DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

Administrator
Washington, DC 20201

April 29, 2022

Grant Thomas
Director
Office of Health Strategy and Coordination
Governor's Office of Planning and Budget
2 Capitol Square, SW
Atlanta, GA 30334

Dear Director Thomas:

This letter is a follow-up to our last letter dated November 9, 2021, from the U.S. Department of Health and Human Services (HHS) and the Department of the Treasury (collectively, the Departments). I am sending this letter to the State of Georgia ("Georgia" or "the State") from the Centers for Medicare & Medicaid Services (CMS) within HHS on behalf of both Departments. For the reasons discussed below, the Departments are suspending[1] implementation of the Georgia Access Model, Part II of Georgia's section 1332 waiver that was initially approved on November 1, 2020, unless Georgia responds before July 28, 2022, by sending a corrective action plan that would bring the waiver, with the Georgia Access Model in place, into compliance with the statutory guardrails or by submitting a written challenge to the Departments' determinations.

The Departments are committed to working in partnership with states on policies that improve health care coverage in their states. The Departments remain committed to working with state partners, like Georgia, to ensure access to high-quality, affordable, comprehensive health coverage through section 1332 waivers within statutory guardrails and protections under the Affordable Care Act (ACA). These statutory guardrails include ensuring that the waiver will provide coverage to a comparable number of residents, that the coverage will be at least as comprehensive and affordable as coverage provided without the waiver, and that the waiver will not increase the federal deficit.

During the 2022 Open Enrollment Period (OEP), over 700,000 Georgians signed up for coverage through the Marketplace. [2] As of January 27, 2022, 701,135 individuals in Georgia have coverage through the Marketplace. Both the Departments and Georgia have a shared interest in ensuring these individuals continue to have affordable, comprehensive coverage options and that enrollment does not decrease. The Departments have a duty to oversee and monitor any approved waiver under section 1332 of the ACA and consequently have sent three letters[3] to the State

[1] In accordance with the Departments' authority under STC 17, and under 31 C.F.R. § 33.120(d) and 45 C.F.R. § 155.1320(d).
[2] See https://www.cms.gov/newsroom/fact-sheets/marketplace-2022-open-enrollment-period-report-final-national-snapshot.
[3] The Departments' letters sent on June 3, 2021; July 30, 2021; and November 9, 2021 requesting an updated analysis are available on the section 1332 waiver website under Georgia, Correspondence: https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section_1332_State_Innovation_Waivers-

requesting an updated analysis for Part II of the State's section 1332 waiver, the Georgia Access Model,[4] given changes in federal law, policy, and other circumstances (like changes in the individual health insurance market) that have occurred since the original approval.[5] However, to date, Georgia has not provided the Departments with the requested information.

The Departments' decision is based on two independent findings: (1) the State has materially failed to comply with its section 1332 waiver's specific terms and conditions (STCs) by repeatedly not providing the Departments with the information requested as part of our oversight and monitoring authority;[6,7] and (2) the Georgia section 1332 waiver, with the Georgia Access Model in place, no longer meets the statutory guardrails. Specifically, the waiver, with the Georgia Access Model in place, does not meet the statutory requirement that it will provide coverage to at least a comparable number of residents as without the waiver (the "statutory coverage guardrail") in light of changes in federal law, policy, and other circumstances since the Departments' initial approval. These changes affected the background assumptions on which the Departments based our approval of the waiver, including the Georgia Access Model. In addition, the Departments worked with Acumen, LLC[8] to analyze[9] the effects of the identified changes in circumstances and to assist the Departments' evaluation of the ongoing compliance of the waiver, with the Georgia Access Model in place, with the statutory guardrails. The Acumen analysis projects that, as a result of the Georgia Access Model, total non-group (individual market) enrollment is expected to decline in all waiver years, ranging between a 4.4 percent to 8.3 percent decrease in Plan Year (PY) 2023 and an 8.4 percent decrease each year in PYs 2024 through 2027, relative to what Acumen refers to as its baseline with no Georgia Access Model and with reinsurance in place.[10] The report is available on the CMS section 1332 waiver website.[11] In making this determination, the Departments considered public comments received during the federal comment period from November 9, 2021, to January 9, 2022, in which commenters raised concerns that the Georgia waiver, with the Georgia Access Model in place, does not meet the statutory guardrails. This decision to suspend implementation of Part II of Georgia's section 1332 waiver does not impact the Departments' approval of Part I of the waiver, the Georgia Reinsurance Program, for which there is no indication that the statutory guardrails are no longer met.

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[4] The Georgia Access Model is described in the Departments' Letter Requesting Updated Georgia Analysis, dated June 3, 2021. Available at: https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Downloads/1332-Request-Updated-GA-Analysis-Letter.pdf.

[5] The Departments requested an updated analysis of the Georgia Access Model as part of our responsibility to conduct oversight and monitoring, and in accordance with Georgia waiver specific terms and conditions (STCs) 7, 14, 15, and 17, 31 C.F.R. § 33.120(a)(1) and (f), and 45 C.F.R. § 155.1320(a)(1) and (f), to ensure that approved section 1332 waivers continue to meet the statutory guardrails. A copy of the November 2020 approval letter and STCs for Georgia's section 1332 waiver is available at: https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section_1332_State_Innovation_Waivers-/1332-GA-Approval-Letter-STCs.pdf. Also see section 1332(a)(4)(B)(v) of the ACA.

[6] See GA STC 17. A copy of the November 2020 approval letter and STCs for Georgia's section 1332 waiver is available at: https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section_1332_State_Innovation_Waivers-/1332-GA-Approval-Letter-STCs.pdf. Also see 31 C.F.R. 33.120(d) and 45 C.F.R. 155.1320(d).

[7] The State also did not submit comments or an updated analysis during the public comment period that was open from November 9, 2021 – January 9, 2022.

[8] Acumen, LLC conducts policy research in support of federal, state, and local health care and social policy programs.

[9] Under 31 C.F.R. § 33.120(f) and 45 C.F.R. § 155.1320(f).

[10] The Departments' baseline for analyzing waivers is the scenario with no waiver in place; however, Acumen's analysis refers to their own "baseline" that includes Georgia's reinsurance waiver.

[11] The report is also available under Georgia correspondence on the section 1332 waiver website: at: https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section_1332_State_Innovation_Waivers-.

The Departments are committed to working with Georgia to make changes to the Georgia Access Model to ensure enrollment does not decrease in the State under the waiver, which is why the Departments have afforded the State an opportunity to rectify the Georgia Access Model, rather than terminating the Georgia Access Model at this time. In accordance with STC 17, Georgia will have 90 days from the receipt of this notice to respond with a written challenge to the Departments' current determinations or to submit a corrective action plan, consistent with the process discussed below. In this letter, the Departments outline the information Georgia must provide within 90 days as part of any corrective action plan to demonstrate how the State will improve the Georgia Access Model as needed to meet the statutory coverage guardrail and to ensure the waiver will not result in coverage losses in the State. We expect that to do so, the State would include a revised outreach and communications plan, including planned funding, a spend plan, and additional information on engagement with underserved communities, to ensure additional outreach actions under the Georgia Access Model as part of the outreach and communications plan that are sufficient to replace projected federal outreach spending absent the waiver and to avert the coverage losses due to the transition to Georgia Access Model that are projected by Acumen, net of any coverage increases due to reinsurance. In addition, the State should, as part of its efforts to avert projected coverage losses, comply with and pass readiness reviews, as specified in the STCs. The Departments are suspending implementation of the Georgia Access Model, Part II of Georgia's section 1332 waiver plan, effective July 28, 2022, unless Georgia responds before that date by sending a corrective action plan that would bring the waiver, with the Georgia Access Model in place, into compliance with the statutory guardrails or by submitting a written challenge to the Departments' determinations.[12]

I. Overview of the Section 1332 Waiver Program

Section 1332 of the ACA permits a state to apply for a State Innovation Waiver (also referred to as a section 1332 waiver) to pursue innovative strategies that expand coverage, lower costs, and ensure that health care coverage is available for their residents. 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.

The Secretaries may exercise their discretion to approve a request for a section 1332 waiver only if the Secretaries determine that the proposal for the section 1332 waiver meets the following four statutory guardrails: (1) the proposal will provide coverage that is at least as comprehensive as coverage defined in section 1302(b) of the ACA and offered through Exchanges established by title I of the ACA, as certified by the Office of the Actuary (OACT) of the Centers for Medicare & Medicaid Services based on reviewing sufficient data from the state and from comparable states about their experience with programs created by the ACA and the provisions of the ACA that would be waived; (2) the proposal will provide coverage and cost-sharing protections against excessive out-of-pocket spending that are at least as affordable for the state's residents as would be provided under title I of the ACA; (3) the proposal will provide coverage to at least a comparable number of the state's residents as title I of the ACA would provide; and (4) the proposal will not increase the federal deficit.

[12] As noted above, this decision does not impact the Departments' approval of Part I of Georgia's section 1332 waiver, the Georgia Reinsurance Program.

