

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



January 3, 2022

VIA ELECTRONIC MAIL: 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 submission on November 30, 2021 of Colorado's waiver amendment application for a State Innovation Waiver under section 1332 of the Patient Protection and Affordable Care Act (ACA). I am pleased to send this letter from the Center for Consumer Information and Insurance Oversight (CCIIO) within the Centers for Medicare and Medicaid Services (CMS) under the Department of Health and Human Services (HHS), as well as on behalf of the Department of the Treasury (collectively, the Departments).

Colorado's currently approved waiver of the ACA requirement for the single risk pool contained in ACA section 1312(c)(1)¹ allows the state to operate a state-based reinsurance program for the individual health insurance market from January 1, 2022 through December 31, 2026.² Colorado's waiver amendment request seeks to waive ACA sections 1312(c)(1) and 1312(c)(2) to allow the state to implement plan-level rating variation(s) for the Colorado Option in the individual and small group markets for plan years 2023 through 2027. Colorado also seeks to extend its section 1332 reinsurance waiver program through 2027, but is not otherwise seeking to make changes to its approved reinsurance program. Consistent with 31 C.F.R. § 33.130 and 45 C.F.R. § 155.1330, the processes and procedures for amendment requests recently finalized in rulemaking³, and the next steps outlined in the Departments' October 4, 2021 letter⁴ to Colorado's waiver amendment letter of intent, the Departments have conducted a preliminary review of the waiver amendment application similar to the review process for new waiver applications outlined in 31 C.F.R. § 33.108(c) and 45 C.F.R. § 155.1308(c), and have made a preliminary determination that Colorado's waiver amendment application is complete.

¹ Colorado's currently approved waiver waives the individual market single risk pool requirement to the extent it would otherwise require excluding total expected state reinsurance payments.

² <https://www.cms.gov/files/document/1332-co-extension-approval-letter-stcs.pdf>

³ See Patient Protection and Affordable Care Act; Updating Payment Parameters and Improving Health Insurance Markets for 2022 and Beyond; Final Rule, 86 FR 53412 at 53483 – 53486 (Sept. 27, 2021). Also see STC 9 in the August 2021 Colorado Section 1332 Waiver Specific Terms and Conditions, available at:

<https://www.cms.gov/files/document/1332-co-extension-approval-letter-stcs.pdf>

⁴ <https://www.cms.gov/files/document/1332-co-lol-amendment-response-letter.pdf>

As provided in the October 4, 2021 letter and similar to the Federal public notice and approval process for new section 1332 waiver applications outlined in 31 C.F.R. § 33.116 and 45 C.F.R. § 155.1316, the date of this letter marks the beginning of the 30-day Federal public notice and comment process and 180-day Federal decision-making process. Public comments on Colorado's waiver amendment application will be accepted by the Departments from January 3, 2022 through February 2, 2022. More information about the Federal public notice and comment process and section 1332 waivers generally can be found on the CCIIO website.⁵ The decision of the Departments regarding approval or denial of Colorado's waiver amendment application will be issued within 180 days of this preliminary determination of completeness.

We look forward to working with you on your waiver amendment application and will be in touch if we need additional information. Please do not hesitate to contact us if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Ellen Montz". The signature is fluid and cursive, with the first name "Ellen" and the last name "Montz" clearly distinguishable.

Ellen Montz, PhD
Director
Center for Consumer Information & Insurance Oversight
Deputy Administrator, Centers for Medicare & Medicaid Services

Cc: Lily Batchelder, Assistant Secretary for Tax Policy, U.S. Department of the Treasury
Jared Polis, Governor, State of Colorado

⁵ https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section_1332_state_Innovation_Waivers-.html