



**Delaware Health  
and Social Services**

**Office of the Secretary**

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July 10, 2019

The Honorable Steven Mnuchin  
Secretary of the Treasury  
Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, D.C. 20220

The Honorable Alex Azar  
Secretary of Health and Human Services  
Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, D.C. 20201

Dear Secretary Mnuchin and Secretary Azar:

The State of Delaware respectfully requests that the U.S. Department of Treasury and the U.S. Department of Health and Human Services grant Delaware's application for a Section 1332 State Innovation Waiver as soon as possible. As detailed in this application, Delaware is requesting that Section 1312(c)(1) of the Affordable Care Act (ACA) be waived for a period of up to five years beginning in the 2020 plan year to implement a state-based reinsurance program. This waiver will not affect any other provision of the ACA, adheres to the general guardrails established by Section 1332, and advances several of the principles recently outlined in October 2018 guidance released the Centers for Medicare and Medicaid Services (CMS).

Since calendar year 2015, Delaware has seen the number of health insurance issuers offering comprehensive coverage in its Individual market decline to just one, while insurance rates in the Individual market have risen considerably (e.g., average rate increases greater than 20% in 2017 and equal to 25% in 2018). As the number of issuers offering coverage in Delaware's Individual market have declined and premium rates have continued to increase, it is estimated that the number of individuals enrolled in the Individual ACA market has declined by approximately 37% between 2016 and 2019.

As demonstrated in the actuarial analysis included as part of this application, the proposed reinsurance program is expected to help stabilize Delaware's Individual market by lowering premium rates, increasing enrollment, and improving the morbidity of the single risk pool overall. Through its impact of lowering Individual market premium rates, the primary goal of the proposed reinsurance program will be to help ensure that health care is as accessible and affordable as possible for our citizens. With your assistance at the federal level, including federal pass-through funds and an expedited approval, I believe that we can achieve that goal.

Sincerely,

A handwritten signature in black ink that reads "Kara Odom Walker".

Kara Odom Walker, MD, MPH, MSHS  
Cabinet Secretary  
Delaware Department of Health and Social Services

**"TO IMPROVE THE QUALITY OF LIFE FOR DELAWARE'S CITIZENS BY PROMOTING HEALTH AND WELL-BEING,  
FOSTERING SELF-SUFFICIENCY, AND PROTECTING VULNERABLE POPULATIONS."**

**STATE OF DELAWARE  
1332 STATE INNOVATION WAIVER  
APPLICATION TO ESTABLISH A STATE  
REINSURANCE PROGRAM**



DELAWARE DEPARTMENT OF HEALTH AND SOCIAL  
SERVICES  
DR. KARA ODOM WALKER, SECRETARY

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## Overview

### *Request*

Dr. Kara Odom Walker, Secretary of the Delaware Department of Health and Social Services, on behalf of the State of Delaware, is submitting this application to the Centers for Medicare and Medicaid Services (CMS), a division of the United States Department of Health and Human Services (HHS), and to the United States Department of the Treasury, for a waiver of certain provisions of the Patient Protection and Affordable Care Act, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, together referred to as the Affordable Care Act (ACA), as authorized by section 1332 of that Act. Delaware's 1332 waiver application seeks to waive section 1312(c)(1) of the ACA for the purpose of establishing a state-based, and state-administered reinsurance program. If approved, the Section 1332 Waiver, as proposed, is targeted to be effective January 1, 2020, for an initial period of up to five years. This waiver will not affect any other provision of the ACA but is expected to result in a lower market-wide index rate, thereby lowering premiums and reducing the federal cost of premium tax credits (PTCs).

### *Basis for Request and Goal of Reinsurance Program*

Delaware's Individual market for health insurance has experienced significant challenges since calendar year 2015. During that time, Delaware has seen the number of health insurance issuers offering comprehensive coverage in its Individual market decline to just one, while insurance rates in the Individual market have risen considerably (e.g., average rate increases greater than 20% in 2017 and equal to 25% in 2018).<sup>1</sup> As the number of issuers offering coverage in Delaware's Individual market have declined and premium rates have continued to increase, it is estimated that the number of individuals enrolled in the Individual ACA market has declined by approximately 37% between 2016 and 2019.

After studying the State's market, population, and morbidity, Delaware believes that a state-based reinsurance program is an effective mechanism to help stabilize its Individual market by reducing rates, increasing enrollment, and improving the morbidity of the single risk pool. By establishing a reinsurance program to reimburse issuers for certain high-cost claims and drive lower premium rates, Delaware's 1332 waiver would reduce premium contributions made by a large number of individuals in the Individual ACA market. At lower premium rates, private Individual health insurance coverage will become more accessible, particularly for those Delawareans who do not receive PTCs.

As membership in the Individual market increases, it would be expected that the potential for year-to-year volatility in both the claim costs owed by issuers and corresponding premium contributions made by consumers would be reduced. Additionally, as individuals who are currently uninsured enroll in the Individual market, costs associated with uncompensated care for health providers would be expected to be reduced. Through these efforts to drive increased stability in the Individual market and lower uninsured rates in the State, Delaware's 1332 waiver would be expected to encourage more sustainable spending growth both in its Individual market and the overall health insurance market. Further, by helping to stabilize the State's Individual market, the 1332 waiver would enhance the potential for increased competition among issuers in future years, which would further increase the potential for greater consumer choice in the market.

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<sup>1</sup> <https://news.delaware.gov/2016/10/06/delaware-insurance-department-releases-2017-health-insurance-rates-for-aca-marketplace-plans/>; <https://www.delawareonline.com/story/news/health/2017/10/05/highmarks-obamacare-policies-rise-25-percent-delaware/732278001/>

### *Operation, Funding, and Impact of the Delaware Reinsurance Program*

Senate Concurrent Resolution 70 (SCR 70) was passed on June 28, 2018 and authorizes the State's 1332 waiver application. The state-based reinsurance program and the securement of a funding source for the program are established in House Bill 193 (HB 193). HB 193 was passed and signed by Governor Carney on June 20, 2019. The Act creates the Delaware Health Insurance Individual Market Stabilization Reinsurance Program & Fund and assigns the Delaware Health Care Commission (DHCC) with the responsibility of administering the program in order to provide reinsurance to health insurance issuers that offer comprehensive individual health benefit plans in Delaware.

The sources of funding for the proposed reinsurance program are expected to be as follows:

- 1) Federal pass-through funding provided in response to this waiver application
- 2) A premium assessment to be applied to specified issuers

Through this 1332 waiver application, Delaware is requesting that Treasury "pass-through" to its reinsurance program the cost savings from reduced federal outlays for PTCs resulting from the reduction in rates in the Individual market due to the reinsurance program. Additionally, HB 193 authorizes the Insurance Commissioner to assess issuers to finance the State's portion of the cost of the proposed reinsurance program (i.e., the cost which is not financed through federal pass-through funds).<sup>2</sup>

The assessment is to be equally applied to all issuers based upon their premium tax liability, or the amount of the issuer's premium tax exemption value for the previous calendar year. The assessment is proposed to be 2.75% annually in years that the Health Insurance Providers Fee (i.e., as defined under 9010 of the Affordable Care Act) is waived, and 1.00% of premium annually in years that the Health Insurance Providers Fee is assessed. The purpose of the state assessment is to fully finance the State's liability related to the proposed reinsurance program. Per HB 193, the State of Delaware may not hold funds of more than 5 years of estimated operating and administrative expenses needed to cover the expected cost of the reinsurance program. In the event collections exceed that amount, the State must notify the issuers that the following year's assessment will be waived.

The proposed reinsurance program will reimburse issuers who offer comprehensive coverage in Delaware's Individual market for a percentage (coinsurance percentage) of the annual claims which they incur on a per member basis between a specified lower threshold (attachment point) and upper threshold (reinsurance cap), to be determined each year by the DHCC. For the 2020 plan year, the State is anticipating a reinsurance program with an attachment point of \$65,000, a coinsurance rate of 75.0%, and a reinsurance cap of \$215,000.<sup>3</sup> At those parameters, the proposed reinsurance program is expected to lower issuer costs in Delaware's Individual ACA market by 13.0% and improve morbidity in the risk pool by as much as 0.8%, resulting in an overall reduction to premium rates (i.e., relative to if no reinsurance program were in place) equal to 13.7% and increasing enrollment in the Individual ACA market by as much as 2.3%. In future years, the reinsurance program will be expected to reduce issuer costs in the individual ACA market by an average of 13.0% to

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<sup>2</sup> Any entity that provides health insurance in the State of Delaware. Issuer includes an insurance company, health service corporation, health maintenance organization, and any other entity providing a plan of health insurance or health benefits subject to Delaware state insurance regulation.

<sup>3</sup> These parameters are still in the process of being reviewed and will be finalized after further analysis and consultation with key stakeholders. It is expected that DHCC will finalize the parameters to be used for the 2020 plan year by no later than January 1, 2020.

20.0%, depending on the level of funding expected to be available for each calendar year.<sup>4</sup>

### *Compliance with Section 1332*

Delaware's 1332 waiver, if approved, would reduce premium contributions made by a number of individuals (e.g., those individuals who do not receive PTCs), making coverage more affordable. At lower premium rates, Delaware's 1332 waiver is expected to increase the number of enrollees in the Individual market. The waiver will have no material impact on premiums, comprehensiveness, or enrollment in group coverage or public programs.

Delaware's 1332 waiver would not require or encourage issuers to alter cost-sharing designs or network coverage. Delaware's 1332 waiver also does not in any way seek to alter the requirements of coverage under state benefit mandates or under the ACA's required coverages, including the essential health benefits requirement under section 2707 of the Public Health Service Act.

Finally, Delaware's 1332 waiver, if implemented, would not increase the federal deficit. The reinsurance program proposed in Delaware's 1332 waiver would seek pass-through funding that is equal to, but not greater than, the amount of money in PTCs that Treasury would otherwise pay without a reinsurance program under a 1332 waiver, offset by the corresponding reduction in projected revenue from Exchange User Fees.

## **I. Delaware 1332 Waiver Request**

Delaware's Individual market for comprehensive health insurance has experienced significant challenges since calendar year 2015. During that time, Delaware has seen the number of health insurance issuers offering coverage in its Individual market decline to just one, while insurance rates in the Individual market have risen considerably (e.g., average rate increases greater than 20% in 2017 and equal to 25% in 2018). As the number of issuers offering coverage in Delaware's Individual market have declined and premium rates have continued to increase, it is estimated that the number of individuals enrolled in the Individual ACA market has declined by approximately 37% between 2016 and 2019.

Delaware believes that a sustainable, affordable Individual market for health insurance is important. As a result, Dr. Kara Odom Walker, Secretary of the Delaware Department of Health and Social Services, on behalf of the State of Delaware, is submitting this application to the Centers for Medicare and Medicaid Services (CMS), a division of the United States Department of Health and Human Services (HHS), and to the United States Department of the Treasury, for a waiver of certain provisions of the Patient Protection and Affordable Care Act, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, together referred to as the Affordable Care Act (ACA), as authorized by section 1332 of that Act.

Delaware's 1332 waiver application seeks to waive section 1312(c)(1) of the ACA for the purpose of establishing a state-based, and state-administered reinsurance program.<sup>5</sup> If

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<sup>4</sup> In years where there is no moratorium on the Health Insurance Providers Fee, a 1.0% premium assessment will be charged to finance the program; In years where there is a moratorium on the Health Insurance Providers Fee, a 2.75% premium assessment will be charged to finance the program.

