g., a 21-year old non-smoker) in each rating area.
- (2) Technical changes to the Colorado reinsurance program, including the funding level the program will be operating at for the next plan year, or other program changes as specified in STC 2.
- (3) Notification of changes to state law or regulations that may impact the waiver as specified in STC 2.

- (4) Reporting of:
  - a. Federal pass-through funding spent on reinsurance claim payments to issuers from the Colorado reinsurance program and/or operation of the reinsurance program.
  - b. The unspent balance of federal pass-through funding for the reporting year, if applicable.
- (5) The amount of state funding from the program fund, including but not limited to the state-based exchange user fee, specifically any funds designated by the state to provide reinsurance to issuers that offer individual health benefit plans in the state or any other money from any other source accepted for the benefit of the fund to fully fund the Colorado reinsurance program for the reporting year.
- (6) A description of any incentives for providers, enrollees, and issuers to continue managing health care cost and claims for individuals eligible for reinsurance.
- (7) A report on the reconciliation (if any) of reinsurance payments that are duplicative of reimbursement through the HHS-operated risk adjustment program high-cost risk pooling mechanism. The report should include the Colorado reinsurance program reinsurance payment (before reconciliation) for high-cost claims to issuers who also receive payment through the HHS risk adjustment program under the high-cost risk pooling mechanism, the high-cost risk pool payment amount made by HHS for those claims, and the reinsurance true-up amount applied.

*Payment Schedule:* The state will inform the Departments of the Colorado reinsurance program payment schedule by January 1, 2022.

*Quarterly and Other Reports:* Under 31 C.F.R. § 33.120(b), 31 C.F.R. § 33.124(a), 45 C.F.R. § 155.1320(b), and 45 C.F.R. § 155.1324(a), the state must conduct periodic reviews related to the implementation of the waiver. The state will submit a report to the Departments on the operation of the Colorado reinsurance program, including the plan for processing claims, by February 28, 2022. Thereafter, the state must report on the operation of the waiver quarterly, including, but not limited to reports of any ongoing operational challenges and plans for and results of associated corrective actions, no later than 60 days following the end of each calendar quarter. The state can submit its annual report in lieu of their fourth quarter report.

**12. Post Award Forum.** Per 31 C.F.R. § 33.120(c) and 45 C.F.R. § 155.1320(c), within six months of the waiver's effective date and annually thereafter, the state will afford the public an opportunity to provide meaningful comment on the progress of the waiver. The state is required to publish the date, time, and location of the public forum in a prominent location on the state's public web site at least 30 days prior to the date of the planned public forum. The state may request and submit a justification to do the post award forum virtually in certain circumstances, such as a natural disaster or public health emergency, as long as the other applicable regulatory requirements for meaningful public input are met. The state must also include a summary of this forum as part of the quarterly report for the quarter in which the forum was held and the annual

report as required under 31 C.F.R. § 33.124 and 45 C.F.R. § 155.1324 and as specified in STC 11.

**13. Monitoring Calls.** The state must participate in monitoring calls with the Departments that are deemed necessary by the Departments. The purpose of these monitoring calls is to discuss any significant actual or anticipated developments affecting the waiver. Areas to be addressed include the impact on the regulatory criteria discussed above and state legislative or policy changes. The Departments will update the state on any federal policies and issues that may affect any aspect of the waiver. The state and the Departments will jointly develop the agenda for the calls. It is anticipated that these calls will occur at least semi-annually.

**14. Federal Evaluation.** The Departments will evaluate the waiver using federal data, state reporting, and the application itself to ensure that the Secretaries of the Departments can exercise appropriate oversight of the approved waiver. Per 31 C.F.R. § 33.120(f) and 45 C.F.R. § 155.1320(f), if requested by the Departments, the state must fully cooperate with the Departments or an independent evaluator selected by the Departments to undertake an independent evaluation of any component of the waiver. As part of this required cooperation, the state must submit all requested data and information to the Departments or the independent evaluator. The Departments may charge the State for evaluation costs to the federal government.

**15. Pass-through Funding.** Under section 1332(a)(3) of the ACA, the state will be entitled to funding based on the amount of premium tax credits (PTC) that would have been provided to individuals under section 36B of the Internal Revenue Code in the State of Colorado absent the waiver, but that will not be provided under the waiver, reduced, if necessary, to ensure deficit neutrality as required by section 1332(b)(1)(D). The state will receive pass-through funding for the purpose of implementing the approved state waiver plan when the requirements described below are met. Pass-through amounts will be made available in advance of Colorado reinsurance program payments to the insurer(s) and no later than April of the applicable calendar year.

