

## Overview of Waiver Concept Templates and Papers

In 2018, the Department of the Treasury and the Centers for Medicare & Medicaid Services (CMS) in the Department of Health and Human Services (collectively, the Departments) issued guidance expanding a state's flexibility to request waivers from certain Patient Protection and Affordable Care Act (PPACA) requirements under section 1332 of the PPACA.<sup>1</sup> Shortly after issuing this guidance, CMS published a discussion paper that outlined four waiver concepts to illustrate how states might take advantage of this new flexibility to improve their insurance markets.<sup>2</sup> Based on past experience with both section 1332 waivers and demonstration projects in Medicaid authorized under section 1115 of the Social Security Act, CMS determined that states may benefit from additional resources that provide more detailed information on how to apply for a section 1332 waiver. Therefore, CMS has developed separate papers on the waiver concepts paired with model templates, which are designed to assist states with the preparation and submission of a section 1332 waiver application. In addition, CMS is releasing an updated general application checklist of required elements for any section 1332 waiver application.

**Waiver Concept Papers:** The main purpose of the waiver concept papers is to make each waiver concept more easily understandable to state policy makers and the general public. Therefore, each concept paper includes an overview that provides a simple explanation of the waiver concept and highlights how states take advantage of the flexibilities available under the law, improve insurance markets and make additional coverage options available to their residents. The papers also provide background information on section 1332 waivers and a detailed description of the waiver concept. The detailed description is largely drawn from language included in the Waiver Concepts Discussion Paper released November 2018, but with modifications to help better explain the waiver concepts by, for example, highlighting important information and adding examples.

The waiver concept papers are tailored to each of the four waiver concepts, including State Specific Premium Assistance, Adjusted Plan Options, Account-Based Subsidies, and Risk Stabilization Strategies. The Risk Stabilization Strategies concept and template focuses on a State Complex Care Plan (SCCP) waiver that reimagines a traditional high-risk pool and provides states the opportunity to offer better coverage to people with complex health care needs with the flexibility to adopt innovative strategies similar to those used by self-funded employer plans. While reinsurance waivers are included in the Risk Stabilization Strategies concept, we believe that states are already familiar with reinsurance waivers, so we wanted to expand on alternative ideas available under the Risk Stabilization Strategies concept.

**Waiver Templates:** Each waiver concept paper is paired with a waiver template. Every waiver template outlines the required and suggested sections and topics that a state should address in their application. Each section starts with a "Note to states" to help provide high-level explanation of the section and what states should consider in filling it out. Within the sections, there are additional "Notes to states" to highlight key issues. Each section then includes a sample of draft language states can start from to draft the narrative part of the application. The draft language does not provide an example of a

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<sup>1</sup> <https://www.govinfo.gov/content/pkg/FR-2018-10-24/pdf/2018-23182.pdf>

<sup>2</sup> November 29, 2018 Discussion Paper. Section 1332 State Relief and Empowerment Waiver Concepts: Discussion Paper. Available: <https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Downloads/Waiver-Concepts-Guidance.PDF>

complete draft. Rather, it includes an example of draft language that is interspersed with bracketed areas indicating where states should fill in their own information.

The templates are designed to be general enough to accommodate a wide variation of approaches under each waiver concept. Where appropriate, the templates identify areas of flexibility and variations states may want to consider.

The templates also reiterate that use of this template is optional and does not guarantee waiver approval by the Departments. The template is only intended to be a resource for states to use while developing section 1332 waiver applications.

The waiver concept papers and templates will be published as a tool on the 1332 website.

**Waiver Checklist:** CMS is also updating the reinsurance checklist issued in 2017 to instead provide a general checklist that applies to any 1332 waiver application to reflect the 2018 guidance. The reinsurance checklist was very well received by states and proved to be very useful. As states consider different 1332 waivers, this updated checklist will itemize the elements that are required to be included in any 1332 waiver application (including specific information about the four waiver concepts) and a citation to the regulatory provisions that each element satisfies. The checklist will be published separately as a tool on the 1332 website.