II. Recent Changes in Federal Law, Policy, and Other Circumstances

There have been changes in federal law, policy, and other circumstances since the initial approval of Georgia's waiver on November 1, 2020, including the enactment of the American Rescue Plan Act of 2021 (ARP),[13] the adoption of Executive Order 13985 and Executive Order 14009, and actual increased enrollment in 2022 that will affect 2023 enrollment and premiums. In light of these changes, the Departments reviewed and are continuing to monitor all approved section 1332 waivers for continued compliance with the guardrails.[14] This includes an evaluation of each waiver's compliance with the statutory guardrails in light of these changes in federal law, policy, and other circumstances, many of which have increased enrollment in Georgia and nationally. For example, during the Marketplace's Special Enrollment Period (SEP) in response to COVID-19 which was provided by HHS as administrator of the FFE and occurred from February 15, 2021, to August 15, 2021, there were 147,463 new plan selections on Healthcare.gov in Georgia, which was three times the enrollment in 2020 (41,138 enrollees) and nearly six times the enrollment in 2019 (25,656 enrollees) during the same time period in those years. After implementation of the ARP's enhanced subsidies on April 1, 2021, through the end of the SEP, 356,487 existing Marketplace consumers in Georgia had a new or updated plan selection.[15] Additionally, due to the ARP, in 2021 existing Georgia consumers saw a 54 percent reduction in average monthly premiums after advance payments of the premium tax credit (APTC), or an average of $49 per person per month in savings.[16] In addition, during the 2022 Open Enrollment Period (OEP) that ran from November 1, 2021 through January 15, 2022, 701,135 Georgians signed up for or were automatically re-enrolled in individual market health insurance coverage through HealthCare.gov.[17] During the 2022 OEP, Georgia saw a 36 percent increase in Marketplace enrollment compared to OEP 2021.[18]

Furthermore, there have been significant new federal investments in outreach by HHS, with $100 million nationally for the COVID-19 SEP in PY 2021,[19] as well as $80 million in grant funding for Navigators in states with a Federally-facilitated Exchange (FFE) yearly for PYs 2022 through 2024 (including $2.54 million in grant funding for three Navigator grantee organizations in Georgia) to serve the uninsured and underserved communities.[20] These investments are planned to continue and possibly increase in future years. The ARP, combined with the Administration's actions to increase funding for public outreach, marketing, and in-person assistance, is already

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[13] Current law refers to the impact of the American Rescue Plan (ARP) subsidies expiring in 2022, which impacts 2023 enrollment.

[14] Because, thus far, there is no indication that reinsurance waivers are unable to continue to meet the guardrails, Part I of the Georgia waiver plan, which establishes a state-based reinsurance program, does not require further evaluation at this time.

[15] In HealthCare.gov states, 2.1 million Americans signed up for new health insurance coverage using the 2021 SEP between February 15 and August 15. Across 15 state-based marketplaces (SBMs), 738,000 Americans signed up for new health insurance coverage through the end of states' respective reporting periods. See https://www.hhs.gov/sites/default/files/2021-sep-final-enrollment-report.pdf.

[16] *Ibid.* Among existing Marketplace consumers nationally, over 8 million had a new or updated plan selection due to the ARP's enhanced subsidies.

[17] See https://www.cms.gov/newsroom/fact-sheets/marketplace-2022-open-enrollment-period-report-final-national-snapshot. Nationally, 14.5 million Americans signed up for or were automatically re-enrolled in 2022 individual market health insurance coverage through Healthcare.gov states and SBMs.

[18] See https://www.cms.gov/files/document/state-anniversary.pdf.

[19] See https://www.cms.gov/newsroom/fact-sheets/2021-special-enrollment-period-response-covid-19-emergency. Also see https://www.cms.gov/newsroom/press-releases/hhs-secretary-becerra-announces-reduced-costs-and-expanded-access-available-marketplace-health.

[20] See https://www.cms.gov/files/document/2021-navigator-grant-recipients.pdf.

increasing enrollment and reducing the cost of health care coverage for many who have been uninsured and for those currently receiving financial assistance.

Taking into account the increased enrollment resulting from these changes in federal law, policy, and other circumstances that impact 2023 enrollment, the Departments became concerned about the Georgia waiver's continued compliance with the statutory coverage guardrail, with the Georgia Access Model in place, and its ability to cover as many individuals as would have been covered without the waiver. Specifically, the without-waiver baseline projections submitted by the State with its initial waiver application were based on assumptions about baseline enrollment levels in the State and the amount of funding for marketing and outreach by the FFE that are no longer true. Increased subsidies as well as funding for FFE outreach and marketing have resulted in greater enrollment in Georgia's individual market and decreased the number of uninsured individuals in the State.

In addition, the State has previously acknowledged that some individuals would likely drop coverage in the transition to the Georgia Access Model, but asserted that increased enrollment attributable to private-sector outreach would more than offset any transition-related coverage losses.[21] The Departments became concerned that, in light of recent changes in Georgia's individual health insurance market and the increased individual market enrollment resulting from the identified changes in circumstances, there may no longer be sufficient increased enrollment attributable to private sector outreach, if such outreach occurs,[22] through the Georgia Access Model, to offset potential coverage losses. Furthermore, to the extent that transition-coverage losses related to the transition to the Georgia Access Model are proportionate to total enrollment, higher baseline individual market enrollment would generally increase the number of individuals expected to drop coverage during the transition. Additionally, the number of uninsured individuals in Georgia today is different from the number Georgia projected when it submitted its initial application. To the extent the private market is less motivated to invest in outreach because the uninsured population has declined, fewer new enrollees may be expected to take up coverage. These changes call into question whether the waiver, with the Georgia Access Model in place, would result in fewer individuals with coverage than would have had coverage absent the waiver, and therefore no longer satisfies the statutory coverage guardrail once the projections are updated.

III. Background on the Departments' 2021-2022 Review of the Georgia Access Model

In light of the changes outlined above, the Departments requested an updated analysis of the Georgia Access Model from the State as part of our responsibility to conduct oversight and monitoring, and in accordance with Georgia STCs 7, 14, 15, and 17, 31 C.F.R. § 33.120(a)(1) and (f), and 45 C.F.R. § 155.1320(a)(1) and (f), to ensure that approved section 1332 waivers continue to meet the statutory requirements (referred to as statutory guardrails).[23] The Departments sent three letters to Georgia requesting an updated analysis, and also conducted a public comment period which provided Georgia a further opportunity to respond. The July 30,

[21] The Georgia application noted that "the baseline scenario estimates a potential reduction of currently covered individuals of approximately 2 percent. The State anticipates that potential loss of coverage of current market consumers in Georgia will be less than compared to other states. See PDF pg. 83 here: https://medicaid.georgia.gov/document/document/modified-1332-waiver/download.

[22] To date, Georgia has provided no evidence of increased private sector outreach under the Georgia Access Model.

[23] See section 1332(b)(1)(A)-(D) of the Affordable Care Act.

2021 letter and subsequent letters noted that the Departments may consider the State to be in violation of the STCs governing Georgia's section 1332 waiver if the State did not provide the requested updated analysis. Furthermore, the Departments noted that they may proceed to review the continued compliance of waiver, with the Georgia Access Model in place, with the statutory guardrails set forth in section 1332(b)(1)(A) – (D) of the ACA, without the benefit of updated information from the State. The letter also noted that the Departments would take appropriate action and would notify the State in the event they determine that the State has materially failed to comply with the STCs, or that the waiver, with the Georgia Access Model in place, has failed to meet the statutory guardrails. Georgia did not submit any requested updated analysis to the Departments.

IV. Consideration of Public Comments

The Departments notified Georgia on November 9, 2021, that the Departments were opening a 60-day federal comment period to receive input from the public on the impact of changes in federal law, policy, and other circumstances on the Georgia Access Model, as approved on November 1, 2020, and whether the waiver, with the Georgia Access Model in place, continues to meet the statutory guardrails in light of these changed circumstances. This comment period provided stakeholders and the general public an opportunity to review and provide input on the impact of these and other changes, such as on-the-ground implementation efforts, which may affect the statutory guardrails analysis. A comment solicitation was posted along with the State's waiver application and corresponding documents on CMS's section 1332 waiver website, and was open to the State of Georgia, stakeholders, and the public for comment from November 9, 2021 through January 9, 2022.[24] Georgia once again did not submit an updated analysis or information during the comment period. We summarize and respond to the key themes from the public comments, including the Georgia waiver's continued compliance, with the Georgia Access Model in place, with the statutory coverage guardrail in light of the changes in federal law, policy, and circumstances, below in Appendix A.[25] The Departments agree with commenters that expressed concerns that the applicable without-waiver baseline has changed since the State's initial application and that the projected impact of the waiver on the statutory coverage guardrail has changed, as a result. The Departments received and reviewed a number of comments concerning compliance with the other statutory guardrails (affordability, comprehensiveness, and deficit neutrality), but they did not form the basis of our determinations that Georgia materially breached the STCs by failing to respond to the requests for an updated analysis, and that the Georgia waiver, with the Georgia Access Model in place, no longer meets the statutory coverage guardrail.

V. The Departments' Determination on the Georgia Access Model

The Departments are suspending implementation of the Georgia Access Model, Part II of Georgia's section 1332 waiver, that was initially approved on November 1, 2020, effective July 28, 2022 unless Georgia takes the steps outlined elsewhere in this letter, because: (1) the State has materially failed to comply with STCs by repeatedly not providing the Departments with the information requested as part of our oversight authority;[26] and (2) the Georgia waiver, with the

[24] See section 1332 waiver website here: https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section_1332_State_Innovation_Waivers-.

[25] Comments that were out-of-scope and unrelated to the topics under consideration as part of this comment solicitation are not summarized or responded to in the below discussion in Appendix A.

[26] *Ibid.* See footnote 5, 6.

Georgia Access Model in place, no longer meets the statutory coverage guardrail. Specifically, the Georgia waiver, with the Georgia Access Model in place, does not meet the statutory coverage guardrail in light of changes in federal law, policy, and other circumstances since the Departments' initial approval that have materially affected the background assumptions on which we based our approval of the Georgia Access Model.

