

Maryland: State Innovation Waiver under section 1332 of the PPACA

August 22, 2018

The U.S. Department of Health & Human Services and the U.S. Department of the Treasury (the Departments) approved the Maryland Health Benefit Exchange (MHBE)'s application for a State Innovation Waiver under section 1332 of the Patient Protection and Affordable Care Act (PPACA) (the waiver). The MHBE's application seeks to implement a reinsurance program called the Maryland State Reinsurance Program from 2019 through 2023. As a result of the waiver approval, more consumers in Maryland may have coverage, consumers will see lower premiums, and the MHBE will receive Federal funds to cover a substantial portion of state costs for the reinsurance program.

The MHBE's State Innovation Waiver under section 1332 of the PPACA is approved subject to the MHBE accepting the specific terms and conditions (STCs). This approval is effective for January 1, 2019 through December 31, 2023.

Summary of the MHBE's State Innovation Waiver under section 1332 of the PPACA Application

The MHBE'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 index rate, in order to implement the Maryland State Reinsurance Program for 2019 through 2023. The Maryland State 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, the Maryland State Reinsurance Program will be a state established reinsurance program with a cap of \$250,000 and a coinsurance rate of 80% for 2019. The attachment point is currently estimated to be around \$20,000 but will be determined by September 1, 2018, after further analyses on the funding needs and consultation with stakeholders.

As a result of the waiver approval, more consumers in Maryland may have coverage, consumers will see lower premiums, and the MHBE will receive pass-through funding to help offset a substantial portion of state costs for the state-established reinsurance program. The MHBE projects that under the 1332 waiver, premiums will be about 30% lower in 2019 than they would be without the waiver. In addition, the MHBE predicts that the number of uninsured persons will fall by about 5.8% due to the lower cost of healthcare through stabilization of the individual market. These projections were certified by independent actuaries and reviewed by the Departments.

Because the Maryland State Reinsurance Program will lower premiums, the second lowest cost silver plan premium is reduced, resulting in the Federal government spending less in premium tax credits. As such, the MHBE shall receive pass-through funding based on the amount of premium tax credits that would have been provided to Marylanders absent the waiver, but will not be provided under the waiver, reduced, if necessary, to ensure deficit neutrality. As required by Federal law, the MHBE's 1332 waiver will not increase the Federal deficit.

The Departments have determined that the MHBE'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 and related [guidance](#). 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 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. The Departments are promoting these waivers to give states 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 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 Section 1332 waivers for state-operated reinsurance programs can find a checklist to help states complete their application [here](#).

The letter to the MHBE can be found here: https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section_1332_State_Innovation_Waivers-.html