<sup>5</sup> Section 1312(c)(1) states that a "health insurance issuer shall consider all enrollees in all health plans (other than grandfathered health plans) offered by such issuer in the non-group market, including those enrollees who do not



approved, the Section 1332 waiver, as proposed, is targeted to be effective January 1, 2020, for an initial period of up to five years. After studying the State's market, population, and morbidity, Delaware believes that a state-based reinsurance program is an effective mechanism to help stabilize its Individual market by reducing rates, increasing enrollment, and improving the morbidity of the single risk pool. The Delaware reinsurance program will be modeled largely on the Transitional Reinsurance Program that operated in the Individual market from 2014 through 2016 under section 1341 of the ACA and will utilize an attachment-point based model of reinsurance, financed by a premium assessment on health insurance issuers.

Relative to actuarial projections for the 2020 plan year if no reinsurance program were in effect, the proposed reinsurance program is expected to lower issuer costs in Delaware's Individual ACA market by 13.0% and improve morbidity in the risk pool by as much as 0.8%, resulting in an overall reduction to premium rates (i.e., relative to if no reinsurance program were in place) equal to 13.7% and increasing enrollment in the Individual ACA market by as much as 2.3%. In future years, the reinsurance program will be expected to reduce issuer costs in the individual ACA market by an average of 13.0% to 20.0%, depending on the level of funding expected to be available for each calendar year.

## II. Description of 1332 Waiver Proposal

Delaware's 1332 waiver application seeks to implement a state-based reinsurance program to stabilize the Individual market. Delaware's 1332 waiver application will seek approval to waive ACA section 1312(c)(1); Delaware is not seeking approval to waive any other provisions of law. The waiver application submitted by Delaware, if approved and implemented, would take effect for the 2020 plan year, and approval would be expected remain in effect for up to five years.

### *Enabling Legislation*

Senate Concurrent Resolution 70 (SCR 70) was passed on June 28, 2018 and authorizes the State's 1332 waiver application. The state-based reinsurance program and the securement of a funding source for that reinsurance program are established in House Bill 193 (HB 193). HB 193 was passed and signed by Governor Carney on June 20, 2019. The Act creates the Delaware Health Insurance Individual Market Stabilization Reinsurance Program & Fund and assigns the Delaware Health Care Commission (DHCC) with the responsibility of administering the program in order to provide reinsurance to health insurance issuers that offer comprehensive individual health benefit plans in Delaware. More specifically, the DHCC is charged with the following responsibilities associated with the operation of the proposed reinsurance program.

- 1) To provide reinsurance to issuers that offer individual health benefit plans in the State<sup>6</sup>
- 2) Establishing procedures for the handling and accounting of program assets and monies, as well as for an annual fiscal reporting to the Commission, Insurance Commissioner and General Assembly

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enroll in such plans through the Exchange, to be members of a single risk pool."

<sup>6</sup> Any policy offered in the Delaware's Individual market that is subject to the single risk pool requirements of § 1312(c)(1) of the Affordable Care Act

- 3) Annually establishing procedures and parameters for reinsuring risks, including the following: an attachment point, a coinsurance rate, and a coinsurance cap
- 4) Establishing procedures and standards for issuers to submit claims to be reinsured under the program
- 5) Establishing procedures for selecting an administering contractor and setting forth the power and duties of the administering contractor
- 6) Establishing procedures for quarterly reporting or annual reporting, or both, of data under the Section 1332 waiver to demonstrate that the waiver remains in compliance with the scope of coverage, affordability, comprehensiveness and deficit requirements
- 7) Establishing procedures for providing each year the actual Second Lowest Cost Silver Plan premium under the Affordable Health Care Act's [42 U.S.C. § 18001 *et seq.*] § 1332 waiver and an estimate of the premium as it would have been without the waiver
- 8) Providing for any additional matters necessary for the implementation and administration of the reinsurance program

Further, the bill authorizes funding of the State's portion of the cost of the reinsurance program through a premium assessment, described in greater detail in the section which follows.

See Attachment 1 for full copies of the legislation described above.

#### *Reinsurance Program Structure*

The Delaware reinsurance program will be modeled largely on the Transitional Reinsurance Program that operated in the Individual market from 2014 through 2016 under section 1341 of the ACA and will utilize an attachment-point based model of reinsurance. The program will reimburse issuers who offer comprehensive coverage in Delaware's Individual market for a percentage (coinsurance percentage) of the annual claims which they incur on a per member basis between a specified lower threshold (attachment point) and upper threshold (reinsurance cap), to be determined each year by the DHCC.

For the 2020 plan year, the State is anticipating a reinsurance program with an attachment point of \$65,000, a coinsurance rate of 75.0%, and a reinsurance cap of \$215,000. However, these parameters are still in the process of being reviewed and will be finalized after further analysis and consultation with key stakeholders. It is expected that DHCC will finalize the parameters to be used for the 2020 plan year by no later than January 1, 2020. Once finalized, the parameters to be used for the 2020 plan year would not be expected to be modified for any reason.

In utilizing the parameters described, as with the Federal Transitional Reinsurance Program, it is expected that issuers will continue to have incentives to apply their care management practices even after a given member reaches the specified annual attachment point. This is because issuers will be reimbursed for only a portion of a given member's claim costs between the attachment point and reinsurance cap.

#### *Reinsurance Program Funding*

The sources of funding for the proposed reinsurance program will be as follows:

- 1) Federal pass-through funding provided in response to this waiver application
- 2) A premium assessment to be applied to specified issuers

Through this 1332 waiver application, Delaware is requesting that Treasury "pass-through" to its reinsurance program the cost savings from reduced federal outlays for PTCs resulting from



the reduction in rates in the Individual market due to the reinsurance program. Section 1332(a)(3) of the ACA authorizes pass-through funding in 1332 waiver applications.

Correspondingly, HB 193 authorizes the Insurance Commissioner to assess issuers to finance the State's portion of the cost of the proposed reinsurance program (i.e., the cost which is not financed through federal pass-through funds).<sup>7</sup> The assessment is to be equally applied to all issuers based upon their premium tax liability, or the amount of the issuer's premium tax exemption value for the previous calendar year. The assessment is proposed to be 2.75% annually in years that the Health Insurance Providers Fee (i.e., as defined under 9010 of the Affordable Care Act) is waived, and 1.00% of premium annually in years that the Health Insurance Providers Fee is assessed. The purpose of the assessment is to fully finance the State's liability related to the proposed reinsurance program. Per HB 193, the State of Delaware may not hold more than five years of operating and administrative expenses needed to cover the expected cost of the reinsurance program. In the event collections exceed that amount, the State must notify the issuers that the following year's assessment will be waived.

Currently, the Health Insurance Providers Fee is expected to be in place for 2020. In that scenario (i.e., where a 1.00% premium assessment is applied rather than 2.75%), actuarial modeling predicts that Delaware will need to secure \$6.9 million in funding to secure a corresponding estimated \$20.0 million in federal pass-through funding needed to create a reinsurance pool of \$26.9 million for the 2020 plan year, which is expected to result in a 13.7% rate reduction (i.e., including the impact of assumed morbidity improvement) for the 2020 plan year.

### III. Compliance with Section 1332 Guardrails

The ACA contains provisions that encourage states to innovate regarding health insurance coverage and avoid situations where a one-size-fits-all approach implemented through federal regulation may have negative effects in specific states. The provision at the center of this 1332 waiver proposal is Section 1332 of the ACA, which allows states to modify or waive certain provisions of the ACA. However, there are certain "guardrails" in that regulation which place limitations how 1332 waivers can be used by states. The guardrails outlined in Section 1332 of the ACA are described in more detail in guidance published on October 24, 2018. In general, the guardrails are intended to ensure that comprehensive, affordable healthcare coverage continues to be made available in a state to at least as many individuals as would have access absent a waiver, while not increasing the federal deficit.

#### SECTION 1332 GUARDRAILS

##### *Comprehensiveness of Coverage (1332(b)(1)(A))*

The first of the four guardrails requires that any 1332 waiver must ensure access to coverage provided in the market after implementation of the waiver that is "at least as comprehensive" in covered benefits as would be available without the implementation of a 1332 waiver.

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<sup>7</sup> Any entity that provides health insurance in the State of Delaware. Issuer includes an insurance company, health service corporation, health maintenance organization, and any other entity providing a plan of health insurance or health benefits subject to Delaware state insurance regulation.

Delaware's 1332 waiver does not in any way seek to alter the requirements of coverage under state benefit mandates or under the ACA's required coverages, including the essential health benefits requirement under section 2707 of the Public Health Service Act.

#### *Affordability of Coverage (1332(b)(1)(B))*

A 1332 waiver must provide access to "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 available absent implementation of the 1332 waiver. Affordability is measured by comparing an individual's net out-of-pocket spending, including premium contributions, cost-sharing, and spending on non-covered services.

Delaware's 1332 waiver would not require or encourage issuers to alter cost-sharing designs or network coverage. In addition, by establishing a reinsurance program to lower rates, Delaware's 1332 waiver would reduce premium contributions made by a number of individuals (e.g., those individuals who do not receive PTCs) and reduce the cost of comprehensive health insurance in the Individual market. Overall, if approved, this 1332 waiver is expected to make coverage more affordable in the Individual market.

#### *Scope of Coverage (1332(b)(1)(C))*

Section 1332 requires that states must provide coverage to "at least a comparable number of the state's residents" as would have been covered without the waiver.

Delaware's 1332 waiver is expected to increase the number of enrollees in the Individual market due to the reduction in rates resulting from the reinsurance program. Actuarial analyses and projections estimate that the number of Individual market enrollees would increase by about 2.3% over baseline assumptions for the 2020 plan year.

#### *Deficit Neutrality (1332(b)(1)(D))*

Section 1332 requires that a waiver must not increase the federal deficit in each year of the waiver, and over a 10-year budget period. All changes in federal revenues and outlays resulting from an approved 1332 waiver must be considered.

Delaware's 1332 waiver, if implemented, would not increase either the federal deficit or federal revenues or outlays. The reinsurance program proposed in Delaware's 1332 waiver would seek pass-through funding that is equal to, but not greater than, the amount of money in PTCs that Treasury would otherwise pay without a reinsurance program under a 1332 waiver, offset by the corresponding reduction in projected revenue from Exchange User Fees. In other words, federal expenditures would not be expected to change as a result of the waiver.

## **IV. Advancement of Section 1332 Principles**

In its State Relief and Empowerment Waiver guidance released on October 28, 2018, CMS outlined five principle for states to follow as they work to develop innovative new approaches.<sup>8</sup> These include the following: provide increased access to affordable private market coverage, encourage sustainable spending growth, foster state innovation, support and empower those in need, and promote consumer-driven healthcare. In this section, we provide a description of how Delaware's 1332 waiver application aligns with several of these principles.

#### *Provide Increased Access to Affordable Private Market Coverage*

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<sup>8</sup> <https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Downloads/SRE-Waiver-Fact->

By establishing a reinsurance program to lower rates, Delaware's 1332 waiver would reduce premium contributions made by a number of individuals (e.g., those individuals who do not receive PTCs) and reduce the overall cost of private health insurance in the Individual market. At lower premium rates, private health insurance coverage will become more accessible through the Individual market, particularly for those Delawareans who are currently unable to afford Individual market coverage.

#### *Encourage Sustainable Spending Growth*

As noted earlier, Delaware's 1332 waiver is expected to result in lower premium rates in the Individual market and, correspondingly, increased membership. As membership in the Individual market increases, it is expected that the potential for year-to-year volatility in both the claim costs owed by issuers and corresponding premium contributions made by consumers would be reduced. Additionally, as more individuals who are currently uninsured enroll in the Individual market, costs associated with uncompensated care for health providers would be expected to be reduced. Through helping to drive increased stability in the Individual market and lower uninsured rates in the State, Delaware's 1332 waiver is expected to encourage more sustainable spending growth, both in the Individual market and overall.