Georgia did not submit the requested updated analysis in response to the Departments' June 3, July 30, or November 9 letters.[27] This constitutes a material failure to comply with the requirement to fully cooperate with a federal evaluation of the waiver by the Departments under Georgia STC 15, as well as 31 C.F.R. § 33.120(f) and 45 C.F.R. § 155.1320(f), which provide that the State "must submit all requested data and information to the Departments as part of the Departments' evaluation" of the Georgia section 1332 waiver, including the Georgia Access Model.[28] As such, the State has materially failed to comply with the STCs and is therefore in violation of the STCs.[29] Consistent with Georgia STC 17 and 31 C.F.R. § 33.1320(d) and 45 CFR § 155.1320(d), the Departments are exercising our authority to suspend Part II of Georgia's section 1332 waiver, the Georgia Access Model, absent the State's taking the steps outlined in this letter, because the State materially failed to comply with the STCs. Georgia's failure to provide the requested updated analysis constitutes a material breach of the STCs because it significantly impeded our ability to conduct oversight and monitoring responsibilities. The State's failure to provide an updated analysis was particularly important to the Departments' oversight and monitoring efforts because, as explained above and in the prior correspondence to the State, there have been significant changes in federal law, policy, and other circumstances that could (and, according to the Departments' analysis, did) affect the initial baseline and with-waiver projections for the Model. This material failure to comply with the STCs of Georgia's section 1332 waiver alone constitutes a sufficient basis to suspend implementation of the Georgia Access Model.[30]

The Departments' analysis provides a second basis for a suspension because it projects that the Georgia Access Model will result in coverage losses, net of any coverage gains due to reinsurance, compared to a without-waiver baseline and therefore no longer complies with the statutory coverage guardrail.

Without the benefit of updated information from the State, the Departments proceeded with an evaluation of the continued compliance of Georgia's waiver, with the Georgia Access Model in place, with the statutory guardrails set forth in section 1332(b)(1)(A) – (D) of the ACA. The

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[27] *Ibid.* Per the Departments' June 3, 2021 letter, the State's analysis was originally due on July 3, 2021. When the State did not submit the requested updated analysis, the Departments sent the State a second letter on July 30, 2021, which provided the State an additional 30 days to comply by August 29, 2021.

[28] Also see GA STC 6, which requires compliance with applicable federal law and regulations. This includes, but is not limited to, compliance with the obligation under 31 C.F.R. § 33.120(f)(2) and 45 C.F.R. § 155.1320(f)(2) to submit all requested data and information to the Departments as part of the required cooperation in a federal evaluation of a section 1332 waiver. A copy of the November 2020 approval letter and STCs for Georgia's section 1332 waiver is available at: https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section_1332_State_Innovation_Waivers-/1332-GA-Approval-Letter-STCs.

[29] See GA STC 17. A copy of the November 2020 approval letter and STCs for Georgia's section 1332 waiver is available at: https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section_1332_State_Innovation_Waivers-/1332-GA-Approval-Letter-STCs. Also see 31 C.F.R. § 33.120(d) and 45 C.F.R. § 155.1320(d).

[30] Also see 31 C.F.R. § 33.1320(d) and (f)(2), as well as 45 C.F.R. § 155.1320(d) and (f)(2).

Departments worked with Acumen, LLC to analyze the projected effects of the identified changes in circumstances and to assist the Departments' with their evaluation of the ongoing compliance of the waiver, with the Georgia Access Model in place, with the statutory guardrails. This evaluation analyzed the projected impact of the waiver, with the Georgia Access Model in place, on coverage for the individual market and Medicaid. Specifically, Acumen modeled the projected change in individual market (non-group) enrollment due to changes in relative levels of advertising[31] and attrition due to the change in enrollment pathways (absence of HealthCare.gov) that are expected to occur under the waiver.[32]

The Acumen analysis projects that total non-group enrollment in Georgia is expected to decline as a result of the Georgia Access Model, relative to Acumen's baseline with no Georgia Access Model and with reinsurance in place, in all waiver years, ranging from a 4.4 percent to 8.3 percent decrease in PY 2023 and an 8.4 percent decrease each year in PYs 2024 through 2027, when taking into account changes in the relative advertising levels and attrition due to the absence of HealthCare.gov. The Acumen analysis also examined the projected impact on Medicaid enrollment under the Georgia Access Model and assumes that a decrease in individual market applications will lead to a decrease in Medicaid referrals. Therefore, the Acumen analysis projects a small drop in Medicaid enrollment under the Georgia Access Model, compared to Acumen's baseline with no Georgia Access Model and with reinsurance in place. The Acumen report is available on the section 1332 waiver website. Increased enrollment due to the Georgia Reinsurance Program will not be sufficient to offset the Acumen report's projected decrease in non-group market enrollment from the Georgia Access Model; at the time of Georgia's application, the State estimated that reinsurance would yield approximately a 0.5 percent increase in enrollment, which is in line with the impacts estimated by other states with reinsurance waivers.[33]

Based on their review and consideration of Acumen's analysis and public comments, the Departments have determined that Georgia's waiver, with the Georgia Access Model in place, will provide coverage to fewer individuals than would have coverage absent implementation of the Georgia Access Model. As such, the waiver, with the Georgia Access Model in place, no longer satisfies the statutory coverage guardrail due to the projected coverage losses under the Georgia Access Model.[34]

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[31] In this analysis, advertising is defined as total media spend on marketing (e.g. TV, radio, social, digital, etc.). Changes in the entities responsible for marketing and outreach in the state are likely to impact total advertising expenditures and in turn marketplace enrollment. Under the Georgia Access Model, federal advertising spending will be eliminated since the State is no longer in the FFE, and the State plans to allocate state funding toward marketing and outreach during the transition to the Georgia Access Model. This analysis focuses on estimating the impact of these changes in federal and State government advertising and examines a specific private entity advertising response by assuming that private entity advertising does not change in response to implementation of the Georgia Access Model.

[32] Attrition refers to enrollment loss due to changes in the available enrollment pathways; by eliminating FFE pathways (e.g., HealthCare.gov, FFE call center) some enrollees will likely leave the individual market due to consumer confusion or preference for the FFE enrollment pathways. This attrition was also acknowledged by Georgia in the\ analysis the State submitted at the time of its initial application. See PDF pg. 83 of the Georgia application available at: https://medicaid.georgia.gov/document/document/modified-1332-waiver/download.

[33] See table 4 on page 4 of Georgia's application here which notes reinsurance is projected to increase enrollment in the individual market by 0.4% in PY 2022 to 0.5% in 2026: https://medicaid.georgia.gov/document/document/modified-1332-waiver/download

[34] Although a number of the public comments received in the November 9, 2021-January 9, 2022 public comment period contended that the Georgia Access Model also fails to meet the affordability, comprehensiveness, and deficit neutrality

VI. Procedure to Respond to this Decision

The Departments are suspending implementation of the Georgia Access Model, Part II of Georgia's section 1332 waiver, effective July 28, 2022, unless Georgia responds before that date by sending a corrective action plan that would bring the Georgia Access Mode into compliance with the statutory coverage guardrail, or by submitting a written challenge to the Departments' determinations.

In accordance with STC 17, Georgia will have 90 days from receipt of this notice to respond with a written challenge to the Departments' determinations or to submit a corrective action plan. Any corrective action plan must demonstrate how the State will improve the waiver, with the Georgia Access Model in place, as needed to meet the statutory coverage guardrail. It should also include responses to the questions and points outlined in this letter below. The Departments will consider any corrective action plan and, if sufficient, determine the time necessary for implementation. We encourage the State to submit the corrective action plan as soon as possible to allow time for consideration of the information provided and for the Departments to make a determination on the time necessary for implementation.

The corrective action plan must address the following points to demonstrate the waiver, with the Georgia Access Model in place, can overcome the coverage losses projected by Acumen, net of any coverage increases due to reinsurance, and bring the waiver, with the Georgia Access Model in place, into compliance with the statutory coverage guardrail, in addition to any modification or changes the State proposes to make.

Outreach & Communications Plan – STC 3 requires the State to provide a comprehensive outreach and communications plan detailing, with milestones, all of the steps the State will take to ensure a smooth transition, and to share its plan with the Departments at least 12 months prior to implementation of the Georgia Access Model. The State provided its outreach and communications plan on November 1, 2021. As discussed above, based on the Acumen analysis, the Departments project that there will be a loss of coverage under the waiver, with the Georgia Access Model in place, once the projections are updated based on the changes in circumstances. Given this determination, the State's corrective action plan should include a revised outreach and communications plan, which we expect would include the following:

1) A revised outreach and communications plan for State and private outreach efforts to ensure outreach actions under the Georgia Access Model are sufficient to replace projected federal outreach spending absent the waiver and avert the projected coverage losses modeled by Acumen due to the transition to the Georgia Access Model, net of any enrollment impact due to reinsurance. Specifically, the Acumen analysis suggests that at least $8 million additional in state outreach spending for PY 2023 as part of an effective revised outreach and communications spend plan would be sufficient, in addition to the $4 million Georgia already plans to spend on advertising in PY 2023. The plan, which will be reviewed by the Departments, should also include information on any other activities or spending the State plans to undertake to boost enrollment under the Georgia Access Model, including a spend plan.

guardrails, see Appendix A, at this time the Departments are not making any determination that the waiver, with the Georgia Access Model in place, no longer meets the affordability, comprehensiveness, and deficit neutrality guardrails.

