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DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
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June 3, 2026

VIA EMAIL: StateInnovationWaivers@cms.hhs.gov

The Honorable Robert F. Kennedy Jr., Secretary
U.S. Department of Health and Human Services
200 Independence Avenue SW
Washington, DC 20201

The Honorable Scott Bessent, Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

Dear Messrs. Kennedy and Bessent:

Subject:: ACA Section 1332 Waiver Extension; Letter of Intent (Hawaii)

The State of Hawaii is pleased to submit this Letter of Intent to apply for a five-year extension of our Section 1332 State Innovation Waiver for the period January 1, 2027 through December 31, 2031. Currently, the following Sections of the Affordable Care Act (ACA) are waived through December 31, 2026.

- Section 1311(b)(1)(B). State establishment of a Small Business Health Options Program (SHOP);
- Section 1321(c)(1). Solely with respect to federal establishment of a SHOP in Hawaii if the state elects not to establish a SHOP;
- Section 1312(a)(2). Employee choice of qualified health plans (QHPs) at a single level of coverage under ACA section 1302(d), and made available through the SHOP;
- Section 1312(f)(2)(A). Definition of “qualified employer”;
- Sections 1304(b)(4)(D)(i) and (ii). Continuation of participation in SHOP for growing small employers;
- Section 1301(a)(1)(C)(ii). Definition of “qualified health plan” as one that agrees to offer at least one silver level plan and one gold level plan through an

Exchange, solely with respect to the requirement that a QHP offer a silver and a gold level plan through the SHOP; and

- Section 1301(a)(2). Solely with respect to the requirement that CO-OPs and multi-state plans to be recognized as QHPs in the small group market.

We are not proposing any changes to our waiver. The waiver will continue to adhere to the guardrails established by Section 1332, as well as principles laid out in guidance from the Centers of Medicare and Medicaid Services (CMS) and will not affect other provisions of the ACA.

Hawaii's current waiver is intended to preserve the employee protections provided by the state's Prepaid Health Care Act (Prepaid). Prepaid sets a higher bar for employer-sponsored insurance than does the ACA. Its coverage, benefits and costs to employees apply to all regardless of income, age, race, and ethnic group, or any other demographic characteristic. Hawaii's waiver does not diminish access to meaningful, affordable insurance for any resident and does not change the Medicaid program, individual exchange, or direct purchase.

Thank you for considering our application. We look forward to engaging with you in the coming months.

Sincerely,

JADE T. BUTAY
Director of Labor and Industrial Relations

c: Peter Nelson, Deputy Administrator and Director, Center for Consumer Information & Insurance Oversight (Via Email: Peter.Nelson@cms.hhs.gov)

Kenneth Kies, Assistant Secretary for Tax Policy, U.S. Department of the Treasury (Via Email: Kenneth.Kies@treasury.gov)

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

July 14, 2026

VIA ELECTRONIC MAIL: Jade.Butay@hawaii.gov
Jade T. Butay
Director
Department of Labor and Industrial Relations
State of Hawai'i
830 Punchbowl Street, Room 321
Honolulu, HI 96813

Dear Director Butay:

Thank you for your June 3, 2026, letter of intent (LOI) to apply for an extension of Hawai'i'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).

Hawai'i (also referred to as the "State") has informed the Departments six months prior to the waiver's end date of the State's intent to apply for continuation of the waiver. While at least one year's advance notice is required by the specific terms and conditions (STCs) governing Hawai'i's waiver,[1] the Departments confirm that the State'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.

Hawai'i's currently approved waiver of the ACA requirement that a Small Business Health Options Program (SHOP) operate in the State and other related requirements relevant to SHOP Exchanges allows the State to continue with its Prepaid Health Care Act and associated requirements for employers from January 1, 2022, through December 31, 2026. The Departments' regulations, policy statements, and guidance implementing those provisions with respect to SHOPs and small employers are also waived. As described in the LOI, the State seeks to waive the following sections of the ACA for an additional waiver period of five years from January 1, 2027, through December 31, 2031:

- Section 1311(b)(1)(B) – State establishment of a SHOP;

[1] *See* STC 10. The applicable STCs are available here: https://www.cms.gov/files/document/1332-hi-extension-approval-letter-stcs.pdf