#### *Support and Empower Those in Need*

Delaware's 1332 waiver is expected to support and empower those in need by helping to ensure that the State's citizens have access to affordable, high value insurance. By driving lower premium rates in the Individual market as well as increased stability, the State's 1332 waiver is expected to help to ensure that Individual ACA-compliant coverage continues to be made available to Delawareans, including to those individuals who have high health costs and/or lower annual household incomes who, prior to the implementation of the ACA, may have found it more difficult to gain access to health insurance coverage.

#### *Foster State Innovation*

After studying the State's market, population, and morbidity, Delaware believes that a state-based reinsurance program would be an effective mechanism to meet the needs of its citizens, helping to stabilize its Individual market by lowering premium rates, increasing enrollment, and improving the morbidity of the single risk pool overall.

#### *Promote Consumer-Driven Healthcare*

By increasing the affordability of private health insurance in the Individual market, Delaware's 1332 waiver supports the continued opportunity for Delawareans to make private consumer choices with respect to which health insurance coverage options may best meet their individual needs. Additionally, by helping to stabilize the State's Individual market, the 1332 waiver enhances the potential for increased competition among issuers in future years, which may further increase the number for private consumer choices which are available in the market.

## V. Draft Waiver Implementation Timeline

Delaware will seek to achieve the following timeline in order to effectuate a reinsurance program for 2020 and future plan years:

Date	Description
5/30/2019	State Public Comment Period began (30 days total)
6/10/2019	HB 193 was filed
6/11/2019	First public hearing held
6/14/2019	Second public hearing held
6/19/2019	Individual QHP rate filing deadline for 2020 plan year
6/20/2019	HB 193 is signed and enacted
6/29/2019	<u>State</u> public comment Period ends
7/8/2019	Reinsurance program parameters are estimated for the 2020 plan year
7/10/2019	Delaware's 1332 waiver application is submitted to the federal government
7/22/2019	Federal government determines waiver application is complete; Federal approval and public comment period begins
8/21/2019	Federal 30-day comment period closes
8/22/2019	Desired federal approval date
8/22/2019	Delaware Department of Insurance approves rates for the 2020 plan year
9/15/2019	DHCC submits pass-through report responses to federal government for 2020 plan year
10/3/2019	CMS sends Certification notices to issuers for 2020 plan year
11/1/2019	Open enrollment for 2020 plan year begins
1/1/2020	Reinsurance program parameters are finalized for the 2020 plan year
1/1/2020	Delaware's reinsurance program under the 1332 waiver commences operation, compliant with both state and federal law and regulations.
4/2020	Federal government submits pass-through payments for 2020 plan year to DHCC
4/15/2020	DHCC submits first quarterly report to federal government
5/1/2020	Reinsurance program parameters are estimated for the 2021 plan year

Date	Description
6/15/2020	State holds required six-month public forum following implementation of the Section 1332 waiver as required by 45 CFR 155.1320(c)
6/19/2020	Individual QHP rate filing deadline for 2021 plan year
7/15/2020	DHCC submits quarterly report to federal government
8/22/2020	Del aware Department of Insurance approves rates for the 2021 plan year
9/15/2020	DHCC submits pass-through report responses to federal government for 2021 plan year
10/3/2020	CMS sends Certification notices to issuers for 2021 plan year
10/15/2020	DHCC submits quarterly report to federal government
11/1/2020	Open enrollment for 2021 plan year begins
1/1/2021	Reinsurance program parameters are finalized for the 2021 plan year
1/15/2021	DHCC submits quarterly report to federal government
3/1/2021	Premium assessments paid by issuers to the Department of Insurance for 2020 plan year
3/1/2021	DHCC submits applicable reinsurance parameters for the 2021 plan year to the federal government
3/15/2021	DHCC submits first annual report to federal government as required by 45 CFR 155.1324(c)
4/2021	Federal government submits pass-through payments for 2021 plan year to DHCC
4/15/2021	DHCC submits quarterly report to federal government
5/1/2021	Reinsurance program parameters are estimated for the 2022 plan year
6/15/2021	State holds required annual public forum
6/19/2021	Individual QHP rate filing deadline for 2022 plan year
7/1/2021	DHCC reimburses issuers for eligible claims from the 2020 plan year
7/15/2021	DHCC submits quarterly report to federal government
8/22/2021	Delaware Department of Insurance approves rates for the 2022 plan year
9/15/2021	DHCC submits pass-through report responses to federal government for 2022 plan year

Date	Description
10/3/2021	CMS sends Certification notices to issuers for 2022 plan year
10/15/2021	DHCC submits quarterly report to federal government
11/1/2021	Open enrollment for 2022 plan year begins

## VI. Actuarial and Economic Analysis

The Delaware Department of Health and Social Services (DHSS) retained Oliver Wyman Actuarial Consulting, Inc (Oliver Wyman) to address the actuarial analysis, actuarial certifications, economic analysis, data and assumptions requirements for the 1332 waiver. Oliver Wyman collected data directly from Delaware's sole issuer to develop the calibration targets for the analysis. See Attachment 2 for Oliver Wyman's report.

## VII. Other Requirements

### *Administrative Burden*

Delaware's 1332 waiver is expected to cause minimal administrative burden and expense to the state and federal governments. The waiver will cause no additional administrative burden to employers and individual consumers because the reinsurance program proposed by Delaware in its 1332 waiver does not relate to the administrative functions or requirements typically undertaken by employers or individuals. The administrative burden to health insurance issuers associated with submitting limited data to Delaware will be minimal; however, most issuers will incur a cost for the financing of the reinsurance program under Delaware's 1332 waiver in the form of the previously described premium assessment.

The State of Delaware will have the resources to conduct the administrative tasks required for a reinsurance program under a 1332 waiver:

- 1) Administration of the reinsurance program;
- 2) Collection and application for pass-through funding;
- 3) Monitoring of compliance with state and federal law;
- 4) Collection and analyses of data related to the 1332 waiver;
- 5) Performing reviews and implementation of the waiver;
- 6) Submitting any annual, quarterly, or other required reports to the Insurance Commissioner, CMS, and Treasury

The 1332 waiver will require the federal government to perform the following administrative tasks, which are minimal in comparison to duties currently performed by the federal government:

- 1) Review documented complaints, if any, related to the 1332 waiver;
- 2) Review state reporting;
- 3) Evaluate the state's 1332 waiver and reinsurance program;
- 4) Calculate and facilitate the transfer of pass-through funds;



- 5) Allow the use of the EDGE server to calculate reinsurance payments. If allowed, the DHCC will provide the federal government with the applicable reinsurance parameters for each plan year through written communication, to be used for calculating issuer reimbursements under the reinsurance program.

#### *Impact on Other ACA Provisions*

The program will have no impact on other provisions of the ACA.

#### *Impact on Access to Out-of-State Services*

Granting this waiver request will not have an impact on carrier networks or service areas when coverage is provided for services performed by out-of-state providers.

#### *Compliance, Fraud, Waste, and Abuse*

The Delaware Department of Insurance (the Department) is responsible for monitoring and requiring carrier compliance with all applicable market conduct standards and for ensuring the solvency of all carriers through continual monitoring and analysis of carrier reporting. This includes the performance of market conduct analysis, exams, and investigations. The Department also provides consumer outreach and protection through response to consumer inquiries and complaints.

Under the proposed waiver, the DHCC will administer the reinsurance program in accordance with its existing compliance and auditing procedures. In addition, the DHCC will be responsible for establishing procedures for the handling and accounting of program assets and monies, as well as for an annual fiscal reporting to the Commission, Insurance Commissioner and General Assembly.

The federal government is responsible for calculating the savings from this waiver and for ensuring that the waiver does not increase federal spending.

#### *Provision of Information Necessary to Administer Waiver at Federal Level*

In addition to providing the required reporting information (discussed in Section VII which follows), if allowed to use the EDGE server to calculate reinsurance payments, the DHCC will provide the federal government with the applicable reinsurance parameters to be used for calculating issuer reimbursements under the reinsurance program for each plan year through written communication, and by no later than March 1<sup>st</sup> of the year following the applicable plan year.

## **VIII. State Reporting Requirements and Targets**

DHCC be responsible for the reporting requirements of 45 CFR 155.1324, including the following:

- 1) Quarterly reports: DHCC will be responsible for submitting quarterly reports, including reports of operational challenges, if any, and plans for and results of associated corrective actions, if applicable. As outlined in the timeline, it is expected that the first quarterly report would be submitted in April 2020.
- 2) Annual reports: DHCC will be responsible for submitting annual reports, including the following:

- a. The progress of the section 1332 waiver
- b. Data on compliance with 1332(b)(1)(A) through (D) (i.e., the four Section 1332 guardrails) of the ACA, consistent with the data being used to support this application's finding as required under 45 CFR 155.1308(f)(4)
- c. A summary of the annual post-award public forum, held in accordance with 45 CFR 155.1320(c), including all public comments received on the progress of the waiver and action taken in response to such concerns or comments
- d. Other information consistent with the State's approved terms and conditions
- e. Any modifications from federal or state law (given there is no change to the provision of the ten Essential Health Benefits)

45 CFR 155.1324(c) indicates that a draft annual report must be submitted to the Secretary no later than 90 days after the end of each waiver year, or as specified in the waiver's terms and conditions. DHCC is expected to submit the first annual report on March 15, 2021.

- 1) Second Lowest Cost Silver Premium: DHCC will provide the actual Second Lowest Cost Silver Plan premium under the waiver and an estimate of the premium as it would have been without the waiver, for a representative consumer in each rating area, on an annual basis. As outlined in the timeline, this information is expected to be provided for the first time on September 15, 2019.

## IX. Public Comments and Hearings

### *Public Comments*

On May 29, 2019, the Delaware Department of Insurance commenced public comment on this waiver request. The Department posted notice of the opportunity to comment on the Department's website, [www.insurance.delaware.gov](http://www.insurance.delaware.gov). The Department issued notices for each public hearing to two local newspaper publications.<sup>9</sup>

On June 11, 2019, the Department held a public meeting in the Sussex Conference Room at its Dover office located at 841 Silver Lake Blvd, Dover, DE 19904. In attendance were Delaware Chief Deputy Insurance Commissioner Tanisha L. Merced, Esq., Leslie Ledogar from the Department, Fleur McKendell from the Department, Pamela Price from Highmark Blue Cross Blue Shield of Delaware, Jill Fredel from the Delaware Department of Health & Social Services ("DHSS"), Rebecca Kidner, Esq., on behalf of Delta Dental, and Monica Shockley-Porter from Dover Behavioral Health.<sup>10</sup> Rebecca Kidner, commented that she and Delta Dental believed that the then new version of the bill, HB 193, exempting supplemental plans, was appropriate. Jill Fredel remarked that DHSS is supportive of HB 193.

On June 14, 2019, the Department held an additional public meeting at its Wilmington office located at 1007 N Orange St, Suite 1010, Wilmington, DE 19801. In attendance were Tanisha Merced and Vince Ryan from the Department, Pamela Price from Highmark Blue Cross Blue Shield of Delaware, Clifford Hearn, Esq., local counsel for Aflac, Jonathan Neipris, and Christine Schiltz, Esq. of Parkowski Guerke & Swayze, P.A., on behalf of America's Health Insurance Plans. Both oral and written testimony was made and submitted by Mr. Hearn on behalf of Aflac in support of the intent of the waiver request but expressing concern that it

<sup>9</sup> See Attachment 3 for a copy of the Department's website, copy of the press release, and the FAQ document

<sup>10</sup> See Attachment 4 for the sign-in sheet from the June 11, 2019 public hearing

would apply to supplemental disease-specific plans.<sup>11</sup>

During the public comment period, the Department also received 10 written public comments on this waiver request by email and letter.<sup>12</sup> Comments submitted to the Department were generally supportive of the waiver and its intent and are attached for reference to this Application. The public comment period closed at the end of the day on June 28, 2019. In preparing the Application, the Department considered the verbal comments made at the public meetings and the written comments submitted.