2) Additional detail on the State's engagement with underserved communities. The State's outreach and communications plan submitted in November 2021 does not include detailed information on engagement by the State with underserved communities or community partner organizations, which will be critical to ensuring a smooth transition of consumers. To the extent these communities will experience the same or a greater drop in enrollment with the waiver, if Georgia believes that additional outreach to such groups can increase enrollment, the corrective action plan should include specific details about how such outreach will address engagement with underserved communities.[35]

Readiness Reviews – STC 12 also requires, and the State submitted, a report to the Departments that details the project timeline for implementation of the Georgia Access Model and associated milestones, including but not limited to eligibility verifications and enrollment, at least 12 months prior to the first day of open enrollment for plan year 2023. In addition, consistent with STC 12, the State must successfully pass operational readiness reviews and open enrollment readiness reviews. Given that the Georgia Access Model relies on the successful implementation and integration of multiple, complex private and public systems, coupled with the Acumen analysis and projected coverage losses, the readiness reviews are critical to ensuring that appropriate testing takes place before implementation of a new model. Without successful system integration and sufficient readiness assessment there could be further coverage losses beyond what Acumen projected. Specifically, as part of the corrective action plan, the State must comply with and pass forthcoming operational readiness reviews and open enrollment readiness reviews, as required by the Departments, including, but not limited to:

1) The State must sufficiently demonstrate live eligibility determinations, including for complex eligibility scenarios (for example: account transfer for Medicaid and CHIP referrals, households where family members are found eligible for different programs) that CMS provides to the State.

2) The State must sufficiently demonstrate the single-streamlined application, auto re-enrollment for both consumers who do and do not make an active plan selection, and in-bound and outbound account transfer functionality for the Georgia Access Eligibility System and with Georgia Access Enrollment Platform (GAEP) partners, and end-to-end testing for GAEP partners.

3) The State must provide a contingency plan and documentation in the case of changed policies, like the potential extension of the ARP and other policies which would have the

[35] For example, the FFE includes an English and Spanish language website for eligibility and enrollment. EDE partners are not required to have a Spanish language website unless 10% of the population speaks that language. However, in the case of the Georgia waiver, where HealthCare.gov is not present, consumers who are Spanish speaking may have fewer option for Spanish enrollment channels. Under the Georgia Access Model, which will have a Spanish language companion site, consumers cannot apply for coverage on the Georgia Access Model website in Spanish; further, under the Georgia Access Model, the State's agent and broker partners, as well as issuers, participating in the Georgia Access Model are not required to have a Spanish language online companion site for the application. To date, the State has not included or shared any Spanish language, or any other non-English language spoken by residents of Georgia, in its outreach and communications plan (e.g., what online and other tools will the State have to help underserved populations, particularly those who speak Spanish, enroll in coverage under the Georgia Access Model?). Please provide specific examples and descriptions of tools and resources, as well as an outreach and communications plan, including a spend plan, targeting this population and community stakeholders/organizations.

effect of expanding coverage," and how the State will address and prepare for the unwinding of the Medicaid and CHIP continuous coverage requirement at the end of the COVID-19 Public Health Emergency.

4) The state must also update the report required in STC 12 in light of the Acumen analysis for the aforementioned reviews to avert the projected coverage losses modeled by Acumen due to the transition to the Georgia Access Model, net of any enrollment impact due to reinsurance.

The State's corrective action plan, as well as any written challenge to the Departments' determinations, should be sent to Lina Rashid at Lina.Rashid@cms.hhs.gov or stateinnovationwaivers@cms.hhs.gov.

We look forward to working with you as we work to ensure the residents of Georgia have access to quality, affordable health care coverage.

Sincerely,

Chiquita Brooks-LaSure

Cc: Lily Batchelder, Assistant Secretary for Tax Policy, U.S. Department of the Treasury
Gen. John F. King, Commissioner, Georgia Office of the Commissioner of Insurance and Safety Fire
Ryan Loke, Special Projects, Office of Governor Brian Kemp
Matthew Krull, Assistant Deputy Commissioner – Health Law & Policy, Georgia Department of Human Services

Appendix A: Public Comment Summary and Response

The majority of the comments the Departments received opposed the Georgia Access Model and cited concerns that the State's waiver, with the Georgia Access Model in place, does not comply with the statutory guardrails. Commenters that opposed the Georgia Access Model expressed concerns about the baseline without-waiver analysis submitted by the State with its initial application given the changes in the current landscape, as well as the waiver's impact on consumer navigation, health equity, and on-the-ground implementation. A few commenters expressed support for the Georgia Access Model, highlighting that they believe it would improve the shopping experience and increase enrollment. Furthermore, these commenters expressed their belief, without any updated analyses, that the identified changes in law or policy would not cause the waiver, with the Georgia Access Model in place, to no longer meet the statutory guardrails.

I. Public Comments on Changes that have Impacted the Initial Projections

A majority of commenters were supportive of the Departments requesting an updated analysis of the Georgia Access Model from the State and cited several changes in federal law, policy, and other circumstances that would necessitate an updated analysis from Georgia. These include:

- enhanced Marketplace subsidies under the ARP, including extension of subsidies to consumers above 400 percent of the federal poverty level (FPL) by elimination of the premium tax credit eligibility cap, and guaranteed access to a $0 silver-level plan for people between 100-150 percent FPL;
- the Medicaid continuous coverage requirement under the Families First Coronavirus Response Act;
- the COVID-19 SEP;
- the extended 2022 Open Enrollment Period (OEP);
- the recent rule change allowing people with incomes at or below 150 percent FPL to enter the Marketplace in any month starting in 2022; and
- increased federal spending on outreach and marketing.

Commenters also asserted that Georgia's initial assumptions in its waiver application are now incorrect given the major changes that have impacted the baseline. For example, one commenter noted that monthly QHP effectuations for 2022 will be at least 140,000 people higher than Georgia assumed it would be, perhaps as much as 200,000 higher due to the COVID-19 SEP and the enhanced subsidies under the ARP.[36] Additionally, these commenters noted that the changes have impacted the baseline such that as of December 15, 2021, nearly 654,000 Georgians selected Marketplace plans,[37] exceeding Georgia's target enrollment for the Georgia Access Model by 261,000 people.

Commenters noted that changes in law (e.g., ARP), policy (e.g., increased outreach, the COVID-19 SEPs), and other circumstances (e.g., regulations such as the extended 2022 OEP, and the new SEP opportunity for those at or below 150 percent FPL) increased enrollment, thereby impacting the State's initial baseline analysis and projections for the Georgia Access Model.

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[36] Charles Gaba – Individual public comment, available at: https://www.cms.gov/files/document/1332-ga-access-public-comments-individualsjan2022final.pdf.

[37] Centers for Medicare & Medicaid Services, "Marketplace Weekly Enrollment Snapshot: Week 6," December 22, 2021. Available at: https://www.cms.gov/newsroom/fact-sheets/marketplace-weekly-enrollment-snapshot-week-6.

Commenters cited a Congressional Budget Office (CBO) analysis projecting that even when the ARP expires, enrollment gains made in light of the ARP would persist beyond 2022, and they further noted that the CBO updated its Marketplace enrollment projections to increase from 8 million to 10 million in 2030. Furthermore, commenters noted that even if subsidies return to pre-ARP levels, most HealthCare.gov enrollees (i.e., 80 percent of 2021 enrollees) would likely be eligible for $0 premium or low-premium plans to make coverage affordable, making them more likely to retain their coverage beyond 2022.[38] Other commenters noted that the Georgia Access Model did not align with the President's recent Executive Orders (EOs 13985, 14009, and 13610). Most commenters noted that the Departments' request for an analysis was warranted, and that the State's waiver could be terminated for violating the regulations and STCs by not submitting the analysis requested by the Departments. Most commenters stated the view that the Departments have authority to collect additional data and to evaluate the waiver.

In contrast, one commenter suggested that the Departments lack authority to reevaluate the Georgia Access Model and also lack authority for opening a comment period, citing CMS regulations[39] that provide a detailed framework for federal and state procedures to collect public comment and input. The commenter argued that if CMS seeks to gather public input outside of this regulatory process, the agency must do so by amending these federal regulations through the notice and comment rulemaking process governed by the Administrative Procedure Act (APA).

Additionally, this commenter objected to the Departments' process for requesting an updated analysis from Georgia. The commenter noted that while the Departments' November 2021 public comment solicitation provided 60 days for the public to submit comments, CMS only provided Georgia 30 days to provide updated economic and actuarial analyses. Further, the commenter contended that CMS must have known 30 days would be too short a timeframe to provide updated data to perform the analysis.

Lastly, the commenter argued that Georgia's STC 15 only focuses on information related to the actual implementation and impact of the waiver to ensure the waiver is working as intended, and that the purpose of a "periodic evaluation" is to regularly review the impact of an activity after it starts. Since the Georgia Access Model has not been implemented yet, the commenter further argued that it is inappropriate for the Departments to be conducting the current evaluation under STC 15.

Departments' Response

The Departments agree that the changes in federal law, policy, and other circumstances necessitated an updated analysis from the State for the Georgia Access Model to evaluate the waiver's continued compliance with the statutory guardrails.

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[38] As cited by commenter: Compare CBO, "Federal Subsidies for Health Insurance Coverage for People Under Age 65: CBO and JCT's September 2020 Projections," August 29, 2020, available at https://www.cbo.gov/system/files/2020-10/51298-2020-09-healthinsurance.pdf, and CBO, "Federal Subsidies for Health Insurance Coverage for People Under Age 65: CBO and JCT's July 2021 Projections," July 2021, available at https://www.cbo.gov/system/files/2021-08/51298-2021-07-healthinsurance.pdf.

[39] 45 C.F.R. § 155.1312 (State public notice requirements); 45 C.F.R. § 155.1316 (Federal public notice and approval process); and 45 C.F.R. § 155.1320 (Monitoring and compliance). Parallel Treasury implementing regulations are found at 31 C.F.R. 33.116 and 31 C.F.R. 33.120.

