



750 E. Pratt St., 6th floor  
Baltimore, MD 21202  
[marylandhbe.com](http://marylandhbe.com)

December 15, 2022

The Honorable Xavier Becerra  
Secretary of Health and Human Services  
Department of Health & Human Services  
200 Independence Avenue SW  
Washington, DC 20201

The Honorable Janet Yellen  
Secretary of the Treasury  
Department of the Treasury  
1500 Pennsylvania Avenue NW  
Washington, DC 20220

Submitted via e-mail

Dear Secretary Becerra and Secretary Yellen,

The Maryland Health Benefit Exchange (MHBE) is pleased to submit this letter of intent to apply for a five-year extension of the state's Section 1332 State Innovation Waiver, for the period beginning January 1, 2024 and ending December 31, 2028. Aside from extending the timeframe of the waiver, we do not plan to propose any major changes to our waiver in the extension application. The waiver will continue to adhere to the guardrails established by Section 1332.

In 2018, the Maryland General Assembly passed bipartisan legislation, signed into law by Gov. Larry Hogan, to establish the reinsurance program to address rising health insurance premiums in Maryland's individual market. On August 22, 2018, the Department of Health and Human Services and Department of Treasury approved Maryland's application to waive the single risk pool requirement in the individual market under section 1312(c)(l) of the Patient Protection and Affordable Care Act in order to implement a state-based reinsurance program.

Following federal approval of the state's original 1332 waiver application, MHBE, in consultation with the Maryland Insurance Administration, implemented a state reinsurance program beginning January 1, 2019. The reinsurance program has been critical to stabilizing our individual health insurance market, resulting in 2023 average rates that are more than 25% lower than 2018, the year prior to the program's launch. These lower rates have helped to drive significant increases in enrollment in the individual market, which grew more than 22% between June 2019 and June 2022.

A waiver extension will support Maryland's continued success in making health insurance more affordable and accessible to Marylanders. Thank you in advance for considering our application, which we intend to submit by March 31, 2023. We look forward to engaging with you in the coming months.

Sincerely,

A handwritten signature in black ink that reads "Michele Eberle".

Michele Eberle  
Executive Director  
Maryland Health Benefit Exchange

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



---

January 13, 2023

**VIA ELECTRONIC MAIL:** [michele.eberle@maryland.gov](mailto:michele.eberle@maryland.gov)

Michele Eberle, M.B.A.  
Executive Director  
Maryland Health Benefit Exchange  
750 East Pratt Street, 6th Floor  
Baltimore, MD 21202

Dear Director Eberle:

Thank you for your December 15, 2022 letter of intent (LOI) to apply for an extension of Maryland'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 Maryland's (hereafter referred to as the "state") waiver,<sup>1</sup> 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, 2019 through December 31, 2023. As described in the LOI, the state seeks to waive ACA section 1312(c)(1) for an additional waiver period of five years from January 1, 2024 through December 31, 2028. The state aims to continue implementing the section 1332 waiver to support Maryland's continued success in making health insurance more affordable and accessible to Marylanders.

---

<sup>1</sup> See STC 9. The applicable STCs are available here: <https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Downloads/1332-STC-MD-Signed.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 indicated it does not intend 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 2023.

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](mailto:Lina.Rashid@cms.hhs.gov) or [stateinnovationwaivers@cms.hhs.gov](mailto: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 Wes Moore, Governor, State of Maryland  
Kathleen A. Birrane, Commissioner, Maryland Insurance Administration  
Johanna Fabian-Marks, Director, Policy and Plan Management, Maryland Health Benefit Exchange

Enclosure

## Specific Requirements for Maryland's Waiver Extension Application

The Departments will conduct a preliminary review of Maryland'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](mailto: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.