### *Tribal Consultation*

The State of Delaware does not have any Federally recognized tribes within its borders, and thus, has not established a separate process for meaningful consultation with any tribes with respect to this 1332 waiver application.

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<sup>11</sup> See Attachment 5 for the sign-in sheet and written testimony from the June 14, 2019 public hearing

<sup>12</sup> See Attachment 6 for written public comments submitted outside of the public hearings

# Attachment 1

## Enabling Legislation



SPONSOR: Sen. Henry & Rep. Baumbach  
Sens. Marshall, Townsend; Reps. Bentz, Keeley,  
Kowalko, Osienski

DELAWARE STATE SENATE  
149th GENERAL ASSEMBLY

SENATE CONCURRENT RESOLUTION NO. 70

CREATING A MEDICAID BUY-IN STUDY GROUP.

1 WHEREAS, access to quality, affordable health care is a cornerstone not only of a healthy life, but of a healthy  
2 economy and middle-class; and

3 WHEREAS, more than 24,000 Delawareans are enrolled in Marketplace plans via ChooseHealthDE.com or  
4 Healthcare.gov; and

5 WHEREAS, only one commercial insurer currently sells health plans on Delaware's Marketplace; and

6 WHEREAS, health insurance premiums on an average "Silver" level Marketplace plan in Delaware increased by  
7 25% last year; and

8 WHEREAS, consumers would benefit from greater competition in the individual insurance marketplace; and

9 WHEREAS, research from the Urban Institute shows that per-enrollee health care spending is 22% less under  
10 Medicaid than under private insurance; and

11 WHEREAS, health care spending in Delaware grew by 7.2% between 1991 and 2014, the fourth highest rate in the  
12 nation, according to the Kaiser Family Foundation; and

13 WHEREAS, from 1987 to 2015, Medicaid spending grew by 4.1% annually versus 6.9% annual growth for private  
14 insurance, according to the Centers for Medicare and Medicaid Services; and

15 WHEREAS, Delaware has taken steps to rein in the growth of health care spending, including establishing a health  
16 care benchmark; and

17 WHEREAS, under Medicaid expansion, Delawareans making 138% or less of the Federal Poverty Level ("FPL")  
18 are eligible for Medicaid; and

19 WHEREAS, Marketplace consumers over 138% of FPL are limited to commercial insurers; and

20 WHEREAS, Congress enacted the Medicaid Buy-In option for states in the Balanced Budget Act of 1997 (§ 4733)  
21 and enhanced the option in the Ticket to Work and Work Incentive Improvement Act of 1999 (P.L. 106-170, 42 USC 1396  
22 et seq.); and

23 WHEREAS, Delaware has a Medicaid Buy-In program known as “Medicaid for Workers with Disabilities  
24 (MWD)” which is available to current and new Medicaid beneficiaries with disabilities who meet MWD eligibility  
25 requirements; and

26 WHEREAS, creating a Medicaid Buy-In program that allows Delawareans above 138% FPL the ability to  
27 purchase Medicaid coverage would provide an affordable, high-quality coverage alternative with premiums set by the State;  
28 and

29 WHEREAS, Delaware’s small size gives it a unique opportunity for innovation in public policy, including health  
30 care policy; and

31 WHEREAS, every American deserves affordable health care.

32 NOW, THEREFORE:

33 BE IT RESOLVED by the Senate of the 149<sup>th</sup> General Assembly of the State of Delaware, the House of  
34 Representatives concurring therein, that a Medicaid Buy-In Study Group (“Study Group”) is hereby created.

35 BE IT FURTHER RESOLVED that the Study Group is composed of the following voting members serving by  
36 virtue of position, or a designee appointed by the member:

37 (1) A State Senator from the majority caucus, appointed by the President Pro Tem of the Senate, who serves  
38 as Co-Chair.

39 (2) A State Representative from the majority caucus, appointed by the Speaker of the House of  
40 Representatives, who serves as Co-Chair.

41 (3) A State Senator from the minority caucus, appointed by the President Pro Tem.

42 (4) A State Representative from the minority caucus, appointed by the Speaker of the House.

43 (5) The Insurance Commissioner.

44 (6) The Secretary of the Department of Health and Social Services.

45 (7) The Director of the Office of Management and Budget.

46 (8) The Controller General.

47 (9) The Director of the Division of Medicaid and Medical Assistance.

48 (10) The Chair of the Delaware Health Care Commission.

49 (11) Two representatives from the insurance industry, 1 appointed by the President Pro Tem and 1 appointed  
50 by the Speaker of the House.

51 (12) Two physicians, appointed by the Medical Society of Delaware.

52 (13) Two representatives from hospitals, appointed by the Delaware Healthcare Association.



53 (14) Three members of the public representing consumers, appointed by the Governor.

54 BE IT FURTHER RESOLVED that the Study Group shall study the adoption of an expanded Medicaid Buy-In  
55 program in Delaware, including federal requirements and approvals, eligibility criteria for individuals, potential premiums  
56 and levels of coverage, and potential positive and negative consequences of creating an expanded Medicaid Buy-In  
57 Program.

58 BE IT FURTHER RESOLVED that the Governor and the Secretary of Health and Social Services may apply to  
59 the Secretary of the U.S. Department of Health and Human Services for a waiver for state innovation under Section 1332 of  
60 the Patient Protection and Affordable Care Act (42 USCS § 18052), and if approved, may implement a state plan of  
61 innovation that meets the waiver requirements established under federal law and as approved by the United States Secretary  
62 of Health and Human Services.

63 BE IT FURTHER RESOLVED that quorum of the Study Group is a majority of its members.

64 BE IT FURTHER RESOLVED that:

65 (1) Official action by the Study Group, including making findings and recommendations, requires the  
66 approval of a quorum of the Study Group.

67 (2) The Study Group may adopt rules necessary for its operation.

68 BE IT FURTHER RESOLVED that the Co-Chairs of this Study Group are responsible for guiding the  
69 administration of the Study Group by doing, at a minimum, all of the following:

70 (1) Setting a date, time, and place for the initial organizational meeting.

71 (2) Notifying the individuals listed in lines 43 through 53 of the formation of the Study Group and the need to  
72 appoint a member.

73 (2) Supervising the preparation and distribution of meeting notices, agendas, minutes, correspondence, and  
74 reports of the Study Group.

75 (3) Sending to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the  
76 Director of the Division of Research of Legislative Council, after the first meeting of the Study Group, a list of the  
77 members of the Study Group and the person who appointed them.

78 (4) Providing meeting notices, agendas, and minutes to the Director of the Division of Research of Legislative  
79 Council.

80 (5) Ensuring that the final report of the Study Group is submitted to the President Pro Tempore of the Senate  
81 and the Speaker of the House of Representatives, with copies to all members of the General Assembly, the

82 Governor, the Director and the Librarian of the Division of Research of Legislative Council, and the Delaware  
83 Public Archives.  
84 BE IT FURTHER RESOLVED that the Study Group shall hold its first meeting no later than September 10, 2018.  
85 BE IT FURTHER RESOLVED that the General Assembly is responsible for providing reasonable and necessary  
86 support staff, including a legislative attorney, and materials for the Study Group to carry out its mission.  
87 BE IT FURTHER RESOLVED that the General Assembly will appropriate funding to the Department of Health  
88 and Social Services for the Study Group to use to hire experts to assist in this research.  
89 BE IT FURTHER RESOLVED that the Co-chairs of the Study Group shall compile a report containing a  
90 summary of the Study Group's work regarding the issues assigned to it in lines 54 through 57 of this resolution, including  
91 any findings and recommendations, and submit the report to all members of the General Assembly and the Governor no  
92 later than January 31, 2019.

#### SYNOPSIS

This Senate Concurrent Resolution creates a Medicaid Buy-In Study Group to study the adoption of an expanded Medicaid Buy-In program that would allow Delawareans with incomes above 138% of the Federal Poverty Level to purchase insurance coverage through the Medicaid program.

Author: Senator Henry



SPONSOR: Rep. Seigfried & Rep. Schwartzkopf & Rep. Baumbach  
& Rep. Bentz & Rep. Griffith & Rep. Longhurst &  
Rep. Mitchell & Rep. Ramone & Sen. McBride &  
Sen. Poore & Sen. Townsend

HOUSE OF REPRESENTATIVES  
150th GENERAL ASSEMBLY

HOUSE BILL NO. 193

AN ACT TO AMEND TITLES 16 AND 18 OF THE DELAWARE CODE RELATING TO THE DELAWARE HEALTH INSURANCE INDIVIDUAL MARKET STABILIZATION REINSURANCE PROGRAM.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

1 Section 1. Amend Chapter 99, Title 16, of the Delaware Code by making deletions as shown by strike through and  
2 insertions as shown by underline as follows:

3 § 9903. Duties and authority of the Commission

4 (g) The Commission shall establish the Delaware Health Insurance Individual Market Stabilization Reinsurance  
5 Program & Fund and the Commission shall have all of the following responsibilities.

6 (1) To provide reinsurance to carriers that offer individual health benefit plans in the State.

7 (2) Said reinsurance must meet the requirements of a waiver approved under § 1332 of the Affordable Care  
8 Act [42 U.S.C. § 18001 et seq.].

9 (3) The reinsurance fund must operate under the supervision and control of the Commission, and is funded  
10 pursuant to 18 Del. C. § 8703.

11 (h) For purposes of funding and administering the reinsurance program outlined in subsection (g) of this section,  
12 the fund shall be made up of all of the following:

13 (1) Any pass-through funds received from the federal government under a waiver approved under § 1332 of  
14 the Affordable Care Act [42 U.S.C. § 18001 et seq.].

15 (2) Any funds designated by the federal government to provide reinsurance to carriers that offer individual  
16 health benefit plans in the State.

17 (3) Any funds designated by the State pursuant to 18 Del. C. § 8703 to provide reinsurance to carriers that  
18 offer individual health benefit plans in the State.

19 (i) To carry out its responsibilities in administering the program outlined in subsection (g) and funded pursuant to  
20 subsection (h) of this section, the Commission shall promulgate regulations for purposes of all of the following:

21 (1) Establishing procedures for the handling and accounting of program assets and monies, as well as for an  
22 annual fiscal reporting to the Commission, Insurance Commissioner and General Assembly.

23 (2) Annually establishing procedures and parameters for reinsuring risks, including all of the following:

24 a. An attachment point.

25 b. A coinsurance rate.

26 c. A coinsurance cap.

27 (3) Establishing procedures and standards for carriers to submit claims to be reinsured under the program.

28 (4) Establishing procedures for selecting an administering contractor and setting forth the power and duties of  
29 the administering contractor.

30 (5) Establishing procedures for quarterly reporting or annual reporting, or both, of data under the § 1332  
31 waiver to demonstrate that the waiver remains in compliance with the scope of coverage, affordability,  
32 comprehensiveness and deficit requirements.

33 (6) Establishing procedures for providing each year the actual Second Lowest Cost Silver Plan premium under  
34 the Affordable Care Act's [42 U.S.C. § 18001 *et seq.*] § 1332 waiver and an estimate of the premium as it would have  
35 been without the waiver.

36 (7) Providing for any additional matters necessary for the implementation and administration of the  
37 reinsurance program.

38 (8) Submitting an annual report to the Governor and General Assembly, in consultation with the Department  
39 of Health and Social Services and the Department of Insurance.