As explained throughout this letter, the Departments requested an updated analysis of Georgia's waiver, with the Georgia Access Model in place, from the State as part of the Departments' responsibility to conduct oversight and monitoring, and in accordance with Georgia STCs 7, 14, 15, and 17, 31 C.F.R. § 33.120(a)(1) and (f), and 45 C.F.R. § 155.1320(a)(1) and (f), to ensure that approved section 1332 waivers continue to meet the statutory guardrails. The Departments have a responsibility to conduct activities relating to monitoring and oversight to ensure continued compliance of approved waivers with applicable requirements as outlined in 31 C.F.R. § 33.120 and 45 C.F.R. § 155.1320. The Departments' oversight responsibilities are also included in each waiver's governing STCs. For example, the Departments set up strict safeguards and monitoring protocols to ensure that the waiver continues to meet the statutory guardrails, including the coverage guardrail, for the duration of the waiver period. For example, Georgia STC 12 specifies that Georgia must submit an annual report which must include metrics to assist evaluation of the waiver's compliance with the statutory guardrails in section 1332(b)(1) of the ACA, including actual individual market enrollment in the state; actual average individual market premium rate (i.e., total individual market premiums divided by total member months of all enrollees); and actual Medicaid enrollments through the Georgia Access Model. These responsibilities are especially important as section 1332 waivers have a significant impact on individuals, states, and the Federal government, and it is important that the Departments are able to ensure approved waivers' ongoing compliance with applicable requirements. The Departments therefore disagree with comments that suggest it is inappropriate or unlawful to request information from a State regarding an approved waiver's continued compliance with applicable requirements. Further, the Departments note that the STCs also including monitoring reports and requirements applicable prior to implementation of the Georgia Access Model. For example, Georgia was required to submit an operational report and budget report consistent with STC 12 and an outreach and communications plan consistent with STC 3; Georgia is also subject to monitoring calls (per STC 14) and readiness reviews (per STC 12) which started after approval and prior to implementation of the Georgia Access Model. As such, the Departments disagree that periodic evaluations are only to assess the impact of an activity after it starts.

With regard to the concern raised by a commenter that the Departments lack the legal authority to open a comment period, the Departments disagree. The Departments hosted the comment period as part of our monitoring and oversight responsibilities under the aforementioned authorities. More specifically, a federal public comment period was opened to provide stakeholders and the general public an opportunity to review and provide input on the impact of recent changes in federal law, policy, and other circumstances on the Georgia Access Model as part of the Departments' review of the continued compliance of the waiver, with the Georgia Access Model in place, with the statutory guardrails set forth in section 1332(b)(1)(A)–(D) of the ACA. Further, the Departments acted well within our discretion and authority to solicit input from interested stakeholders and the general public before making a determination as to whether the waiver, with the Georgia Access Model in place, continued to comply with the statutory guardrails in light of the changes in federal law, policy, and other circumstances.

Additionally, the Departments provided sufficient time for Georgia to submit the requested updated analysis. In total, 159 days elapsed from when the Departments initially requested an analysis from the State to when the Departments opened the public comment period on November 9, 2021. Georgia also could have submitted comments during the 60-day comment

period (including the requested updated analysis) but elected not to do so. In total, Georgia had 219 days to submit an analysis and come into compliance with the STCs. We further note in response to the comment suggesting the Departments did not provide a sufficient timeframe for the State to provide an analysis that, if more time was needed to complete the analysis, Georgia could have requested an extension. The State did not do so or otherwise attempt to comply with the request (e.g., submit the analysis after the Departments' deadline(s)).

Accordingly, because Georgia has materially failed to comply with the terms of its section 1332 waiver, the Departments are suspending implementation of the Georgia Access Model, Part II of Georgia's section 1332 waiver, unless Georgia responds before July 28, 2022, by sending a corrective action plan that would bring the waiver, with the Georgia Access Model in place, into compliance with the statutory guardrails or by submitting a written challenge to the Departments' determinations.[40]

II. Coverage Guardrail

Public Comments

The majority of commenters opposed the Georgia Access Model and raised concerns that the Georgia Access Model causes the waiver to fail the statutory coverage guardrail. These commenters encouraged the Departments to rescind the approval of the Georgia Access Model. Specifically, these commenters asserted that the elimination of the HealthCare.gov website will cause thousands of Georgians to lose coverage. Commenters were concerned that the end of the ARP's enhanced subsidies would lead to complex coverage transitions that require additional assistance available through HealthCare.gov but that would no longer be available under the Georgia Access Model, thereby resulting in decreases in the number of individuals enrolled in Medicaid and Marketplace coverage in Georgia.

Some commenters also had concerns regarding both the use of and the transition to the new Georgia Access Model platform. Commenters were concerned that there would be widespread consumer confusion and consumer navigation issues resulting from the removal of federal enrollment avenues (e.g., the HealthCare.gov website), which would decrease enrollment. These commenters further cited research demonstrating that too many choices can stymie consumers.[41] Commenters also argued that Georgia's assumptions relating to coverage losses due to the transition to the new platform are incorrect. Specifically, these commenters explained that Georgia predicts a loss of about 2 percent (8,000 people) of enrollees due to the change from one

[40] Georgia STC 17 also reserves the Departments right to take action to amend, suspend, or terminate the State's waiver (in whole or in part) at any time before the date of expiration if the State fails to meet the statutory guardrails. As detailed elsewhere in this letter, the Departments have also made a second determination that the waiver, with the Georgia Access Model in place, no longer meets the statutory coverage guardrail. Based on the information before the Departments today, the implementation of the Georgia Access Model is suspended on both grounds. A copy of the November 2020 approval letter and STCs for Georgia's section 1332 waiver is available at: https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section_1332_State_Innovation_Waivers-/1332-GA-Approval-Letter-STCs.pdf.

[41] Consumers Union, "The Evidence is Clear: Too Many Health Insurance Choices Can Impair, Not Help, Consumer Decision Making," November 2012. Available at: https://advocacy.consumerreports.org/wp-content/uploads/2012/11/Too_Much_Choice_Nov_2012.pdf.

system to another, which contradicts the experiences of other states like Kentucky (13 percent attrition rate) and Nevada (7 percent attrition rate).[42]

Commenters cited recent studies providing evidence that certain outreach activities—similar to those currently conducted by the federal government— can increase enrollment. For example, commenters pointed to a study finding that sending letters reminding consumers of the deadline for enrolling in coverage via Covered California, California's State Exchange, increased enrollment among unsubsidized enrollees.[43] Commenters also pointed to research comparing the effectiveness of private marketing to federal marketing in terms of increasing overall enrollment, as the association between advertisements and Marketplace enrollment outcomes can vary based on the advertisement sponsor. One study cited found that government advertising was associated with increased take-up of health insurance and Medicaid, whereas private spending by insurers was not, despite the latter being in greater volume.[44] Another cited study found that government advertising was more likely to expand enrollment and to do so in an unbiased way, without directing consumers to any particular insurer, while health plan advertising tended to reach only existing private market enrollees.[45]

Additionally, commenters contended that curtailing public outreach efforts is unlikely to increase comparable private efforts. These commenters argued that marketing is a powerful tool to drive enrollment and noted that following the initial transition to the Georgia Access Model, Georgia will not be assuming any of the HealthCare.gov website's extensive outreach and support functions to assist consumers in navigating the enrollment process. They also noted that reductions in federal spending are not necessarily offset by increases in private spending. For example, these commenters pointed to a recent study using data from the 2015 to 2019 OEPs and examining the 2017 to 2019 cuts to Navigator programs, which found that cuts to Navigator funding were not associated with an increase in the amount of private sector advertising.[46]

Commenters also had concerns regarding the impact the Georgia Access Model would have on Medicaid enrollment. They noted that private brokers are less likely than Marketplace assister

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[42] Kentucky's Marketplace enrollment fell 13 percent when it transitioned to the FFE in 2017, compared to a 4 percent decline nationally; Nevada's enrollment fell 7 percent for the 2020 plan year after its transition to a State Marketplace, compared to flat enrollment nationally. Enrollment changes were calculated by CBPP using data from CMS public use files. See also Sarah Lueck, "Adopting a State-Based Health Insurance Marketplace Poses Risks and Challenges," CBPP, February 6, 2020. Available at: https://www.cbpp.org/research/health/adopting-a-state-based-health-insurance-marketplace-poses-risks-and-challenges.

[43] Richard Domurat, Isaac Menashe, and Wesley Yin, "The Role of Behavioral Frictions in Health Insurance Marketplace Enrollment and Risk: Evidence from a Field Experiment," *American Economic Review* 111, no. 5 (May 2021): 1549–74. Available at: https://doi.org/10.1257/aer.20190823. For the working paper version, see Richard Domurat, Isaac Menashe, and Wesley Yin, "The Role of Behavioral Frictions in Health Insurance Marketplace Enrollment and Risk: Evidence from a Field Experiment" (Rochester, NY: Social Science Research Network, 2019).

[44] Pinar Karaca-Mandic et al., "The Volume of TV Advertisements During The ACA's First Enrollment Period Was Associated With Increased Insurance Coverage," Health Affairs, April 2017. Available at: https://www.healthaffairs.org/doi/10.1377/hlthaff.2016.1440.

[45] Naoki Aizawa and You Suk Kim, "Public and Private Provision of Information in Market-Based Public Programs: Evidence from Advertising in Health Insurance Marketplaces," NBER Working Paper No. 27695, revised April 2021. Available at: https://www.nber.org/papers/w27695.

