

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



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September 14, 2021

**VIA ELECTRONIC MAIL:** [Anne.E.Perreira-Eustaquio@hawaii.gov](mailto:Anne.E.Perreira-Eustaquio@hawaii.gov)

Anne Perreira-Eustaquio  
Director  
Department of Labor and Industrial Relations  
State of Hawaii  
830 Punchbowl St. #321  
Honolulu, HI 96813

Dear Director Perreira-Eustaquio:

Thank you for your submission on August 13, 2021 of Hawaii's waiver extension application for a State Innovation Waiver under section 1332 of the Patient Protection and Affordable Care Act (ACA). Hawaii's currently approved waiver of the ACA requirement that a Small Business Health Options Program (SHOP) operate in Hawaii and other related requirements relevant to SHOP Exchanges allows the state to continue with the state's Prepaid Health Care Act and associated requirements for employers from January 1, 2017 through December 31, 2021. The Department of Health and Human Services' and the Department of the Treasury's (collectively, the Departments) regulations, policy statements, and guidance implementing those provisions with respect to SHOPs and small employers are also waived. Hawaii's waiver extension plan seeks to continue to waive the following sections of the ACA and continue implementation of its SHOP waiver program for an additional five years, for plan years 2022 through 2026:

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

Hawaii is not otherwise seeking to make changes to its section 1332 SHOP waiver program. Consistent with the next steps outlined in the Departments' May 27, 2021 letter,<sup>1</sup> the Departments

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<sup>1</sup> <https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Downloads/1332-HI-LOI-Extension-Response-Letter.pdf>

have conducted a preliminary review of the waiver extension application and have made a preliminary determination that Hawaii's waiver extension application is complete.

As provided in the May 27, 2021 letter, the date of this letter marks the beginning of the 30-day Federal public notice and comment process. Public comments on Hawaii's extension application will be accepted by the Departments from September 14, 2021 through October 14, 2021. More information about the Federal public notice and comment process can be found on the Centers for Medicare & Medicaid Services website.<sup>2</sup> The Departments' decision regarding approval or denial of Hawaii's waiver extension application will be issued within 90 days of this preliminary determination of completeness in accordance with section 1332(e) of the ACA.

We look forward to working with you on your waiver extension 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  
Director  
Center for Consumer Information and Insurance Oversight

Cc: Mark Mazur, Deputy Assistant Secretary for Tax Policy, U.S. Department of the Treasury  
The Honorable David Y. Ige, Governor, State of Hawaii  
Colin M. Hayashida, Commissioner, Insurance Division, Hawaii Department of Commerce and Consumer Affairs

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<sup>2</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)