40 Section 2. Amend Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as  
41 shown by underline as follows:

42 CHAPTER 87. THE DELAWARE HEALTH INSURANCE INDIVIDUAL MARKET STABILIZATION

43 REINSURANCE PROGRAM

44 § 8701. Definitions.

45 As used in this chapter, unless the context clearly indicates a different meaning, the following words and phrases  
46 shall have the meaning ascribed to them in this section:

47 (a) "Affordable Care Act" means the Patient Protection and Affordable Care Act, 42 U.S.C. § 18001 (2010).

48 (b) "Assessment" means any payment required to be made under § 8703 of this chapter.

49 (c) "Carrier" means any entity that provides health insurance in this State. For the purposes of this chapter, carrier  
50 includes an insurance company, health service corporation, health maintenance organization, managed care organization,  
51 and any other entity providing a plan of health insurance or health benefits subject to state insurance regulation.

52 (d) "Commissioner" means the Insurance Commissioner of the State of Delaware.

53 (e) "Commission" and "DHCC" mean the Delaware Health Care Commission created pursuant to 16 Del. C. §  
54 9902.

55 (f) "Department" means the Delaware Department of Insurance.

56 (g) "Individual Health Benefit Plan" means any policy offered in the individual market that is subject to the single  
57 risk pool requirements of § 1312(c)(1) of the Affordable Care Act.

58 (h) "Program" means the Delaware Health Insurance Individual Market Stabilization Reinsurance Program created  
59 by 16 Del. C. § 9903(g).

60 § 8702. Applicability and Scope.

61 (a) This chapter shall apply to the following licensees:

62 (1) Any carrier, as defined under section 8701 of this chapter.

63 (2) Any other person or entity subject to regulation by the State that provide either of the following:

64 a. Products that are subject to the fee under § 9010 of the Affordable Care Act.

65 b. Products that may be subject to an Assessment by the State under this chapter.

66 (b) This chapter shall not apply to plans of health insurance or health benefits designed for issuance to persons  
67 eligible for coverage under Titles XVIII, XIX, and XXI of the Social Security Act (42 U.S.C. §§ 1395 et seq., 1396 et seq.,  
68 and 1397aa et seq.), known as Medicare, Medicaid; Chapter 52 of Title 29 of the Delaware Code; or any other similar  
69 coverage under state or federal governmental plans.

70 (c) This Chapter shall not apply to stand-alone dental insurance, stand-alone vision insurance, long term care  
71 insurance, disability income insurance and all accident-only insurance.

72 § 8703. Delaware Health Insurance Individual Market Stabilization and Reinsurance Program Assessment.

73 (a) The purpose of this section is to establish a funding mechanism for the Delaware Health Insurance Individual  
74 Market Stabilization and Reinsurance Program created by 16 Del. C. § 9903(g).

75 (b) Following successful approval of Delaware's § 1332 waiver application under the Affordable Care Act by the  
76 Centers for Medicare and Medicaid Services and beginning in Calendar Year 2020, any carrier subject to this chapter shall  
77 be assessed 2.75% annually on all amounts used to calculate the entity's premium tax liability or the amount of the entity's  
78 premium tax exemption value for the previous calendar year.

79           (c) Each carrier, entity, or person subject to the Assessment pursuant to this section shall submit payment to the  
80 Delaware Department of Insurance on or before March 1 of each year.

81           (d) Upon receipt of the funds paid to the Department pursuant to subsection (c) of this section, the Commissioner  
82 shall remit the total amount to the Commission to be held on reserve for the funding and administering of the Program in  
83 accordance with 16 Del. C. § 9903(g).

84           (e) In the event that the federal government reinstates the Health Insurance Providers Fee defined under § 9010 of  
85 the Affordable Care Act for a particular calendar year, the State shall reduce its own Assessment for the corresponding  
86 calendar year as defined in subsection (b) of this section to 1% on all amounts used to calculate an entity's premium tax  
87 liability or the amount of the entity's premium tax exemption value for the previous calendar year.

88           (f) In the event Delaware's § 1332 waiver under the Affordable Care Act is invalidated, revoked, or expires by the  
89 Centers for Medicare and Medicaid Services, Delaware may no longer collect the Assessment defined under this section.

90           (g) The State of Delaware may not hold more than 5 years of operating and administrative funds to cover the  
91 Program. In the event collections exceed that amount, the State must notify the carriers that the following year's  
92 Assessment will be waived.

93           (h) Funding deposited into the Delaware Health Insurance Individual Market Stabilization Reinsurance Fund shall  
94 be used by the Department of Health and Social Services, in conjunction with the Department, to operate and administer the  
95 Fund, and such funding shall also be used by the Department of Health and Social Services to secure federal matching  
96 funds available through §1332 of the Affordable Care Act.

97           (i) In the event that funding is insufficient to cover the administration and operations of the Program, the  
98 Department of Health & Social Services may suspend the program until funding is identified and secured.

99           Section 3. Effective Date. This Act shall take effect upon enactment.

#### SYNOPSIS

This Act creates the Delaware Health Insurance Individual Market Stabilization Reinsurance Program & Fund (the "Program"). The Program will be administered by the Delaware Health Care Commission in order to provide reinsurance to health insurance carriers that offer individual health benefit plans in Delaware. The Program will be funded with passthrough funds received from the federal government under the Affordable Care Act, funds provided by the Federal Government for reinsurance, and through a 2.75% annual assessment based on insurance carrier's premium tax liability.



Attachment 2

Actuarial Report

# **DELAWARE SECTION 1332 STATE INNOVATION WAIVER – INDIVIDUAL REINSURANCE PROGRAM**

## **ACTUARIAL ANALYSIS**

JULY 10, 2019

Tammy Tomczyk, FSA, MAAA, FCA  
Ryan Schultz, FSA, MAAA  
Taylor Gehrke ASA, MAAA, CERA

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# 1. Introduction

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The State of Delaware is filing a State Innovation Waiver application under Section 1332 of the Affordable Care Act (Section 1332 Waiver) that seeks to waive §1312(c)(1)<sup>1</sup> of the Affordable Care Act for the purpose of establishing a state-based, and state-administered reinsurance program. If approved, the Section 1332 Waiver, as proposed, is targeted to be effective January 1, 2020, for an initial period of up to five years.

Oliver Wyman Actuarial Consulting, Inc. (Oliver Wyman), through a sub-contracting agreement with its sister company Mercer Government Human Services Consulting, was retained by the State of Delaware to perform the actuarial and economic analysis related to the State's proposal to waive §1312(c)(1) of the Affordable Care Act. As directed under 45 CFR 155.1308(f)(4)(i)-(iii), the Centers for Medicare and Medicaid Services (CMS) regulations require that states include as part of a Section 1332 Waiver application actuarial and economic analyses, along with actuarial certifications and the data and assumptions used, to support the State's estimates that the proposed Section 1332 Waiver will satisfy the following requirements:

- **Scope of Coverage:** Coverage under the Section 1332 Waiver will be provided to a comparable number of residents as would be provided absent the waiver
- **Affordability of Coverage:** The Section 1332 Waiver will provide access to coverage and cost sharing protections against excessive out-of-pocket spending that are at least as affordable as would be provided absent the waiver
- **Comprehensiveness of Coverage:** The Section 1332 Waiver will provide access to coverage that is at least as comprehensive as would be provided absent the waiver
- **Deficit Neutrality:** The Section 1332 Waiver will not increase the Federal deficit

This report provides the required actuarial and economic analyses, as well as the actuarial certifications, necessary to support that the proposed Section 1332 Waiver is expected to satisfy these requirements. Additionally, this report outlines the data, assumptions and methodology used to generate the actuarial and economic projections that result from our analysis. Any other use of this report may be inappropriate and is prohibited by Oliver Wyman.

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<sup>1</sup> §1312(c)(1) states that "A health insurance issuer shall consider all enrollees in all health plans (other than grandfathered health plans) offered by such issuer in the individual market, including those enrollees who do not enroll in such plans through the Exchange, to be members of a single risk pool."

## 2. Overview of State-Based Reinsurance Program

---

The State of Delaware is submitting a Section 1332 Waiver application that seeks to implement a state-based and state-administered reinsurance program in an effort to stabilize the individual ACA market in Delaware. Under the proposed Section 1332 Waiver, a reinsurance program would be established for plan year 2020 and beyond with the objective of reducing premium rates in the individual ACA market by an average of 13.0% to 20.0%, depending on the level of funding expected to be available for each plan year, plus any additional assumed morbidity improvement.<sup>2</sup>

For plan year 2020, there is currently no moratorium on the Health Insurance Provider (HIP) Fee, nor is it expected that there will be one in place by the time issuers need to finalize their 2020 rates. Therefore, based on the level of funding expected to be available, the State's objective of the reinsurance program for the 2020 plan year will be to lower premium rates in the individual ACA market by an average of 13.0%.

In this section, focusing on plan year 2020, we provide the estimated cost of the reinsurance program, describe how the reinsurance program is expected to be funded, provide the parameters which would be utilized to determine payments from the Delaware Health Care Commission (DHCC) to issuers, and provide the estimated impact the reinsurance program is expected to have on premium rates in the individual ACA market. As enrollment volumes, claim costs, and available funding amounts change over the time period during which the proposed Section 1332 Waiver will be in effect, it is expected that items such as the reinsurance parameters described below will be adjusted, as necessary, by the DHCC in order to ensure the reinsurance program remains fully funded (net of Federal pass-through funding) and continues to target the State's overall objective for each plan year (i.e., reducing premium rates in the individual ACA market by an average of 13.0% to 20.0% depending on the level of funding expected to be available for each plan year, plus any additional assumed morbidity improvement).

### Cost and Funding of the State-Based Reinsurance Program in 2020

Overall, it is estimated that total funding needed to support a reinsurance program that will accomplish Delaware's stated objective for plan year 2020 (i.e., lowering premium rates in the individual ACA market by an average of 13.0%, plus any additional assumed morbidity improvement) is \$26.9 million.

This estimate was developed based on projected enrollment, premium, claims, and administrative expense volumes in the individual ACA market in plan year 2020. As noted earlier, this estimate assumes the ACA Insurer Fee will remain in place in 2020 and a 1.00% premium assessment will be charged to fund the program. In developing the estimate, it was assumed that issuer claim expenses as a percentage of premium in 2020 will be equal to the

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<sup>2</sup> In years where there is no moratorium on the Health Insurance Providers Fee, a 1.00% premium assessment will be charged to finance the program; In years where there is a moratorium on the Health Insurance Providers Fee, a 2.75% premium assessment will be charged to finance the program

target loss ratio filed by the one issuer expected to offer coverage in Delaware's individual ACA market in 2020, and that issuer fixed administrative expenses as a percentage of premium in 2020 will be equal to the average administrative expense ratio which was filed by that same issuer for 2020.<sup>3</sup> With respect to these assumptions, we note that we discussed the assumptions with the one issuer currently offering coverage in Delaware's individual health insurance market and, based on those discussions, found it to be a reasonable one. Then, taking into account the change in morbidity which is expected to occur in 2020 under the proposed Section 1332 Waiver (i.e., as a result of lower rates in 2020 due to the state-based reinsurance program), the total projected cost of the program was calculated as follows:

*Projected 2020 Cost of Reinsurance Program = Projected 2020 Premium Volume x [Issuer Target Loss Ratio + Issuer Admin Expense %] x 14.0%*<sup>4</sup>

Funding for the reinsurance program is expected to come from the following sources:<sup>5</sup>

1. **Federal pass-through funds** received as a result of the Section 1332 Waiver
2. A **premium assessment** to be applied to issuer premium amounts for certain lines of business

Regarding the first item, through its 1332 waiver application, Delaware is requesting that the U.S. Department of Treasury (Treasury) "pass-through" to its reinsurance program the cost savings from the reduction of federal outlays for premium tax credits (PTCs), offset by the corresponding reduction in projected revenue from Exchange User Fees, resulting from the reduction in premium rates in the Individual market due to the reinsurance program. Section 1332(a)(3) of the ACA authorizes pass-through funding in 1332 waiver applications.