[46] Rebecca Myerson and David M. Anderson et al., "Cuts to navigator funding were not associated with changes to private sector advertising in the ACA marketplaces," pre-publication version, December 9, 2021. Available at: https://drive.google.com/file/d/1uoQt0PeplBjNrxrtBS2OFGoGHpzYhajs/view. *See also* Myerson R, Li H. Information Gaps and Health Insurance Enrollment: Evidence from the Affordable Care Act Navigator Programs. Social Sciences Research Network; November 2021. Available at: http://dx.doi.org/10.2139/ssrn.3966511.

programs[47] to help individuals enroll in Medicaid and CHIP coverage, meaning many of Georgia's most vulnerable populations, including children, will be worse off under the Georgia Access Model.[48]

Meanwhile, commenters that supported the Georgia Access Model agreed the COVID-19 pandemic and ARP enhanced subsidies would affect enrollment, but argued the impact would be negligible because once the subsidies are incorporated in the baseline, there would not be a difference when comparing the with- (including the Georgia Access Model platform) and without-waiver scenarios (including a centralized website like HealthCare.gov). These commenters argued that the coverage guardrail would therefore not be violated because any impact of the changes in law are built into the baseline regardless of what enrollment platform is available to consumers. Furthermore, these commenters noted that the CBO explains enrollment "would gradually return to current-law levels by 2024."[49]

Additionally, commenters who supported the Georgia Access Model cited evidence that existing FFE Direct Enrollment (DE) partners help to increase, rather than decrease, enrollment. One commenter noted that nearly half of all enrollments through the FFE were assisted by private agents and brokers for the 2020 benefit year.[50] Furthermore, this commenter noted that across OEP plan selections by type of channel, the share of enrollment through enhanced direct enrollment (EDE)—the pathway most similar to the Georgia Access Model—increased from 8 percent for the 2020 benefit year to 17 percent for 2021.[51] The commenter explained that the Georgia Access Model will take advantage of these proven enrollment channels and is projected to increase enrollment. In addition, this commenter noted that for the PY 2021 OEP, FFE DE partners supported 37 percent of FFE plan selections, and stated that they believed that for PY 2022 OEP, the percentage of FFE DE-supported plan selections would be even greater.[52]

Departments' Response

The Departments take note of commenters' views that even if the baseline has changed the guardrails would not be violated, but disagree. The Departments have determined that Georgia's waiver, with the Georgia Access Model in place, no longer satisfies the statutory coverage guardrail once the projections are updated to reflect the increased enrollment resulting from the changes in federal law, policy, and other circumstances. As previously mentioned, the Acumen analysis projects coverage losses for the individual market and Medicaid enrollment under the Georgia Access Model, relative to Acumen's baseline scenario with no Georgia Access Model

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[47] Marketplace assister programs refer to Navigators, Certified Application Counselor (CAC**),** Federally Qualified Health Center (FQHC), and the Federal Enrollment Assistance Program (FEAP).

[48] Karen Pollitz et al., Kaiser Family Foundation, "Consumer Assistance in Health Insurance: Evidence of Impact and Unmet Need," August 2020, available at: https://www.kff.org/report-section/consumer-assistance-in-health-insurance-evidence-of-impact-and-unmet-need-issue-brief/.

[49] Congressional Budget Office, Reconciliation Recommendations of the House Committee on Ways and Means, February 15, 2021, available at https://www.cbo.gov/publication/57005.

[50] Centers for Medicare & Medicaid Services, Agents and Brokers in the Marketplace (October 30, 2020). Available at: https://www.cms.gov/CCIIO/Resources/Forms-Reports-and-Other-Resources/Downloads/Agents-and-Brokers-in-the-Marketplace.pdf.

[51] Centers for Medicare & Medicaid Services, Impact of Enhanced Direct Enrollment During the Open Enrollment Period for 2021 Coverage (January 2021). Available at: https://www.cms.gov/CCIIO/Resources/Forms-Reports-and-Other-Resources/Downloads/Impact-EDE-OEP-2021-Coverage.pdf.

[52] Association of Web-Based Health Insurance Brokers comment letter. Available at: https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Downloads/1332_GA_Access_Public_Comments_Organization_Letters_Jan2022.pdf

and with reinsurance. Acumen projects that total non-group enrollment in Georgia is expected to decline as a result of the Georgia Access Model, relative to Acumen's baseline with no Georgia Access Model and with reinsurance in place, in all waiver years, ranging from a 4.4 percent to 8.3 percent decrease in PY 2023 and an 8.4 percent decrease in PYs 2024 through 2027, when taking into account changes in the relative advertising levels and attrition due to absence of HealthCare.gov and the increased enrollment resulting from the identified changes.[53]

The Acumen analysis also examined the projected impact on Medicaid enrollment under the Georgia Access Model, and assumes that a decrease in individual market applications will lead to a decrease in Medicaid referrals, and therefore a small drop in Medicaid enrollment will occur under the Georgia Access Model, relative to Acumen's baseline with no Georgia Access Model and with reinsurance in place. The Departments do not project that increased enrollment due to the Georgia Reinsurance Program is sufficient to offset the decrease in non-group market enrollment from the Georgia Access Model projected by Acumen. The identified changes in federal law, policy, and other circumstances impacted the enrollment projections and the Departments have determined that the waiver, with the Georgia Access Model in place, would provide coverage to fewer individuals than would have coverage absent implementation of the waiver, with the Georgia Access Model in place, once those changes are taken into account.

The Departments take note of commenters' observations that an increasing number of people are enrolling with assistance from private brokers and that there is greater enrollment through the FFE's EDE pathway. However, such observations do not directly suggest that moving to a platform that relies solely on private brokers and health insurance issuers will translate to maintaining enrollment or a likely increase in overall enrollment under the Georgia Access Model. Further, due to inertia in coverage selections, the Departments expect the enrollment effects to continue even after the federal changes such as the ARP and the COVID SEP are no longer in effect. As cited by other commenters, several studies have illustrated that increases in private spend on marketing are associated with enrollment shifts, rather than an overall increase in new enrollments in the individual market.[54] In addition, the increase in enrollment through the FFE's EDE pathways benefited from the general FFE outreach efforts that will no longer occur under the Georgia Access Model. The projected decrease in enrollment from the loss of FFE outreach spending, combined with the coverage losses associated with the transition away from HealthCare.gov that were identified by the State in its application, will result in a net loss of coverage. To date, Georgia has not provided any information demonstrating increased investments in private or State outreach to make up for the loss of federal spending on such activities. As outlined in this letter, as part of the corrective action plan, Georgia must provide more details regarding both State and private outreach and enrollment efforts and also demonstrate an increase in State and private outreach spending to overcome the net projected coverage loss.

III. Affordability Guardrail

[53] The Acumen baseline scenario also includes the assumption that in 2023 25% of enrollees who enrolled in non-group coverage due to the ARP will remain in the non-group market after it expires.

[54] Private advertising serves to increase an insurer's share of enrollment without increasing total enrollment. See Naoki Aizawa, You Suk Kim, "Public and private provision of information in market-based public programs: evidence from advertising in health insurance marketplaces." Revised April 2021. Available at: http://www.nber.org/papers/w27695.

Public Comments

Commenters opposed to the Georgia Access Model stated it would decrease the affordability of health care available to Georgians, thereby violating the statutory affordability guardrail, and should thus be rescinded. These commenters argued that if healthier consumers exited the "ACA-compliant market,"[55] the individual market risk pool would become less healthy, on average, and drive up premiums. For instance, in states that took advantage of the prior Administration's expansion of short-term plans—like Georgia, which has few restrictions on such plans—premiums for comprehensive coverage went up by about 4 percent.[56] Commenters indicated that similarly, under the Georgia Access Model, premiums for comprehensive coverage would likely increase, resulting in less affordable coverage and higher out-of-pocket costs, thereby violating the affordability guardrail. As such, commenters argued that even if the Georgia Access Model did increase enrollment, the enrollment would likely be in non-ACA compliant plans, which would in turn drive up premiums for ACA-compliant plans, thereby violating the affordability guardrail.

Commenters in support of the Georgia Access Model were of the view that there will be no impact on the statutory affordability guardrail because Georgia will implement the same APTC and CSRs as federal rules require.

Departments' Response.

The Departments are unable to make a determination at this time that the Georgia waiver, with the Georgia Access Model in place, no longer satisfies the statutory affordability guardrail in light of changes in federal law, policy, and other circumstances. The Departments reviewed comments concerning compliance with other statutory guardrails (affordability, comprehensiveness, and deficit neutrality), but they did not contribute to the determinations underlying the suspension of the Georgia Access Model. Additionally, Georgia is maintaining the same APTC/PTC framework, cost-sharing requirements, and other benefit design parameters established under the ACA. Therefore, under the waiver, with the Georgia Access Model in place, the Acumen analysis does not project any resulting premium increases when enrollment declines. As explained in Acumen's analysis, it is likely that potential enrollees with lower expected spending are also likely to have lower demand for insurance, and lower advertising and higher confusion on proper enrollment channels would increase their probability of leaving the market compared to sicker and more expensive enrollees. This higher probability of exit for healthier enrollees could translate to higher premiums. However, scarcity of empirical estimates in the literature precludes an estimate of potential increases in the premiums.

Regarding Short-Term Limited Duration Insurance (STLDI) plans that are not required to cover essential health benefits (EHBs), the Acumen analysis noted that it is also possible that the movement of consumers away from HealthCare.gov toward issuers and brokers under the Georgia Access Model will increase their exposure to STLDI plan marketing, as these plans are not currently offered on the HealthCare.gov platform. This increased exposure to STLDI plan marketing may affect the number of consumers who choose to enroll in STLDI plans under the Georgia Access Model because STDLI plans tend to cost much less than other non-group plans.

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[55] We understand this shorthand to be a reference to single-risk pool coverage that is subject to all of the ACA's market reforms.