- Section 1321(c)(1) – Solely with respect to federal establishment of a SHOP in the state if it elects not to establish a SHOP;
- Section 1312(a)(2) – Employee choice of qualified health plans (QHP) at a single level of coverage under ACA section 1302(d), and made available through the SHOP;
- Section 1312(f)(2)(A) – Definition of "qualified employer";
- Sections 1304(b)(4)(D)(i) and (ii) – Continuation of participation in SHOP for growing small employers;
- Section 1301(a)(1)(C)(ii) – Definition of a "qualified health plan" as one that agrees to offer at least one silver and one gold level plan through an Exchange, solely with respect to the requirement that a QHP offer a silver and a gold level plan through the SHOP; and
- Section 1301(a)(2) – Solely with respect to the requirement that CO-OPs and multi-state plans be recognized as QHPs in the small group market.

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 the State has indicated it does not intend to change any features of its waiver plan (except for the extended time period), the State 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. For Hawai'i, this would ideally have been no later than the first quarter of 2026. As a result, the Departments encourage the State to submit its waiver extension application as soon as possible.

The enclosed document further outlines the application requirements for the State's waiver extension. Once the Departments receive the State's waiver extension application, they 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 nor an intent to approve or disapprove 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, Meril Pothen at Meril.Pothen@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,

Peter Nelson
Deputy Administrator and Director, Center for Consumer Information & Insurance Oversight
Centers for Medicare & Medicaid Services

CC: Kenneth J. Kies, Assistant Secretary, Tax Policy, U.S. Department of the Treasury
The Honorable Josh Green, Governor, State of Hawai'i
JoAnn Vidinhar, Administrator, Disability Compensation Division, DLIR
Misty Sumida, Program Specialist, Disability Compensation Division, DLIR
Scott Saiki, Commissioner, Hawai'i Department of Commerce and Consumer Affairs (DCCA)
Jerry Bump, Chief Deputy Commissioner, DCCA
Arlene Ige, Health Program Administrator, DCCA

Enclosure

Specific Requirements for Hawai'i's Waiver Extension Application

The Departments will conduct a preliminary review of Hawai'i's (the "State") 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 HHS 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. The State'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 its currently approved 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. The state should include a timeline and discussion of implementation of the waiver plan during the extension period. For an application for an extension of an approved waiver plan with no change, the State may restate that there is no change to the implementation plan provided in its initial waiver application.

(2) Updated economic or actuarial analyses and certifications for the extension period. Such analyses should address any changes that have occurred since approval of the State's current waiver plan in state or federal law, regulations, or sub-regulatory guidance, the state insurance market, or to the waiver program that are allowable under the STCs and impact waiver assumptions and projections. The narrative should also explain any proposed technical changes that the State has not previously shared with the Departments via its reporting requirements.

If there have been no significant policy changes impacting the assumptions used to create the 10-year budget in the State's most recent application, the assumptions that go into the analyses may only need to be updated for the second 5 years of a 10-year budget (i.e., a table with updated projections and assumptions).

For SHOP waivers, the economic and actuarial analyses should include, at a minimum, for both the with-waiver and without-waiver baseline scenarios, 5-year projections for:

- Statewide average monthly small group employer-based enrollment (i.e., total member months divided by 12, where total member months is the sum of enrollment in each month);
- Comparison of employee premium contributions and cost-sharing;
- Small business tax credits (SBTCs);
- State funding for the waiver plan; and
- Pass-through funding (federal SBTC savings net any offsets, such as budget sequestration).

(3) A list of provision(s) of the law that the State seeks to waive and reasons for the specific request(s). For an extension application based on the current waiver plan with no change, the State may simply restate that there is no change to the provision(s) waived as provided in its most recent approved waiver plan.

If the State is seeking pass-through funding, include an explanation of how the waiver plan would result in individuals or employers qualifying for less federal financial assistance (e.g., SBTCs) under the proposed waiver than without the waiver. Also explain how the State plans to use the pass-through funding.

(4) Preliminary evaluation data and analysis of observable outcomes from the existing waiver program, including quantitative or qualitative information describing why the State believes the program did or did not meet the statutory guardrails. For example, the State should provide information comparing the originally projected impact of the waiver to the actual outcomes observed (e.g., small group premiums and enrollment).

(5) 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;

(6) An explanation and evidence of the process to ensure meaningful public input on the extension request, 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.

For a waiver extension application, 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 (6) 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.

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