Correspondingly, HB 193 was signed into law on June 20, 2019 and authorizes the Delaware Insurance Commissioner, contingent upon approval of the Section 1332 Waiver, to assess issuers to finance the State's portion of the cost of the proposed reinsurance program (i.e., the cost which is not financed through federal pass-through funds).<sup>6</sup> The assessment is to be applied to issuers based upon their premium tax liability, or the amount of the issuer's premium tax exemption value, for the previous plan year for certain lines of business. The assessment is proposed to be 2.75% annually for years that the Health Insurance Providers Fee (i.e., as defined under 9010 of the Affordable Care Act) is waived, and 1.00% of premium annually for years that the Health Insurance Providers Fee will be assessed. The intent of the assessment is to fully finance the State's liability related to the proposed reinsurance program. According to HB 193, the State of Delaware may not hold more than 5 years of operating and administrative funds needed to cover the expected cost of the reinsurance program. In the event collections exceed that amount, the state must notify issuers that the following year's assessment will be waived.

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<sup>3</sup> Calculated as total projected administrative expenses, excluding taxes & fees and profit & risk margin, divided by projected premium

<sup>4</sup> Issuer costs need to be reduced by 14.0% in order to result in a 13.0% premium reduction due to the addition of the 1.00% premium assessment

<sup>5</sup> <https://legis.delaware.gov/BillDetail?legislationId=47632>

<sup>6</sup> Any entity that provides health insurance in the State of Delaware. Issuer includes an insurance company, health service corporation, health maintenance organization, and any other entity providing a plan of health insurance or health benefits subject to Delaware state insurance regulation.



## Estimated 2020 Reinsurance Parameters and Payment Calculation

Consistent with the Federal Transitional Reinsurance Program which was in place from 2014 through 2016, Delaware’s state-based reinsurance program will reimburse issuers for a portion of high dollar claim expenses which occur between a specified attachment point and reinsurance cap, while maintaining an incentive for issuers to continue applying their care management practices for their high cost claimants.

Table 1 provides preliminary reinsurance parameters which are expected to be applicable in plan year 2020, assuming a 1.00% premium assessment is charged:

**Table 1 - 2020 Reinsurance Parameters**

<b>Parameter</b>	<b>Value</b>
Attachment Point	\$65,000
Reinsurance Cap	\$215,000
Coinsurance %	75.0%

These parameters were estimated through the use of issuer provided claims data from plan year 2018, adjusted to reflect projected 2020 cost levels and enrollment volumes, and to reflect a projected distribution of claim expenses consistent with assumed market-wide morbidity levels. In assessing the reasonability of the resulting parameters, issuer feedback was obtained. Additionally, issuer provided member level claims data from plan year 2017 was reviewed and considered. It should be noted that these parameters are still in the process of being reviewed and will be finalized after further analysis and consultation with key stakeholders. It is expected that DHCC will finalize the parameters to be used for the 2020 plan year by no later than January 1, 2020. Once finalized, the parameters to be used for the 2020 plan year would not be expected to be modified for any reason.

Utilizing the parameters outlined in Table 1, reinsurance payments will be calculated based on an issuer’s annual paid claim expenses<sup>7</sup> for a given member as follows:

$$2020 \text{ Reinsurance Payment for ACA Member}_i = \text{Maximum} [\text{Minimum} [\text{Member}_i \text{ Annual Paid Claims Expense}, \$215,000] - \$65,000, \$0] \times 75.0\%$$

In utilizing the parameters described, as with the Federal Transitional Reinsurance Program, it is expected that issuers will continue to have incentives to apply their care management practices even after a given member reaches the specified annual Attachment Point. This is because issuers will be reimbursed for only a portion of a given member’s claim costs between the Attachment Point and Reinsurance Cap.

## Estimated Premium Impact of State-Based Reinsurance Program in 2020

As noted earlier, the intent of the state-based reinsurance program in 2020 will be to reduce premium rates in the individual ACA market by an average of 13.0%, plus any additional assumed morbidity improvement. To the extent premium rates are reduced by an average of 13.0%, enrollment levels in the individual ACA market would be expected to increase by approximately 2.3% in 2020, leading to an improvement in the overall morbidity of Delaware’s individual ACA market equal to approximately 0.8%. Assuming that issuers will take a similar

<sup>7</sup> Paid by the insurer; includes medical and pharmacy claims

level of projected morbidity improvement into account in their 2020 rate development process, it is expected that the proposed state-based reinsurance program will lead to an overall average reduction in premium rates (i.e., relative to the baseline scenario) equal to approximately -13.7%, and an average reduction in 2020 premium rates relative to 2019 levels equal to approximately -18.7%.

## 3. Actuarial and Economic Analyses

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Actuarial analyses meeting the requirements under 45 CFR 155.1308(f)(4)(i) and other applicable information as required in the Checklist for Section 1332 Innovation Waiver Applications<sup>8</sup> are provided in this section. Oliver Wyman's Healthcare Reform Microsimulation Model (HRM Model) was utilized to examine the impact that the proposed Section 1332 Waiver is expected to have on the insurance markets in the State of Delaware, and in meeting each of the guardrails associated with Section 1332 Waivers as outlined in Federal statute and regulation.

The HRM Model is an economic utility model that captures the flow of individuals across various markets and coverage options based on their economic purchasing decisions. It is integrated with actuarial modeling designed to assess the impact that various reforms are expected to have on the health insurance markets. For more information regarding the specifications and functionality underlying the HRM Model, please refer to the overview in Appendix A.

The projections produced by the HRM Model were analyzed to assess whether the following Federal requirements are expected to be met under the proposed Section 1332 Waiver:

- **Scope of Coverage:** Coverage under the Section 1332 Waiver will be provided to a comparable number of residents as would be provided absent the waiver
- **Affordability of Coverage:** The Section 1332 Waiver will provide access to coverage and cost sharing protections against excessive out-of-pocket spending that are at least as affordable as would be provided absent the waiver
- **Comprehensiveness of Coverage:** The Section 1332 Waiver will provide access to coverage that is at least as comprehensive as would be provided absent the waiver
- **Deficit Neutrality:** The Section 1332 Waiver will not increase the Federal deficit

Table 2 summarizes at a high level the expected impact of the proposed Section 1332 Waiver as it relates to the requirements outlined above. A more detailed discussion of the results as they relate to each of the Federal requirements follows. Overall, our analysis shows that the proposed Section 1332 Waiver is expected to meet all four of the requirements listed in 2020 and would be expected to meet the requirements listed in each year thereafter for the ten-year period ending in 2029.

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<sup>8</sup> <https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Downloads/Checklist-for-Section-1332-State-Innovation-Waiver-Applications-5517-c.pdf>

**Table 2: Summarized Expected Impact of the Proposed Section 1332 Waiver**

Requirement	Impact of Proposed Section 1332 Waiver
Scope of Coverage	The number of individuals covered in the Delaware health insurance markets is expected to increase
Affordability of Coverage	Premium rates in the individual market are expected to decrease while other out-of-pocket expenses are not expected to change
Comprehensiveness of Coverage	Not impacted by the proposed Section 1332 Waiver
Deficit Neutrality	The Federal deficit is not expected to increase

### Scope of Coverage

Under the scope of coverage requirement, a comparable number of residents must be expected to have coverage under the proposed Section 1332 Waiver as would have coverage absent the waiver.<sup>9</sup> For these purposes, “coverage” refers to minimum essential coverage. In assessing this requirement, we note that we are estimating that the proposed Section 1332 Waiver will not have a material impact on the number of Delawareans covered under employer-sponsored plans, Medicaid, Medicare, or other public programs. As a result, the focus of our analysis is on the impact of the proposed Section 1332 Waiver to Delaware’s individual market.

Table 3 summarizes the projected average volume of enrollees in Delaware’s individual market<sup>10</sup> and the projected average volume of uninsured individuals in Delaware by year under the baseline and waiver scenarios, assuming there is no moratorium on the HIP Fee in any year following 2019 and premium rates in the individual ACA market are reduced by an average of approximately 13.7% under the waiver scenario (i.e., relative to the baseline scenario; equal to 13.0% plus the impact of assumed morbidity improvement):

**Table 3: Summary of Average Individual Market Enrollment**

Year	Individual Market			Uninsured		
	Baseline	Waiver	Change vs. Baseline	Baseline	Waiver	Change vs. Baseline
2019	21,700	-	-	58,200	-	-
2020	22,100	22,600	2.3%	57,900	57,400	-0.9%
2021	22,100	22,600	2.3%	57,900	57,400	-0.9%
2022	22,100	22,700	2.7%	57,900	57,400	-0.9%
2023	22,100	22,700	2.7%	57,900	57,400	-0.9%
2024	22,100	22,600	2.3%	58,000	57,500	-0.9%
2025	22,000	22,500	2.3%	58,100	57,500	-1.0%
2026	22,000	22,500	2.3%	58,200	57,600	-1.0%
2027	21,900	22,400	2.3%	58,200	57,700	-0.9%
2028	21,900	22,400	2.3%	58,300	57,800	-0.9%
2029	21,800	22,300	2.3%	58,400	57,900	-0.9%

Note: Enrollment values shown have been rounded to the nearest hundred

<sup>9</sup> 45 CFR 155.1308(f)(3)(iv)(C)

<sup>10</sup> Through a data request issued to individual market carriers in the State of Delaware and additional research, it is estimated that less than 150 grandfathered members remain in the Delaware individual market as of 2019.

Absent the proposed Section 1332 Waiver and corresponding reinsurance program, total enrollment volumes in the baseline scenario in Delaware’s individual market would be expected to experience an increase of approximately 1.8% between 2019 and 2020. Under the proposed Section 1332 Waiver, enrollment in the individual market would be expected to be approximately 2.3% higher relative to baseline enrollment levels over the time period of 2020 through 2029. The increase in enrollment under the proposed Section 1332 Waiver is driven primarily by uninsured individuals expected to enter the individual ACA market as a result of lower rates.<sup>11</sup>

### Individual ACA Market Enrollment by Household Income

Table 3a presents projected enrollment levels in the individual ACA market by household income over the time period of 2019 through 2029 assuming there is no moratorium on the HIP Fee in any year following 2019, and premium rates in the individual ACA market are reduced by an average of approximately 13.7% under the waiver scenario (i.e., relative to the baseline scenario; equal to 13.0% plus the impact of assumed morbidity improvement). For the purposes of this comparison, household income is being measured as a percentage of the Federal poverty level (FPL).

