



October 17, 2023

Lina Choudhry Rashid
Centers for Medicare & Medicaid Services (CMS)
Center for Consumer Information and Insurance Oversight (CCIIO)
7501 Wisconsin Ave
Bethesda, MD 21814
e-mail: Lina.Rashid@cms.hhs.gov
Phone #: 202-260-6098

Re: Letter of Intent to Extend the Section 1332 Reinsurance Program -
Pennsylvania Reinsurance Program (PA-Re)

Dear Ms. Rashid:

The Pennsylvania Insurance Department is pleased to submit this letter of intent to apply for an extension of its State Relief and Empowerment Waiver ("Waiver") under Section 1332 of the Patient Protection Affordable Care Act ("PPACA"), originally approved as of August 4, 2020. Pennsylvania has a waiver of the PPACA requirement for a single risk pool under which it implemented a reinsurance program that is in effect for up to five years beginning with plan year 2021, ending Dec. 31, 2025. Pennsylvania's Reinsurance Program (PA-Re) was enabled by Act 42 of 2019 and continues to provide measurable savings. PA-Re plays a significant role in driving individual market premiums down. PA-Re under the 1332 waiver, has reduced premiums between four to six percent lower than they would have been without the waiver. These are exciting measures for the over 425,000 lives who enroll in the individual health insurance market in Pennsylvania.

The Pennsylvania Insurance Department ("Department") submits this Letter of Intent advising of its intent to apply for an extension of the Waiver. The extension application is intended to be submitted according to the timeline as required by ¶10 of the Pennsylvania 1332 Waiver Approval Standard Terms and Conditions (STCs). The waiver will continue to align with the guardrails established by Section 1332.

If you have any questions regarding this Letter of Intent to extend the Section 1332 Reinsurance Program, please feel free to contact me directly via phone or email.

Sincerely,

A handwritten signature in black ink, appearing to read "Shannen Logue", is written over the typed name and title.

Shannen Logue, Deputy Insurance Commissioner
Office of Product Regulation

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



November 14, 2023

VIA ELECTRONIC MAIL: slogue@pa.gov

Shannen Logue
Deputy Insurance Commissioner
Office of Product Regulation
Pennsylvania Insurance Department
1209 Strawberry Square
Harrisburg, PA 17120

Dear Deputy Insurance Commissioner Logue:

Thank you for your October 17, 2023, letter of intent (LOI) to apply for an extension of Pennsylvania's State Innovation Waiver (section 1332 waiver) under Section 1332 of the Affordable Care Act (ACA). I am sending this letter from the Center for Consumer Information and Insurance Oversight (CCIIO) within the Centers for Medicare & Medicaid Services (CMS) under the Department of Health & Human Services (HHS), as well as on behalf of the Department of the Treasury (collectively, the Departments).

The Departments acknowledge that the state has informed the Departments at least one year prior to the waiver's end date, as required by the specific terms and conditions (STCs) governing Pennsylvania's (hereafter referred to as the "state") waiver,¹ of the state's intent to apply for continuation of the waiver. The Departments confirm that the state's anticipated section 1332 waiver application, as described below, may be submitted and will be reviewed as a waiver extension request. The requirements for the state's waiver extension application are enclosed with this letter. If the extension is approved, the Departments may determine the waiver extension will be subject to additional or revised requirements, which will be provided in the extension STCs.

The state's currently approved waiver of the ACA requirement for the single risk pool contained in ACA section 1312(c)(1) allows the state to operate a state-based reinsurance program for the individual health insurance market from January 1, 2021, through December 31, 2025. The state has confirmed that it seeks to waive ACA section 1312(c)(1) for an additional waiver period of five years from January 1, 2026, through December 31, 2030. The state aims to continue implementing the section 1332 waiver to support Pennsylvania's continued success in making health insurance more affordable and accessible to Pennsylvanians.

¹ See STC 10. The applicable STCs are available here: <https://www.cms.gov/ccio/programs-and-initiatives/state-innovation-waivers/downloads/1332-pa-approval-stcs.pdf>

A waiver extension is an extension of the existing waiver terms and does not propose any changes to the existing waiver that are not otherwise allowable under the state's STCs, or that could impact any of the section 1332 statutory guardrails or program design. Given that the state has not indicated any intentions to change any features of its waiver plan (except for the extended time period), the state may proceed with submitting an application for a waiver extension. The Departments encourage the state to submit its waiver extension application sufficiently in advance of the requested waiver effective date, ideally no later than the first quarter of 2024.

