



The Honorable Janet Yellen
Secretary of the Treasury
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

The Honorable Xavier Becerra
Secretary of Health and Human Services
Department of Health and Human Services
200 Independence Avenue, SW
Washington, D.C. 20201

June 1, 2021

Dear Secretary Yellen and Secretary Becerra,

The State of Wisconsin is pleased to submit this Letter of Intent to apply for a five-year extension of our Section 1332 State Innovation Waiver. On July 29, 2018, the Department of Health and Human Services and Department of Treasury approved Wisconsin’s waiver from the Patient Protection and Affordable Care Act requirement for a single risk pool to implement a state-based reinsurance program. The current waiver expires on December 31, 2023. This extension request is for a five-year period beginning January 1, 2024 and ending December 31, 2028. In accordance with s. 601.83 (a), Wis. Stat., the Office of the Commissioner of Insurance (OCI) requests the extension without substantive change.

With approval of the state’s original 1332 waiver application and enactment of bipartisan enabling legislation, OCI operationalized the Wisconsin Healthcare Stability Plan (WIHSP), the state-based reinsurance program, beginning January 1, 2019. Since its inception, WIHSP has been a key factor in stabilizing the individual health insurance market, resulting in average rate reductions each year of the program. The table below includes rate increases the market would have incurred without WIHSP, alongside the corresponding rate decreases experienced with the program in place.

| Year | Average Rate Change w/out WIHSP ¹ | Average Rate Change with WIHSP ² |
|------|--|---|
| 2019 | 6.8% | -4.2% |
| 2020 | 9% | -3.2% |
| 2021 | 10% | -3.4% |

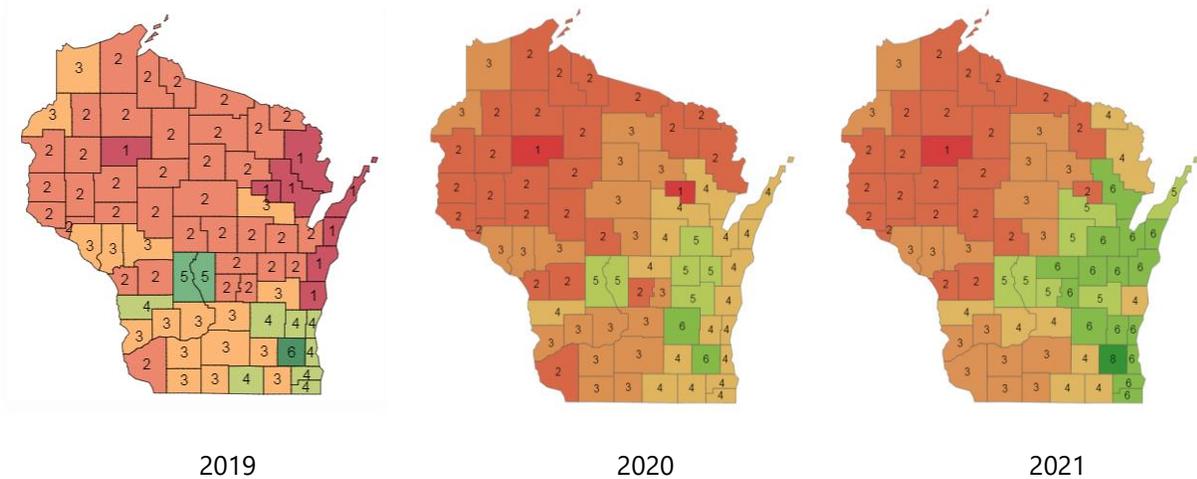
In addition to rate stability, insurers have re-entered the market and expanded service areas. This has created additional competition and consumer choice across the state. There are currently fifteen insurers

^{1&2} Rate changes are calculated using a weighted average across individual market insurers and reflect the change (or expected change) in rates from the prior year.



participating in the individual market, with fourteen of those offering coverage on the Federally Facilitated Marketplace (FFM).

Maps reflecting plan years 2019, 2020, and 2021 are displayed below to demonstrate the increase in the number of insurer options across counties since WIHSP was implemented.



OCI continues to successfully implement WIHSP within its operating budget; supporting current staff and an actuarial consultant to manage insurer claim reporting, payments to insurers, audits, pass through reports, payment parameter setting, and annual reports. Direct OCI support of WIHSP operations allows all federal pass-through dollars, along with state general purpose revenue, to directly fund WIHSP claims and positively impact the market.

The goal of WIHSP into future years is to continue to hold down rates while ensuring consumers have as much choice in health insurance options as possible.

Thank you in advance for considering OCI's request to extend the 1332 State Innovation Waiver. We look forward to engaging with you further on additional application information necessary to move this request forward.

Sincerely,

Mark Afable
Commissioner of Insurance

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Center for Consumer Information and Insurance Oversight
200 Independence Avenue SW
Washington, DC 20201



June 30, 2021

VIA ELECTRONIC MAIL: Jenni.Dye@wisconsin.gov

Tony Evers
Governor
State of Wisconsin
115 East State Capitol
Madison, WI 53707

Dear Governor Evers:

Thank you for your June 1, 2021 letter of intent (LOI) to apply for an extension of Wisconsin's State Innovation Waiver (section 1332 waiver) under Section 1332 of the Affordable Care Act (ACA). I am sending this letter from the Center for Consumer Information and Insurance Oversight (CCIIO) within the Centers for Medicare & Medicaid Services (CMS) under the Department of Health & Human Services (HHS), as well as on behalf of the Department of the Treasury (collectively, the Departments).