**Table 3a: Summary of Average Individual ACA Market Enrollment by FPL**

<b>Baseline</b>											
<b>Income Range</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>	<b>2028</b>	<b>2029</b>
< 100%	400	400	400	400	400	400	400	400	400	400	400
100% - 150%	2,300	2,300	2,300	2,300	2,400	2,400	2,400	2,400	2,400	2,400	2,400
151% - 200%	4,300	4,300	4,300	4,300	4,300	4,300	4,300	4,300	4,300	4,300	4,300
201% - 250%	3,700	3,700	3,700	3,700	3,700	3,700	3,700	3,700	3,700	3,700	3,800
251% - 300%	2,600	2,600	2,700	2,700	2,700	2,700	2,700	2,700	2,700	2,700	2,700
301% - 400%	3,100	3,100	3,200	3,200	3,200	3,200	3,200	3,200	3,200	3,200	3,200
401%+	5,300	5,600	5,600	5,600	5,500	5,500	5,400	5,300	5,300	5,200	5,200
<b>Total</b>	<b>21,700</b>	<b>22,100</b>	<b>22,100</b>	<b>22,100</b>	<b>22,100</b>	<b>22,100</b>	<b>22,000</b>	<b>22,000</b>	<b>21,900</b>	<b>21,900</b>	<b>21,800</b>

  

<b>Waiver</b>											
<b>Income Range</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>	<b>2028</b>	<b>2029</b>
< 100%	400	400	400	400	400	400	400	400	400	400	400
100% - 150%	2,300	2,300	2,300	2,300	2,400	2,400	2,400	2,400	2,400	2,400	2,400
151% - 200%	4,300	4,300	4,300	4,300	4,300	4,300	4,300	4,300	4,300	4,300	4,300
201% - 250%	3,700	3,700	3,700	3,700	3,700	3,700	3,700	3,700	3,700	3,700	3,800
251% - 300%	2,600	2,600	2,700	2,700	2,700	2,700	2,700	2,700	2,700	2,700	2,700
301% - 400%	3,100	3,100	3,200	3,200	3,200	3,200	3,200	3,200	3,200	3,200	3,200
401%+	5,300	6,100	6,100	6,100	6,100	6,000	5,900	5,800	5,800	5,700	5,600
<b>Total</b>	<b>21,700</b>	<b>22,600</b>	<b>22,600</b>	<b>22,700</b>	<b>22,700</b>	<b>22,600</b>	<b>22,500</b>	<b>22,500</b>	<b>22,400</b>	<b>22,400</b>	<b>22,300</b>

  

<b>Change in Number of Enrollees - Baseline to Waiver</b>											
<b>Income Range</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>	<b>2028</b>	<b>2029</b>
< 100%	0	0	0	0	0	0	0	0	0	0	0
100% - 150%	0	0	0	0	0	0	0	0	0	0	0
151% - 200%	0	0	0	0	0	0	0	0	0	0	0
201% - 250%	0	0	0	0	0	0	0	0	0	0	0
251% - 300%	0	0	0	0	0	0	0	0	0	0	0
301% - 400%	0	0	0	0	0	0	0	0	0	0	0
401%+	0	500	500	500	500	500	500	500	500	500	500
<b>Total</b>	<b>0</b>	<b>500</b>	<b>500</b>	<b>500</b>	<b>500</b>	<b>500</b>	<b>500</b>	<b>500</b>	<b>500</b>	<b>500</b>	<b>500</b>

Note: Values shown have been rounded to the nearest hundred; the sum of values within each column may not be equal to the total value shown due to rounding.

Overall, we are estimating that there will be no change in enrollment between the baseline and waiver scenarios for individuals with incomes below 400% FPL. This is because, due to the way in which premium rates are calculated under the ACA for these individuals (i.e., maximum

<sup>11</sup> While there may be some migration of enrollees from the employer market to the Individual market, based on our modeling, we expect any migration from the employer market to be minimal

premium rates as a percentage of income, net of premium tax credits), their net out-of-pocket costs are assumed to be insulated, on average, from changes in gross premium rates.

On the other hand, ACA enrollees who have household incomes greater than 400% FPL do not receive PTCs and, therefore, their total out-of-pocket costs are expected to be favorably impacted. For these individuals, the full impact of the reinsurance program would be expected to be realized through reductions to their premium rates, resulting in an expected increase in enrollment for that segment of the population in 2020 and beyond.

We note that, through a data request which was issued, it was determined that grandfathered enrollment is very minimal (i.e., less than 150 members) in the individual market.

### Individual ACA Market Enrollment by Metal Level Plan

Table 3b presents projected enrollment levels in the individual ACA market by metal level over the time period of 2019 through 2029 assuming there is no moratorium on the HIP Fee in any year following 2019 and premium rates in the individual ACA market are reduced by an average of approximately 13.7% under the waiver scenario (i.e., relative to the baseline scenario; equal to 13.0% plus the impact of assumed morbidity improvement):

**Table 3b: Summary of Average Individual ACA Market Enrollment by Metal Level**

Baseline											
Metal Level	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
Catastrophic	100	100	100	100	100	100	100	100	100	100	100
Bronze	6,800	7,000	7,000	7,000	7,000	6,900	6,900	6,900	6,900	6,800	6,800
Silver	9,200	9,400	9,400	9,400	9,400	9,400	9,400	9,400	9,300	9,300	9,300
Gold	4,900	5,000	5,000	5,000	5,000	5,000	5,000	4,900	4,900	4,900	4,900
Platinum	600	600	600	600	600	600	600	600	600	600	600
<b>Total</b>	<b>21,700</b>	<b>22,100</b>	<b>22,100</b>	<b>22,100</b>	<b>22,100</b>	<b>22,100</b>	<b>22,000</b>	<b>22,000</b>	<b>21,900</b>	<b>21,900</b>	<b>21,800</b>

  

Waiver											
Metal Level	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
Catastrophic	100	200	200	200	200	200	200	200	200	100	100
Bronze	6,800	7,200	7,200	7,200	7,200	7,200	7,200	7,100	7,100	7,100	7,000
Silver	9,200	9,500	9,500	9,500	9,600	9,500	9,500	9,500	9,500	9,500	9,500
Gold	4,900	5,100	5,100	5,100	5,100	5,100	5,100	5,000	5,000	5,000	5,000
Platinum	600	700	700	700	700	700	700	700	700	600	600
<b>Total</b>	<b>21,700</b>	<b>22,600</b>	<b>22,600</b>	<b>22,700</b>	<b>22,700</b>	<b>22,600</b>	<b>22,500</b>	<b>22,500</b>	<b>22,400</b>	<b>22,400</b>	<b>22,300</b>

  

Change in Number of Enrollees - Baseline to Waiver											
Metal Level	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
Catastrophic	0	0	0	0	0	0	0	0	0	0	0
Bronze	0	200	200	200	200	200	200	200	200	200	200
Silver	0	200	200	200	200	200	100	100	100	100	100
Gold	0	100	100	100	100	100	100	100	100	100	100
Platinum	0	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>0</b>	<b>500</b>	<b>500</b>	<b>500</b>	<b>500</b>	<b>500</b>	<b>500</b>	<b>500</b>	<b>500</b>	<b>500</b>	<b>500</b>

Note: Values shown have been rounded to the nearest hundred; the sum of values within each column may not be equal to the total value shown due to rounding.

As shown in Table 3b, no significant shift in the distribution of ACA enrollment by metal level due to the waiver is expected.

### Individual ACA Market Enrollment by Age

Table 3c presents projected enrollment levels in the individual ACA market by age over the time period of 2019 to 2029 assuming there is no moratorium on the HIP Fee in any year following 2019, and premium rates in the individual ACA market are reduced by an average of approximately 13.7% under the waiver scenario (i.e., relative to the baseline scenario; equal to 13.0% plus the impact of assumed morbidity improvement). Overall, enrollment in the Individual

ACA market is expected to increase or stay flat across every age group under the proposed Section 1332 Waiver. As shown, the distribution of Individual ACA enrollment by age is not expected to shift significantly under the proposed Section 1332 Waiver in 2020 or beyond.

**Table 3c: Summary of Average Individual ACA Market Enrollment by Age**

Baseline											
Age	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
0-18	3,800	3,900	3,900	3,900	3,900	3,900	3,900	3,900	3,900	3,800	3,800
18-25	1,700	1,700	1,700	1,700	1,700	1,700	1,700	1,700	1,700	1,700	1,700
26-34	2,600	2,600	2,600	2,600	2,600	2,600	2,600	2,600	2,600	2,600	2,600
35-44	2,800	2,900	2,900	2,900	2,900	2,900	2,900	2,900	2,900	2,900	2,900
45-54	4,000	4,000	4,100	4,100	4,100	4,100	4,000	4,000	4,000	4,000	4,000
55+	6,800	6,900	6,900	6,900	6,900	6,900	6,900	6,900	6,900	6,800	6,800
<b>Total</b>	<b>21,700</b>	<b>22,100</b>	<b>22,100</b>	<b>22,100</b>	<b>22,100</b>	<b>22,100</b>	<b>22,000</b>	<b>22,000</b>	<b>21,900</b>	<b>21,900</b>	<b>21,800</b>

  

Waiver											
Age	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
0-18	3,800	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	3,900
18-25	1,700	1,700	1,700	1,700	1,700	1,700	1,700	1,700	1,700	1,700	1,700
26-34	2,600	2,700	2,700	2,700	2,700	2,700	2,700	2,600	2,600	2,600	2,600
35-44	2,800	3,000	3,000	3,000	3,000	3,000	3,000	3,000	2,900	2,900	2,900
45-54	4,000	4,100	4,100	4,100	4,100	4,100	4,100	4,100	4,100	4,000	4,000
55+	6,800	7,200	7,200	7,200	7,200	7,200	7,200	7,100	7,100	7,100	7,100
<b>Total</b>	<b>21,700</b>	<b>22,600</b>	<b>22,600</b>	<b>22,700</b>	<b>22,700</b>	<b>22,600</b>	<b>22,500</b>	<b>22,500</b>	<b>22,400</b>	<b>22,400</b>	<b>22,300</b>

  

Change in Number of Enrollees - Baseline to Waiver											
Age	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
0-18	0	100	100	100	100	100	100	100	100	100	100
18-25	0	0	0	0	0	0	0	0	0	0	0
26-34	0	0	0	0	0	0	0	0	0	0	0
35-44	0	100	100	100	100	100	100	100	100	100	100
45-54	0	0	0	0	0	0	0	0	0	0	0
55+	0	300	300	300	300	300	300	300	300	300	300
<b>Total</b>	<b>0</b>	<b>500</b>	<b>500</b>	<b>500</b>	<b>500</b>	<b>500</b>	<b>500</b>	<b>500</b>	<b>500</b>	<b>500</b>	<b>500</b>

Note: Values shown have been rounded to the nearest hundred; the sum of values within each column may not be equal to the total value shown due to rounding.

### Affordability of Coverage

Under the affordability requirement, Delawareans must retain access to health care coverage which is at least as affordable as would be absent the waiver.<sup>12</sup> For this purpose, affordability refers to the ability of state residents to pay for health care and is measured by comparing their net out-of-pocket spending for health coverage and services to their incomes. Out-of-pocket expenses are assumed to include premium contributions and any plan level cost-sharing that is the responsibility of the individual.

As with the scope of coverage requirement, in assessing this requirement, we are estimating that the proposed Section 1332 Waiver will not have a material impact on the affordability of coverage for those individuals enrolled in employer-sponsored plans, Medicaid, Medicare, or any other public programs. As a result, the focus of our analysis is again on the impact of the proposed Section 1332 Waiver on out-of-pocket expenses in Delaware’s individual ACA market. Additionally, since the proposed Section 1332 Waiver does not directly impact member plan level cost-sharing (i.e., members will be able to purchase plans with comparable benefit cost sharing as those plans which they are currently enrolled in), the focus of the affordability requirement is further centered on changes in premium rates.

Under the proposed Section 1332 Waiver it is expected that gross premium rates (i.e., prior to any application of PTCs) in the individual ACA market will decrease. For enrollees who receive

<sup>12</sup> 45 CFR 155.1308(f)(3)(iv)(B)



PTCs under both the baseline and the Section 1332 Waiver, their total out-of-pocket costs will not change for the subsidy benchmark plan (i.e., the second lowest cost silver plan) as their premium rate for that plan will be capped at the applicable maximum percentage of household income they are required to pay under the ACA.<sup>13</sup> For enrollees who do not receive PTCs or for enrollees who currently receive PTCs but who would no longer receive PTCs under the proposed Section 1332 Waiver (due to their gross premium rates decreasing below what their premium rate net of PTCs would otherwise be), the proposed reinsurance program will result in an improvement in the overall affordability of health coverage relative to the baseline scenario.