The enclosed document further outlines the application requirements for the state's waiver extension. Once the Departments receive the state's waiver extension application, the Departments will conduct a preliminary review to determine if the application is complete or will identify if elements are missing from the application by written notice. Please note, the state is not authorized to implement any aspect of the proposed waiver extension without prior written approval by the Departments. This letter does not constitute any pre-determination or intent to approve the state's proposed extension request.

Please send your acknowledgement of this letter and any communications and questions regarding program matters or official correspondence concerning the waiver to Lina Rashid at Lina.Rashid@cms.hhs.gov or stateinnovationwaivers@cms.hhs.gov.

We look forward to working with you and your staff. Please do not hesitate to contact us if you have any questions.

Sincerely,

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

Ellen Montz, Ph.D.
Director, Center for Consumer Information & Insurance Oversight (CCIIO)
Deputy Administrator, Centers for Medicare & Medicaid Services (CMS)

CC: Lily Batchelder, Assistant Secretary for Tax Policy, U.S. Department of the Treasury
The Honorable Josh Shapiro, Governor, Commonwealth of Pennsylvania
Michael Humphreys, Insurance Commissioner, Pennsylvania Insurance Department

Enclosure

Specific Requirements for Pennsylvania's Waiver Extension Application

The Departments will conduct a preliminary review of Pennsylvania's (hereafter referred to as the "state") waiver extension application and make a preliminary determination as to whether it is complete within approximately 30 days after it is submitted to stateinnovationwaivers@cms.hhs.gov. If the Departments determine that the application is complete, the application will be made public through the Department of Health and Human Services website, and a 30-day federal public comment period will commence while the application is under review. If the Departments determine that the application is not complete, the Departments will send the state a written notice of the elements missing from the application. The state's waiver extension application must include the following:

- (1) A detailed description of the extension request, including the desired time period for the extension. The state must confirm there are no changes to the current waiver plan for the new waiver period that are otherwise not allowable under the state's STCs, or that could impact any of the section 1332 statutory guardrails or program design;
- (2) Updated economic or actuarial analyses for the extension period, if the state is aware of changes in state law, the state insurance market, or to the waiver program that are allowable under the STCs and impact waiver assumptions and projections, and that the state has not previously shared with the Departments via its reporting requirements;
- (3) Preliminary evaluation data and analysis of observable outcomes from the existing waiver program, which includes quantitative or qualitative information on why the state believes the program did or did not meet the statutory guardrails. For example, the state may provide information comparing the originally projected premium reductions or expected claims reimbursements to the actual values of the outcomes observed;
- (4) Evidence of sufficient authority under state law(s) in order to meet the ACA section 1332(b)(2)(A) requirement for purposes of pursuing the requested extension;
- (5) An explanation and evidence of the process to ensure meaningful public input on the extension request, which must include:
 - a. For a state with one or more Federally-recognized Indian tribes within its borders, providing a separate process for meaningful consultation with such tribes, and providing written evidence of the state's compliance with this requirement;
 - b. Publicly posting the submitted LOI on the state's website to ensure that the public is aware that the state is contemplating a waiver extension request; and
 - c. Publicly posting the waiver extension application on the state's website upon its submission of the waiver extension application to the Departments.

The state does not have to meet all of the public notice requirements specified for new waiver applications in 31 C.F.R. § 33.112 and 45 C.F.R. § 155.1312 (e.g., holding two public hearings and providing a 30-day comment period) to fulfill paragraph (5) above. However, the state must ensure and demonstrate there was an opportunity for meaningful public input on the extension request. For

example, the state may choose to hold one public hearing or provide an amended or shorter comment period, or some combination of both. If the state holds one public hearing, it can use its annual public forum for the dual purposes of gathering input on the existing waiver as well as the extension application request.

- (6) The Departments may request additional information and/or analysis in order to evaluate and reach a decision on the requested extension.