

Maine: State Innovation Waiver - Amendment

July 15, 2022

The U.S. Department of Health & Human Services and the U.S. Department of the Treasury (collectively, the Departments) approved Maine's application for an amendment of its State Innovation Waiver under section 1332 of the Affordable Care Act (ACA) (referred to as a "section 1332 waiver"). The amendment seeks to waive requirements in section 1312(c) of the ACA to allow for the extension of the state's reinsurance program, the Maine Guaranteed Access Reinsurance Association (MGARA), to a newly merged individual and small group market (also referred to as a pooled market) for plan years (PY) 2023 through 2027, as well as quarterly adjustments for small group plans that do not renew on a calendar year basis.

Actuarial analysis performed on behalf of Maine and submitted as part of its waiver amendment application projected that in 2023, statewide average premiums will be on average 8.0% lower for individual health insurance coverage and 6.0% lower for small group coverage when compared to the without-waiver baseline.

As a result of Maine's innovative waiver amendment, the state will continue to receive, as pass-through funding, the Premium Tax Credit (PTC) savings, net of any federal costs attributable to the waiver, realized by the federal government due to lower premiums for individual health insurance coverage. This pass-through funding will cover a substantial portion of state costs for the reinsurance program. Overall, the program will result in lower consumer costs and higher enrollment in the pooled market. The waiver amendment will help stabilize the state's small group market by improving affordability for consumers, while continuing to lower premiums for those in the individual market compared to without the waiver.

The Departments have determined that Maine's section 1332 amended waiver plan meets the requirements outlined in section 1332(b)(1) of the ACA. Specifically, the section 1332 amended waiver is projected:

- to provide coverage at least as comprehensive as coverage provided without the waiver;
- to provide coverage and cost-sharing protections against excessive out-of-pocket spending that are at least as affordable as would be provided without the waiver;
- to provide coverage to at least a comparable number of people as would be provided without the waiver; and
- to not increase the federal deficit.

The amendment of Maine's State Innovation Waiver under section 1332 of the ACA is approved subject to Maine accepting specific terms and conditions (STCs). This waiver amendment approval is effective for January 1, 2023 through December 31, 2027.

Summary of Maine's Application for an Amendment of its State Innovation Waiver under Section 1332 of the ACA

Maine’s application for an amendment of its State Innovation Waiver under section 1332 of the ACA seeks to waive sections 1312(c)(1)—(c)(3) of the ACA as implemented at 45 C.F.R. § 156.80 to the extent these provisions would otherwise require excluding total expected state reinsurance payments through MGARA when establishing the market-wide index rate, and to waive section 1312(c)(3) as implemented at 45 C.F.R. § 156.80(d)(4)¹ to the extent that these provisions would otherwise prohibit quarterly adjustments of small group rates for non-calendar year coverage in a merged market single risk pool, as described in the state’s waiver amendment application. As such, this allows for the consideration of total expected state reinsurance payments when determining the market-wide index rate in the newly merged market single risk pool for rate setting and risk adjustment purposes. This waiver amendment will also allow for quarterly rating adjustments for non-calendar year small group coverage that is part of the merged market single risk pool. Maine has been implementing new standardized plan options in the individual market for 2022 via Clear Choice Designs, which will apply to both individual and small group coverage once the pooled market is implemented in 2023.

Maine’s pooled market reinsurance program will operate as a traditional, claims-based reinsurance program that reimburses qualifying individual and small group market health insurers for a percentage of an enrollee’s claims costs exceeding a specified threshold (or “attachment point”) and up to a specified ceiling (or “reinsurance cap”). Specifically, in PY 2023, the program will reimburse claims between an attachment point of \$90,000 and an estimated \$275,000 cap with a coinsurance rate of 55%.

As a result of the Departments’ approval of Maine’s section 1332 waiver amendment application, individual and small group market consumers are expected to see lower premiums, which should attract new consumers while also retaining current consumers. The state projects that, under the reinsurance program for the merged market, average statewide premiums for individual health insurance coverage will be about 8.0% lower and premiums for small group coverage will be about 6.0% lower in PY 2023 than they would be without the waiver. In addition, Maine predicts that average enrollment in individual health insurance coverage will be about 2.7% higher and average enrollment in small group coverage will be about 5.3% higher in PY 2023 than they would be without the waiver, due to lower premiums resulting from stabilization of the individual and small group markets. These projections were certified by independent actuaries and reviewed by the Departments.

Because the amended waiver is expected to lower individual market premiums on the second-lowest cost silver plan, the plan used to establish the value of the PTC, the federal government anticipates that it will spend less on PTC under the amended waiver plan than it would absent the waiver. As such, Maine will receive pass-through funding to support its amended state waiver plan based on the amount of PTC that would have been provided to Maine residents absent the waiver but will not be provided under the amended waiver. This amount will be reduced, if necessary, to ensure deficit neutrality. The amended waiver is estimated by the

¹ 45 C.F.R. § 156.80(d)(4) provides that when the individual and small group risk pools have been merged the provisions allowing quarterly small group rate adjustments do not apply.

state to produce net federal savings of \$22.8 million in 2023 and \$100.1 million over the five-year waiver period. This pass-through funding will cover a substantial portion of state costs for the merged market single risk pool reinsurance program. Overall, the state's amended waiver plan is projected to result in lower consumer costs, reduce the number of uninsured, and stabilize the small group market.

Section 1332: State Innovation Waivers

Section 1332 of the ACA permits a state to apply for a State Innovation Waiver to pursue innovative strategies for providing residents with access to high-quality, affordable health insurance. These waivers provide states with 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.

In order for a section 1332 waiver to be approved, the Departments must determine that the waiver meets statutory guardrails to provide coverage that is at least as comprehensive as the coverage provided without the waiver; provide coverage and cost-sharing protections against excessive out-of-pocket spending that are at least as affordable as without the waiver; provide coverage to at least a comparable number of residents as without the waiver; and not increase the federal deficit.

State Innovation Waivers have been available since January 1, 2017; are approved for up to five-year periods; and can be extended. The Departments welcome the opportunity to work with states on section 1332 waivers. States interested in applying for a section 1332 waiver can find application tools and resources, including an application checklist and application templates, on the CMS website [here](#).

The section 1332 waiver amendment approval letter and STCs for Maine can be found here: https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section_1332_State_Innovation_Waivers-