

North Dakota: State Innovation Waiver Extension

November 7, 2024

The U.S. Department of Health and Human Services and the U.S. Department of the Treasury (collectively, the Departments) approved North Dakota's application for an extension of its State Innovation Waiver under the Affordable Care Act (ACA) (referred to as a "section 1332 waiver") for an additional five years from Plan Years (PY) 2025 through 2029. North Dakota's section 1332 waiver extension application sought to continue implementation of North Dakota's state-based reinsurance program, which is projected to lower individual market premiums and result in more consumers in the state being covered.

Actuarial analysis performed on behalf of North Dakota and submitted as part of its waiver extension application projected that in PY 2025, statewide average premiums will be 13.5% lower for individual health insurance coverage when compared to the without-waiver baseline.

As a result of North Dakota's innovative waiver, the state will 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.

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

- provide coverage at least as comprehensive as coverage provided without the waiver;
- 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;
- provide coverage to at least a comparable number of people as would be provided without the waiver; and
- not increase the federal deficit.

The extension of North Dakota's State Innovation Waiver under section 1332 of the ACA is approved subject to North Dakota's acceptance of the specific terms and conditions (STCs). This waiver extension approval is effective for January 1, 2025, through December 31, 2029.

Summary of North Dakota's Application for an Extension of its State Innovation Waiver under Section 1332 of the ACA

North Dakota's application for an extension of its State Innovation Waiver under section 1332 of the ACA seeks to waive section 1312(c)(1) of the ACA—the requirement to consider all enrollees in a market to be part of a single risk pool—to the extent that it would otherwise require excluding total expected state reinsurance payments when establishing the market-wide index rate, in order to implement the state reinsurance program for PYs 2025 through 2029. The state's reinsurance program will continue to operate as a traditional, claims-based attachment point reinsurance program by reimbursing qualifying individual market insurers for a percentage of (or "coinsurance rate") an enrollee's claims costs exceeding a specified

threshold (or “attachment point”) and up to a specified ceiling (or “reinsurance cap”). Payment parameters for PY 2025 are an attachment point of \$100,000, a reinsurance cap of \$1,000,000, and a coinsurance rate of 75%.

As a result of the Departments’ approval of North Dakota’s section 1332 waiver extension application, individual market consumers are expected to continue seeing lower premiums, which should attract new consumers while also retaining current consumers in the individual market. North Dakota projects that, under an extension of its section 1332 waiver, statewide average premiums will be about 13.5% lower in the individual market in PY 2025 than they would be without the waiver. In addition, North Dakota predicts that individual market enrollment will remain comparable with or without the waiver. These projections were certified by an actuary and reviewed by the Departments.

Because the waiver extension 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 waiver than it would absent the waiver. As such, North Dakota will receive pass-through funding to support its state waiver plan based on the amount of PTC that would have been provided to North Dakota residents absent the waiver but will not be provided under the waiver. This amount will be reduced, if necessary, to ensure deficit neutrality. The state estimates that the waiver will produce net federal savings of \$28.4 million in 2025 and \$154.4 million in total over the five-year waiver period. This pass-through funding will cover a portion of state costs for the reinsurance program.

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, 1332 waivers can help states 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 extension approval letter and STCs for North Dakota can be found [here](#).