[56] Dane Hansen and Gabriela Dieguez, "The impact of short-term limited-duration policy expansion on patients and the ACA individual market," Milliman, February 2020. Available at: https://www.lls.org/sites/default/files/National/USA/Pdf/STLDImpact-Report-Final-Public.pdf.

Similar concerns about STLDI plans were raised in response to Georgia's original section 1332 application. In approving the Georgia Access Model, we concluded that there was insufficient evidence of STLDI steering and that existing consumer protections and newly added protections by Georgia would mitigate the risk of inappropriate steering of consumers to STLDI plans. Because we have considered this issue in our initial approval and have not received any evidence that changes in federal law, policy, and other circumstances have increased the risk of improper steering to STLDI plans, we did not consider this issue in determining whether the waiver, with the Georgia Access Model in place, complies with the statutory guardrails in light of identified changes.

The Departments do not have sufficient data or other information at this time to predict whether premiums or consumers' other out-of-pocket spending is more likely than not to be higher or lower under the Georgia waiver, with the Georgia Access Model in place, than they would be without the waiver based on changes in federal law, policy, and other circumstances.

IV. Comprehensiveness Guardrail

Public Comments

The majority of commenters who opposed the Georgia Access Model expressed the view that it will not provide consumers with more choices to enroll in comprehensive coverage, but would instead eliminate options by removing access to the HealthCare.gov website. These commenters were concerned that the Georgia Access Model would cause individuals to enroll in plans that are less comprehensive than "ACA-compliant plans,"[57] thereby violating the statutory comprehensiveness guardrail. They indicated that consumers would be more likely to choose plans that do not provide comprehensive coverage. For example, the plans selected by individuals could lack basic coverage needs such as appropriate prescription drug coverage. Another commenter who was concerned about enrollment in less comprehensive plans shared that one review of the most popular short-term plan in Atlanta found that although the short-term plan had lower premiums, its deductible and maximum out-of-pocket costs were more than 2.5 times higher than the most popular bronze ACA plan, and it offered no coverage of prescription drugs, mental health services, or maternity care.[58]

These commenters also contended that removing the ability to "shop" on HealthCare.gov will make it harder for Georgians to find good quality and comprehensive care. Commenters cited a recent Kaiser Family Foundation survey which found that 22 percent of consumers using private health insurance brokers or representatives of private insurance plans to explore their health insurance options were offered policies other than qualified health plans.[59] Thus, with only brokers and insurance company representatives available to provide enrollment assistance, these commenters asserted more Georgia consumers will likely be exposed to sales efforts related to these types of less comprehensive plans. Commenters opposed to the Georgia Access Model

[57] We understand this shorthand to be a reference to single-risk pool coverage that is subject to all of the ACA's market reforms.
[58] Dane Hansen and Gabriela Dieguez, "The impact of short-term limited-duration policy expansion on patients and the ACA individual market," Milliman, February 2020. Available at: https://www.lls.org/sites/default/files/National/USA/Pdf/STLDImpact-Report-Final-Public.pdf.
[59] Karen Pollitz et al., Kaiser Family Foundation, "Consumer Assistance in Health Insurance: Evidence of Impact and Unmet Need," August 2020. Available at: https://www.kff.org/report-section/consumer-assistance-in-health-insurance-evidence-of-impact-and-unmet-need-issue-brief/.

also cited a recent secret shopper study conducted by Georgetown University during the COVID-19 SEPs, which found that just 5 of 20 sales representatives recommended a Marketplace plan even when their client would have qualified for a $0 premium plan under the ARP, and most sales representatives instead steered patients toward short-term plans, health care sharing ministries, and other products that did not offer comprehensive coverage.[60]

One commenter who supported the Georgia Access Model noted that consumers may unknowingly enroll in less comprehensive plans, but argued that the private sector is better suited to build innovative shopping tools to help consumers avoid these situations and make informed purchasing decisions. Additionally, the commenter suggested that regulations or technical solutions that facilitate full disclosure about the compliance status of plans could be pursued to prevent less comprehensive plans from being confused with ACA-compliant plans. This commenter highlighted personalized shopping tools in online retail marketplaces as evidence that the Georgia Access Model will result in similar personalized tools, resulting in greater consumer empowerment and satisfaction.

Departments' Response

The Departments are unable to make a determination at this time that the Georgia waiver, with the Georgia Access Model in place, no longer satisfies the statutory comprehensiveness guardrail in light of changes in federal law, policy, and other circumstances. The Departments reviewed comments concerning compliance with other statutory guardrails (affordability, comprehensiveness, and deficit neutrality), but they did not contribute to the determinations underlying the suspension of the Georgia Access Model. Additionally, Georgia is not waiving or otherwise changing the EHB or other ACA benefit design requirements applicable to coverage offered through the individual market. The Departments understand commenters' concerns that the Georgia Access Model may result in more Georgians enrolling in less comprehensive plans that do not provide the same protections as ACA-compliant plans. We also agree it is important to provide consumers with sufficient information to make informed health insurance purchasing decisions. The Acumen analysis noted that it is also possible that the movement of consumers away from HealthCare.gov toward issuers and brokers under the Access Model will increase their exposure to Short-Term Limited Duration Insurance (STLDI) plan marketing, as these plans are not currently offered on the HealthCare.gov platform. This increased exposure to STLDI plan marketing may affect the number of consumers who choose to enroll in STLDI plans under the Georgia Access Model because STDLI plans tend to cost much less than other non-group plans.[61]

However, the Departments are of the view that retail markets, as outlined by one commenter, are very different from health insurance markets. For example, research shows that a well-

[60] Dania Palanker and JoAnn Volk. "Misleading Marketing of Non-ACA Health Plans Continued During COVID-19 Special Enrollment Period." Georgetown University Health Policy Institute, Center on Health Insurance Reforms. October 2021. Available at: https://georgetown.app.box.com/s/mn7kgnhibn4kapb46tqmv6i7putry9gt.

[61] As noted above, because we considered the issue of improper steering to STLDI issue in our initial approval and have not received any evidence that changes in federal law, policy, and other circumstances have increased this risk, we did not consider this issue in determining whether the waiver, with the Georgia Access Model in place, complies with the statutory guardrails in light of identified changes.

functioning, competitive market depends on information being available to buyers and sellers.[62] In most other retail markets, consumers have the ability to shop for and compare prices of an item or service. However, in the health care market, consumers often lack both access to useful price and quality information, nor do they know exactly what medical services they may need in a coming year when shopping for health care. Even though consumers today have greater access than ever before to data, information, and tools to support the management of their health, the accuracy of consumer-facing resources is variable, and the value to the individual consumer remains uncertain. As resources become more accessible, patients are beginning to take a more active role in managing their care. However, research has found that search engines and crowdsourced review websites can help, but could also hinder the dissemination of medically accurate information.[63] As such, the Departments are of the view that it is unlikely that the Georgia Access Model will result in improvements similar to those utilized in other retail markets to help consumers make informed decisions, especially for underserved populations. In addition, the State has not submitted any evidence of personalized shopping tools that would be available under the Georgia Access Model.

V. Deficit Neutrality Guardrail

Public Comments.

One commenter asserted the waiver, including the Georgia Access Model, violates the statutory deficit neutrality guardrail. This commenter argued that because APTC amounts are pegged to the premiums in a given market, the Georgia Access Model could result in increased federal government costs on APTC/PTC "payments," though the increased payments would depend on the size of the coverage losses and premium increases caused by the Georgia Access Model. Separately, this commenter argued that the Georgia Access Model also threatens to expand the federal deficit because Georgia has miscalculated the impact to the federal government of lost user fees when HealthCare.gov is eliminated. They explained that some HealthCare.gov functions involve fixed costs, so the absence of the HealthCare.gov user fee revenues from Georgia will not be fully offset by reduced operating costs. The commenter also asserted that the State failed to comply with the requirement that such costs be accounted for in its deficit neutrality calculations and analysis.

Departments' Response.

The Departments are unable to make a determination at this time that the Georgia waiver, with the Georgia Access Model in place, no longer satisfies the statutory deficit neutrality guardrail in light of changes in federal law, policy, and other circumstances. The Departments reviewed comments concerning compliance with other statutory guardrails (affordability, comprehensiveness, and deficit neutrality), but these comments did not contribute to the determinations underlying the suspension of the Georgia Access Model.

Furthermore, as noted above, at this time the Departments do not have data or other information that provides evidence that premiums are more likely than not to increase under the Georgia

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[62] Porter, M. and Teisberg, E. Redefining Health Care. Harvard Business School Press. Boston, MA. 2006, pg. 54. ("Information is fundamental to competition in any well-functioning market. It enables buyers to shop for the best value and allows sellers to compare themselves to rivals. Without relevant information, doctors cannot compare their results to best practice and to other providers. And without appropriate information, patient choice has little meaning.").

[63] Singh, K, et al. Consumer-Facing Data, Information, And Tools: Self-Management of Health In The Digital Age. *Health Affairs March 2019.* Available at: https://doi.org/10.1377/hlthaff.2018.05404.

Access Model, or that the original projected increased enrollment by Georgia would negatively impact premiums. As such, the Departments also do not have data or other information at this time that provides evidence that premiums in the Marketplace will increase due to the Georgia Access Model and that those increases would more than offset premium reductions attributable to the state's reinsurance program. As a result, the Departments do not project, at this time, that federal PTC spending would increase under the waiver, in light of the changes in federal law, policy, and other circumstances.

VI. Implementation

Public Comments.