The Departments acknowledge that the state has informed the Departments at least one year prior to the waiver's end date, as required by the specific terms and conditions (STCs) governing Wisconsin's waiver,¹ of the state's intent to apply for continuation of the waiver. The Departments confirm that Wisconsin's anticipated section 1332 waiver application, as described below, may be submitted and will be reviewed as a waiver extension request. The requirements for the state's waiver extension application are enclosed with this letter. If the extension is approved, the Departments may determine the waiver extension will be subject to additional or revised requirements, which will be provided in the extension STCs.

Wisconsin's currently approved waiver of the ACA requirement for the single risk pool contained in ACA section 1312(c)(1) allows the state to operate a state-based reinsurance program for the individual health insurance market from January 1, 2019 through December 31, 2023. As described in the LOI, Wisconsin seeks to waive ACA section 1312(c)(1) for an additional waiver period of five years from January 1, 2024 through December 31, 2028. The state aims to continue implementing the section 1332 waiver to lower individual market premium rates and ensure consumers have as much choice as possible in their health insurance coverage.

¹ See STC 9. The applicable STCs are available here: <https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Downloads/Wisconsin-1332-Letter-final-and-signed.pdf>

A waiver extension is an extension of the existing waiver terms and does not propose any changes to the existing waiver that are not otherwise allowable under the state's STCs, or that could impact any of the section 1332 statutory guardrails or program design. Given that Wisconsin has indicated it does not intend to change any features of its waiver plan (except for the extended time period), Wisconsin may proceed with submitting an application for a waiver extension. The Departments encourage the state to submit its waiver extension application sufficiently in advance of the requested waiver effective date, ideally no later than the first quarter of 2023.

The enclosed document further outlines the application requirements for the state's waiver extension. Once the Departments receive the state's waiver extension application, the Departments will conduct a preliminary review to determine if the application is complete or will identify if elements are missing from the application by written notice. Please note, the state is not authorized to implement any aspect of the proposed waiver extension without prior written approval by the Departments. This letter does not constitute any pre-determination or intent to approve the state's proposed extension request.

Please send your acknowledgement of this letter and any communications and questions regarding program matters or official correspondence concerning the waiver to Lina Rashid at Lina.Rashid@cms.hhs.gov, Michelle Koltov at Michelle.Koltov@cms.hhs.gov, or stateinnovationwaivers@cms.hhs.gov.

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

Sincerely,



Jeffrey Grant
Acting Director
Center for Consumer Information & Insurance Oversight (CCIIO)
Centers for Medicare & Medicaid Services (CMS)

Cc: Mark Mazur, Deputy Assistant Secretary for Tax Policy, U.S. Department of the Treasury
Mark V. Afable, Insurance Commissioner, Wisconsin Office of the Commissioner of Insurance (OCI)
Nathan Houdek, Deputy Insurance Commissioner, OCI
Jennifer Stegall, Executive Senior Policy Advisor, OCI

Enclosure

Specific Requirements for Wisconsin's Waiver Extension Application

The Departments will conduct a preliminary review of Wisconsin's waiver extension application and make a preliminary determination as to whether it is complete within approximately 30 days after it is submitted to stateinnovationwaivers@cms.hhs.gov. If the Departments determine that the application is complete, the application will be made public through the Department of Health and Human Services website, and a 30-day federal public comment period will commence while the application is under review. If the Departments determine that the application is not complete, the Departments will send the state a written notice of the elements missing from the application. Wisconsin's waiver extension application must include the following:

- (1) A detailed description of the extension request, including the desired time period for the extension. The state must confirm there are no changes to the current waiver plan for the new waiver period that are otherwise not allowable under the state's STCs, or that could impact any of the section 1332 statutory guardrails or program design;
- (2) Updated economic or actuarial analyses for the extension period, if the state is aware of changes in state law, the state insurance market, or to the waiver program that are allowable under the STCs and impact waiver assumptions and projections, and that the state has not previously shared with the Departments via its reporting requirements;
- (3) Preliminary evaluation data and analysis of observable outcomes from the existing waiver program, which includes quantitative or qualitative information on why the state believes the program did or did not meet the statutory guardrails. For example, the state may provide information comparing the originally projected premium reductions or expected claims reimbursements to the actual values of the outcomes observed;
- (4) 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;
- (5) An explanation and evidence of the process to ensure meaningful public input on the extension request,² which must include:
 - a. For a state with one or more Federally-recognized Indian tribes within its borders, providing a separate process for meaningful consultation with such tribes, and providing written evidence of the state's compliance with this requirement;
 - b. Publicly posting the submitted LOI on the state's website to ensure that the public is aware that the state is contemplating a waiver extension request; and
 - c. Publicly posting the waiver extension application on the state's website upon its submission of the waiver extension application to the Departments.

² Recognizing that barriers may exist for states during the public health emergency for COVID-19, please see additional flexibilities available: Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency; Interim Final Rule, 85 FR 71142 at 71176. Also see 31 C.F.R. § 33.118 and 45 C.F.R. § 155.1318.

The state does not have to meet all of the public notice requirements specified for new waiver applications in 31 C.F.R. § 33.112 and 45 C.F.R. § 155.1312 (e.g., holding two public hearings and providing a 30-day comment period) to fulfill paragraph (5) above. However, the state must ensure and demonstrate there was an opportunity for meaningful public input on the extension request. For example, the state may choose to hold one public hearing or provide an amended or shorter comment period, or some combination of both. If the state holds one public hearing, it can use its annual public forum for the dual purposes of gathering input on the existing waiver as well as the extension application request.

- (6) The Departments may request additional information and/or analysis in order to evaluate and reach a decision on the requested extension.