Starting with the 2022 plan year and for each plan year thereafter, by September 15 of the preceding year or once a state has finalized rates for the applicable plan year, whichever is later, the state will provide the following information to the Departments:

- (a) The final second lowest cost silver plan (SLCSP) rates for individual health insurance coverage for a representative individual (e.g., a 21-year-old non-smoker) in each rating area or service area (if premiums vary by geographies smaller than rating areas) for the applicable plan year;
- (b) The state's estimate of what the final SLCSP rates for individual health insurance coverage for a representative individual in each rating area or service area (if premiums vary by geographies smaller than rating areas) would have been absent approval of this waiver for the applicable plan year. The state must include with this information the methods and assumptions the state used to estimate the final SLCSP rates and state's estimate of what the final SLCSP rates would have been absent

approval of the waiver for each rating area or service area absent approval of this waiver;

- (c) The total amount of all premiums expected to be paid for individual health insurance coverage for the applicable plan year;
- (d) What total premiums for individual health insurance coverage would have been for the applicable plan year without the waiver;
- (e) The amount of APTC paid by month and rating area for the current plan year to date;
- (f) The number of APTC recipients by month and rating area for the current plan year to date;
- (g) The state specific age curve premium variation for the current and upcoming plan year;
- (h) Reports of the estimated total reinsurance reimbursements for the upcoming plan year;
- (i) Reports of the total enrollment estimates for individual health insurance coverage, both with and without the waiver for the upcoming plan year;
- (j) An explanation of why the experience for the upcoming plan year may vary from previous estimates and how assumptions used to estimate the impact have changed. This includes an explanation of changes in the estimated impact of the waiver on aggregate premiums, the estimated impact to the SLCSP rates, and the estimated impact on enrollment. The state should also explain changes to the estimated reinsurance estimates relative to prior estimates; and
- (k) Any other information or data requested by the Departments.

The estimated amount of pass-through funding for plan year 2022 will be communicated to the state as soon as practicable, conditional on receipt of items (a) through (k) in the paragraph above by the date specified above, and subject to a final administrative determination by the Department of the Treasury prior to payment. The pass-through amount for plan years 2022 through 2026 will be calculated by the Departments annually (per ACA section 1332(a)(3)) and reported to the state on the earliest date practicable, conditional on receipt of the SLCSP premium and total premium information (items (a) through (k) above) by September 15<sup>th</sup> of the preceding year.

The pass-through funds cannot be obligated prior to the waiver effective date. The state agrees to use the full amount of pass-through funding for purposes of implementing the state's approved waiver plan, including implementing the Colorado reinsurance program for 2022 and future years. Moreover, to the extent pass-through funding exceeds the amount necessary for implementation of the Colorado reinsurance program to cover individual claim payments to

issuers under the Colorado reinsurance program and/or operation of the Colorado reinsurance program, the remaining funds must be carried forward and used for purposes of implementing the state's approved waiver, such as making reinsurance payments in the next calendar year.

If the waiver is not extended, the Departments will promptly recover unused pass-through funds following the end of the approved waiver period, December 31, 2026. The state will comply with all necessary steps to facilitate the recovery of such amounts by the Departments within a prompt timeframe.

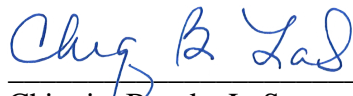
**16. The Departments' Right to Amend, Suspend, or Terminate.** Under 31 C.F.R. § 33.120(d) and 45 C.F.R. § 155.1320(d), the Departments reserve the right to amend, suspend, or terminate, the waiver (in whole or in part) at any time before the date of expiration if the Departments determine that the state has materially failed to comply with these STCs, or if the state fails to meet the specific statutory requirements or "guardrails" related to coverage, affordability, comprehensiveness, or deficit neutrality.

- (a) The Departments will promptly notify the state in writing of the determination and the reasons for the amendment, suspension, or termination, together with the effective date.
- (b) In the event that all of or a portion of the waiver is suspended or terminated by the Departments, federal funding available after the effective date of the suspension, or termination will be limited to normal closeout costs associated with an orderly suspension or termination including service costs during any approved transition period and administrative costs of transitioning participants, as described in 31 C.F.R. § 33.120(e) and 45 C.F.R. § 155.1320(e).
- (c) The Departments will recover unused pass-through funding. The state will comply with all necessary steps to facilitate the recovery within a prompt timeframe.

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Michael Conway  
Commissioner of Insurance, Colorado Division of Insurance  
State of Colorado

Date: \_\_\_\_\_



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Chiquita Brooks-LaSure  
Administrator  
Centers for Medicare & Medicaid Services  
U.S. Department of Health & Human Services

Date: August 13, 2021

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Mark Mazur  
Deputy Assistant Secretary for Tax Policy  
U.S. Department of the Treasury

Date: \_\_\_\_\_