Commenters also noted concerns with the State's implementation of the Georgia Access Model but explained they were limited in providing input due to the lack of information made available to them on the State's implementation planning for the Model. In particular, one commenter noted that the STCs require the State to submit an operational report and an outreach and communications plan to the Departments. However, these documents have not been made publicly available. In addition, the commenter asserted the State also violated STC 3, which requires the State to notify the public of OEP dates for plan year 2023, further noting that, as of the end of the federal public comment period, January 9, 2022, the State had not communicated the OEP dates for plan year 2023. The commenter also noted that the Departments' waiver approval letter explained that the State would "closely engage with local community organizations, advocacy groups, and other stakeholders who work directly with vulnerable populations to provide the necessary support to these individuals." The commenter explained that this has also not occurred and stakeholders representing consumers have been shut out of the process of developing or commenting on the State's outreach and communications plan.

Commenters were also concerned about auto re-enrollment under the Georgia Access Model since they have not seen details on this process. Commenters further noted that Georgia has thus far only allotted one-third of the funding needed for the transition, and the State has spent most of it on technology and little on consumer outreach and engagement. Commenters were concerned that the State and its private sector partners cannot match the federal government's spending on advertising and outreach, and hard-to-reach populations will not be serviced with the elimination of unbiased, in-person assistance.

One commenter in support of the Georgia Access Model noted that Georgia has demonstrated its commitment to the success of the Georgia Access Model and continues to build momentum through engagement with web brokers, carriers, and agent organizations. The commenter also emphasized that the State has made significant human and financial investments in implementing and operationalizing the Georgia Access Model. From hiring dedicated staff, to implementing necessary technical upgrades, to state systems, to planning for a statewide marketing and outreach campaign, the commenter asserted the State recognizes the responsibility it has undertaken to reach and support underserved communities across Georgia.

Departments' Response.

The Departments appreciate the feedback shared by commenters. However, these comments did not inform our evaluation of whether the State complied with its obligations under the STCs or whether the waiver, with the Georgia Access Model in place, satisfies the statutory guardrails

given recent changes in federal law, policy, and other circumstances. Accordingly, we did not consider these comments in reaching decisions on suspending implementation of the Georgia Access Model.

Nevertheless, we note that we have continued to work with Georgia on implementation planning since the November 2020 approval of the State's waiver. Georgia did submit an operational report to the Departments as required in the STCs; however, the State and Departments have not made this operational report available publicly to date. We agree with the commenters that it would be ideal for the State to engage with stakeholders as it develops its plans, and we continue to encourage Georgia to do so. Unfortunately, the State's operational report has not included engagement with community stakeholders to date, and the State has largely been engaging with issuers and web brokers. We agree the State should focus more on conducting specific outreach with community stakeholders to ensure a diverse representation of interests as part of the planning and implementation for the Georgia Access Model.

Regarding auto re-enrollment, the State operational report provides that the State would conduct auto re-enrollment for consumers who elected the auto re-enrollment option, and, once previously enrolled consumer data is migrated from the FFE, all consumers enrolled in 2021 plan year coverage through the FFE would receive a notice from the State. This notice would provide information on the data migration, the OEP 2023 dates, and how to shop for and enroll in coverage under the Georgia Access Model.

The Departments share commenters' concerns that the State's budget for outreach and education is $4 million, which is less than the FFE would spend and could result in decreased enrollment, particularly during the transition year from the FFE to the Georgia Access Model and especially among hard-to-reach populations. As detailed elsewhere in this letter, the Departments would be suspending implementation of the Georgia Access Model in part because of the projected coverage losses under the waiver, with the Georgia Access Model in place.

To date, the Departments are aware that the State has not made the public aware of the dates for 2023 OEP or the eligibility criteria for QHPs and financial assistance on the Department of Community Health, Office of Commissioner of Insurance and Safety Fire, or other State website as specified in STC 3.[64] The Departments will engage with Georgia regarding the dates for OEP and eligibility criteria for coverage as part of monitoring the waiver.

VII. Health Equity

Public Comments

Overall, commenters in opposition to the Georgia Access Model noted that implementation of the Georgia Access Model would be contrary to Executive Order 13985 and the recent preamble, to section 1332 regulations.[65] Commenters expressed general concerns that the Georgia Access Model would perpetuate systemic barriers to coverage for people of color and underserved communities, including but not limited to no- and low-income people, racial and ethnic

[64] Georgia STC 3 states: "The state must notify the public that the open enrollment dates for plan year 2023 in the Georgia Access Model will be the same as those for the federal open enrollment period and that eligibility criteria for QHP coverage, APTCs, and CSRs remains unchanged."

[65] 86 FR 53412

minorities, people with limited English proficiency, people with low health literacy, rural residents, people identifying as LGBTQ+, pregnant women and new mothers, people with disabilities, people with chronic conditions, and the uninsured. Furthermore, commenters noted that considering that Navigators and assisters are five times more likely to serve the uninsured, and are required to provide culturally appropriate help, without access to Navigators under the Georgia Access Model, underserved communities and children in Georgia will be negatively impacted.[66] One commenter argued that the Departments should more closely scrutinize the Georgia Access Model because the State did not analyze its impact on equity, and recommended the Departments require Georgia to conduct an assessment of the Georgia Access Model's impact on underserved communities. Other commenters indicated the Georgia Access Model also violates Executive Order 14009, which calls for strengthening Medicaid and the ACA.

A few commenters in support of the Georgia Access Model expressed their view that the Georgia Access Model would help address health equity concerns. One commenter expressed that the Georgia Access Model would expand outreach to a broad range of consumers, including gig economy workers; early retirees; minority-owned businesses; Spanish-speaking populations; faith-based organizations; community-based organizations in African American, Latino, and Asian American communities; American Indian tribes; rural health organizations; and LGBTQ+-serving organizations. Another commenter asserted that the waiver would help increase coverage, thereby reducing the amount of uncompensated care in hospital settings.

Departments' Response.
The Departments appreciate the health equity comments shared by stakeholders. However, these comments did not inform our evaluation of whether the State complied with its obligations under the STCs or whether the waiver, with the Georgia Access Model in place, satisfies the statutory guardrails given recent changes in federal law, policy, and other circumstances. Accordingly, we did not consider these comments in reaching decisions on suspending implementation of the Georgia Access Model.

Nevertheless, we note that in 2020, nationally an estimated 11.6 percent of Americans lived in poverty; the majority of whom identified as racial or ethnic minorities: nearly 20 percent identified as Black, 17 percent as Hispanic, 8 percent as Asian/Native Hawaiian Pacific Islander, 21 percent as Native American/Alaska Native, 13 percent as multiple races, and 8 percent as White.[67] In Georgia, in 2020 an estimated 13.4 percent of residents lived in poverty, of which nearly 19 percent were Black, 18 percent Hispanic, and 10 percent White.[68] It is important that vulnerable populations have the support they need to obtain affordable and comprehensive coverage that meets their individual or family's needs. The Departments agree with commenters that low-income individuals may have difficulty enrolling in coverage under the Georgia Access Model, especially those that have lower health literacy. As commenters cited, one study showed

[66] Commenters cited two studies, including: Karen Pollitz, Jennifer Tolbert and Ashley Semanskee, "2016 Survey of Health Insurance Marketplace Assister Programs and Brokers," Kaiser Family Foundation, June 2016, available at https://files.kff.org/attachment/2016-Survey-of-Marketplace-Assister-Programs-and-Brokers, and Rebecca Myerson and Honglin Li, "Information Gaps and Health Insurance Enrollment: Evidence from the Affordable Care Act Navigator Programs," Dec 7, 2021, available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3966511.
[67] KFF estimates based on the U.S. Census Bureau's March Current Population Survey (CPS: Annual Social and Economic Supplements), 2017-2021. Available at https://www.kff.org/other/state-indicator/poverty-rate-by-race-ethnicity-cps/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D.
[68] *Ibid.*

that Navigators and assisters are five times more likely to serve the uninsured than brokers, and are required to provide culturally appropriate help.

Should Georgia submit a corrective action plan, we have explained that, as part of that plan, the state should demonstrate that the investments in outreach and enrollment assistance under the Georgia Access Model will be sufficient to overcome the projected coverage losses by Acumen, net of any coverage increases due to reinsurance.

While a few commenters asserted that the Georgia Access Model would help address health equity concerns by expanding outreach to different groups and thereby expanding coverage, the State's current Operational Report does not reflect sufficient information on engagement by the State with underserved communities or community-based organizations. The Departments have very little information on the State's plans to support underserved communities. It is important that all partners–whether under the Georgia Access Model or the FFE–make the necessary tools available to help underserved populations enroll in coverage. This could include providing Spanish or other non-English language companion sites and conducting non-English language advertising, as appropriate.

The Departments have determined that because of changes in federal law, policy, and other circumstances, including substantially increased enrollment over the past two years and anticipated Navigator spending in PY 2023, the Georgia waiver, with the Georgia Access Model in place, would provide coverage to fewer people than would be enrolled, compared to without the waiver. Accordingly, we have concluded that the waiver, with the Georgia Access Model in place, currently does not comply with the coverage guardrail.[69] As outlined in this letter, should Georgia submit a corrective action plan to bring its waiver into compliance with the coverage guardrail, Georgia should include additional details in the outreach and communications plan on engagement with underserved populations.[70]

[69] As detailed in this letter, the Departments also determined the State materially failed to comply with the terms of its section 1332 waiver, which provides a second independent basis to suspend implementation of the Georgia Access Model, Part II of Georgia's section 1332 waiver.

[70] To the extent these communities will experience a drop in enrollment under the waiver with the Georgia Access Model in place that is the same as or greater than the drop in enrollment experienced by socially advantaged communities, if Georgia believes that additional outreach to underserved groups can increase enrollment, the corrective action plan should include specific details about how such outreach will address engagement with underserved communities.