

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



May 8, 2025

**VIA ELECTRONIC MAIL:** [michael.conway@state.co.us](mailto:michael.conway@state.co.us)

Michael Conway  
Commissioner of Insurance  
Colorado Division of Insurance  
1560 Broadway, Suite 850  
Denver, CO 80202

Dear Commissioner Conway,

I want to thank you for the partnership between the U.S. Department of Health and Human Services (HHS) and the U.S. Department of the Treasury (collectively, “the Departments”) and your state. I am sending this letter on behalf of the Departments to formally reiterate the approved uses of pass-through funding associated with Colorado’s approved State Innovation Waiver under section 1332 of the Affordable Care Act (ACA).

Section 1332(a)(3) of the ACA provides that states must only use pass-through funding for purposes of implementing an approved waiver plan.<sup>1</sup> In the case of Colorado’s approved section 1332 waiver,<sup>2</sup> this includes administration of the waiver, reinsurance reimbursements, and state subsidies for premium tax credit (PTC)-eligible enrollees in the Exchange. While Colorado’s approved section 1332 waiver amendment originally included state subsidies for PTC-ineligible immigrants<sup>3</sup> as an allowable use of pass-through funding, the Departments approved Colorado’s request for a technical change to discontinue this use of pass-through funding, effective January 17, 2025. Therefore, the Departments reiterate that no pass-through funding can be used to provide subsidies for these PTC-ineligible immigrants, effective January 17, 2025, and note that such subsidies are contradictory to the Administration’s priorities and broader immigration policies.

The Departments remain committed to working with you and other state partners to advance health coverage policies and implement section 1332 waivers that improve affordability and coverage. Please do not hesitate to contact us if you have any questions.

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<sup>1</sup> See also 31 CFR 33.122 and 45 CFR 155.1322.

<sup>2</sup> Colorado’s waiver amendment approval letter and STCs are available at:  
<https://www.cms.gov/files/document/1332-co-amendment-approval-stcs.pdf>

<sup>3</sup> The state’s waiver amendment application refers to these individuals, along with certain other PTC-ineligible individuals, as “Qualified Individuals.” Colorado’s technical change eliminated state subsidies for all Qualified Individuals, regardless of immigration status, from the waiver plan.

Sincerely,

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

Peter Nelson

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

CC: Kevin Salinger, Acting Assistant Secretary, Tax Policy, U.S. Department of the Treasury  
The Honorable Jared Polis, Governor, State of Colorado  
Kate Harris, Chief Deputy Commissioner, Colorado Division of Insurance  
Kyla Hoskins, Deputy Commissioner, Colorado Division of Insurance  
Laura Mortimer, Reinsurance and Health Insurance Affordability Enterprise Director,  
Colorado Division of Insurance  
Sara Bencic, Colorado Option Director, Colorado Division of Insurance