Table 4 presents estimates of the second lowest cost Silver plan premium PMPM for a single, 21 year old, non-tobacco user in Delaware’s single statewide rating area, under both the baseline and waiver scenarios assuming there is no moratorium on the HIP Fee in any year following 2019, and premium rates in the individual ACA market are reduced by an average of approximately 13.7% under the waiver scenario (i.e., relative to the baseline scenario; equal to 13.0% plus the impact of assumed morbidity improvement).

**Table 4: Estimated Second Lowest Cost Silver Premium Rate by Rating Area  
21-Year-Old, Non-Tobacco User**

<b>Baseline</b>											
<b>Rating Area</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>	<b>2028</b>	<b>2029</b>
1	\$536	\$498	\$545	\$597	\$654	\$716	\$784	\$858	\$940	\$1,029	\$1,127
<b>Waiver</b>											
<b>Rating Area</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>	<b>2028</b>	<b>2029</b>
1	\$536	\$430	\$471	\$515	\$564	\$618	\$677	\$741	\$811	\$888	\$973
<b>% Difference in Second Lowest Cost Silver Plan Premium PMPM - Baseline to Waiver</b>											
<b>Rating Area</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>	<b>2028</b>	<b>2029</b>
1	0.0%	-13.7%	-13.7%	-13.7%	-13.7%	-13.7%	-13.7%	-13.7%	-13.7%	-13.7%	-13.7%

Note: Values shown have been rounded to the nearest dollar

As shown, the corresponding premium rates for the second lowest cost silver plan in the single statewide rating area in Delaware’s individual ACA market are expected to decrease by approximately 13.7% in all years under the proposed Section 1332 Waiver (i.e., relative to the baseline; equal to 13.0% plus the impact of assumed morbidity improvement). Due to the application of the specified Age Curve for ACA rating purposes, a similar percentage change would be expected to occur for all other ages, although all else equal, the premium difference would generally be expected to be greater than that shown above for enrollees who are older than 24 and less than that shown above for enrollees who are younger than 21.<sup>14</sup>

<sup>13</sup> For individuals who receive PTCs and purchase either the lowest-cost cost silver plan or another plan which is less expensive than the second lowest cost silver plan (e.g., a bronze plan), we estimate that their premium rates, net of PTCs, may increase somewhat as a result of the proposed Section 1332 Waiver (relative to the baseline). This is because the proposed reinsurance program is expected to reduce the PTCs available to the member which can be applied to those lower cost plans by more than the premium rates for those plans are expected to decrease. However, as noted earlier, their out-of-pocket premium for the subsidy benchmark plan will not increase. Additionally, their premium rates net of PTCs for plans whose premium rates are greater than that of the second lowest cost silver plan (e.g., a gold plan) would be expected to decrease (relative to the baseline), improving the affordability of coverage for individuals enrolled in those plans.

<sup>14</sup> <https://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Market-Reforms/Downloads/StateSpecAgeCrv053117.pdf>



## Comprehensiveness of Coverage Requirement

Under the comprehensiveness of coverage requirement, health care coverage under the proposed Section 1332 Waiver must be forecast to be at least as comprehensive overall for Delaware residents as coverage absent the waiver.<sup>15</sup> Comprehensiveness refers to coverage requirements for ACA essential health benefits (EHBs) and, as appropriate, Medicaid and CHIP standards. The proposed Section 1332 Waiver does not impact the scope of services covered by issuers in the commercial markets or the scope of services covered by Medicaid or CHIP programs. Therefore, the proposed Section 1332 Waiver is expected to have no impact on the comprehensiveness of coverage available to Delaware residents.

## Economic Analysis and Deficit Neutrality

Under the deficit neutrality requirement, projected Federal spending, net of Federal revenues, under the proposed Section 1332 Waiver must be equal to or lower than projected Federal spending net of Federal revenues in the absence of the waiver.<sup>16</sup>

The proposed Section 1332 Waiver was analyzed to determine the impact it is expected to have on costs associated with PTCs. Additionally, the proposed Section 1332 Waiver was analyzed to determine the expected impact it will have on Exchange User Fees, which are currently a source of Federal revenue. Table 5 summarizes the expected impact of the proposed Section 1332 Waiver on these two items for each year from 2019 through 2029 assuming there is no moratorium on the HIP Fee in any year following 2019, and premium rates in the individual ACA market are reduced by an average of approximately 13.7% under the waiver scenario (i.e., relative to the baseline scenario; equal to 13.0% plus the impact of assumed morbidity improvement). A detailed discussion of these items, as well as a discussion of other items which were considered in determining the impact to the Federal deficit, follows.

**Table 5: Impact of the Proposed Section 1332 Waiver on the Federal Deficit**  
(Amounts shown in millions, rounded to nearest hundred thousand)

	A	B	C	D	A - B - C - D
	Change in PTCs	Change in User Fees	Change in Shared Responsibility Payments	Change in Health Insurer Fees	Change in Federal Deficit
2019	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
2020	-\$20.6	-\$0.7	\$0.0	\$0.0	-\$20.0
2021	-\$22.8	-\$0.7	\$0.0	\$0.0	-\$22.0
2022	-\$24.9	-\$0.8	\$0.0	\$0.0	-\$24.1
2023	-\$27.6	-\$0.9	\$0.0	\$0.0	-\$26.7
2024	-\$30.4	-\$1.0	\$0.0	\$0.0	-\$29.4
2025	-\$33.4	-\$1.1	\$0.0	\$0.0	-\$32.4
2026	-\$36.8	-\$1.2	\$0.0	\$0.0	-\$35.7
2027	-\$40.6	-\$1.3	\$0.0	\$0.0	-\$39.3
2028	-\$44.7	-\$1.4	\$0.0	\$0.0	-\$43.2
2029	-\$49.2	-\$1.6	\$0.0	\$0.0	-\$47.6

Note: PTCs are considered expenditures for the Federal government whereas Exchange User Fees, Shared Responsibility Payments, and HIP Fees are considered revenue sources for the Federal government. Therefore, in the table above, a reduction in PTCs will decrease the Federal deficit whereas a reduction in Exchange User Fees will increase the Federal deficit.

<sup>15</sup> 45 CFR 155.1308(f)(3)(iv)(A)

<sup>16</sup> 45 CFR 155.1308(f)(3)(iv)(D)

A more detailed summary providing projected results over the ten-year budget period under both the baseline and Section 1332 Waiver scenarios when assuming there is no moratorium on the HIP Fee in any year following 2019, including all additional information requested in the “Checklist for Section 1332 State Innovation Waiver Applications” that hasn’t already been provided (i.e., the projected volume of individual ACA market enrollees by PTC eligibility, the overall average individual market premium rate PMPM, aggregate premium and PTC amounts, aggregate exchange user fees, and projected cost as well as funding levels of the proposed reinsurance arrangement) can be found in Appendix B.

### Premium Tax Credits

Changes in premium for the second lowest cost silver plan and changes in subsidized enrollment have a direct impact on PTCs paid by the Federal government. As shown in Table 6, assuming there is no moratorium on the HIP Fee in any year following 2019, and premium rates in the individual ACA market are reduced by an average of approximately 13.7% under the waiver scenario (i.e., relative to the baseline scenario; equal to 13.0% plus the impact of assumed morbidity improvement), the proposed Section 1332 Waiver is expected to significantly decrease the volume of PTCs paid by the Federal government each year beginning in 2020.

**Table 6- Summary of PTC Enrollment and PTC Payments  
Baseline and Waiver Scenarios**

Year	Baseline			Waiver			Change
	PTC Enrollment	Avg PTC PMPM	Total PTCs (millions)	PTC Enrollment	Avg PTC PMPM	Total PTCs (millions)	Total PTCs (millions)
2019	16,300	\$712.9	\$139.6	16,300	\$712.9	\$139.6	\$0.0
2020	16,400	\$654.3	\$128.5	16,400	\$549.3	\$107.9	-\$20.6
2021	16,400	\$727.9	\$143.6	16,400	\$612.6	\$120.9	-\$22.8
2022	16,400	\$807.0	\$159.2	16,400	\$680.6	\$134.3	-\$24.9
2023	16,500	\$896.1	\$177.7	16,500	\$757.0	\$150.1	-\$27.6
2024	16,500	\$995.4	\$197.4	16,500	\$842.3	\$167.1	-\$30.4
2025	16,500	\$1,104.9	\$219.2	16,500	\$936.4	\$185.8	-\$33.4
2026	16,500	\$1,225.9	\$243.3	16,500	\$1,040.3	\$206.5	-\$36.8
2027	16,500	\$1,359.3	\$269.9	16,500	\$1,155.0	\$229.3	-\$40.6
2028	16,500	\$1,506.6	\$299.2	16,500	\$1,281.6	\$254.5	-\$44.7
2029	16,600	\$1,669.1	\$331.5	16,600	\$1,421.3	\$282.3	-\$49.2

Notes:

1. Enrollment volumes have been rounded to the nearest hundreds and reflect average monthly enrollment levels
2. PMPM values have been rounded to the nearest whole dollar
3. Total PTCs are in millions and have been rounded to the nearest hundred thousand

The overall impact of the proposed Section 1332 Waiver on the volume of enrollees receiving PTCs is expected to be de minimis. Therefore, the decrease in PTC payments shown is driven entirely by the expected decrease in premium rates as a result of the implementation of a state-based reinsurance program in 2020 which reduces premium rates by approximately 13.7% under the waiver scenario (i.e., relative to the baseline scenario; equal to 13.0% plus the impact of assumed morbidity improvement),

## Exchange User Fees

Delaware utilizes a State-Partnership Marketplace, through which issuers sell ACA insurance plans to individuals and families through [healthcare.gov](https://healthcare.gov).<sup>17</sup> To fund the administration of the FFM for plan year 2020, the Federal government will collect 3.0% of premium revenue (i.e., the Exchange User Fee) associated with health plan premiums sold through the FFM. We have assumed that the 3.0% rate will continue into the future and are projecting that Exchange User Fee collections will decrease under the proposed Section 1332 Waiver, due primarily to the reduced premium rates but slightly offset by a small expected increase in the volume of individuals enrolling through the FFM in 2020 and beyond (i.e., due to the increased enrollment volumes being projected for individuals who do not receive PTCs).

## Other Considerations Related to the Federal Deficit

Under the ACA, most individuals are required to maintain a minimum level of health insurance coverage. However, under the Tax Cut and Jobs Act of 2017, the Federal individual mandate penalty was reduced to \$0 starting in 2019. As a result, the proposed Section 1332 Waiver will have no impact on shared responsibility payments.

Given that Federal cost-sharing reduction (CSR) payments are not currently being funded and have been assumed to remain unfunded in the future, there is no expected change being assumed in the volume of CSR payments between the baseline and waiver scenarios.

With respect to the HIP Fee, while the proposed reinsurance program is expected to reduce premium rates in Delaware's individual ACA market (which could result in less Federal revenue being received from Delaware issuers offering coverage in the individual market), given the way in which the HIP Fee is assessed at the national level, it would not be expected that lower premium rates in the State of Delaware would impact the overall level of revenue collected nationally (i.e., if lower revenue is expected to be collected from Delaware issuers offering coverage in the individual market, that reduction in Federal revenue would be expected to be offset by slightly higher revenue collected from other issuers in Delaware, and in other states).

There is the potential for the proposed Section 1332 Waiver to impact the amount of Federal income taxes paid by issuers. However, we examined the potential impact of this item and, in our opinion, believe it to be de minimis.

## Sensitivity of Results

Significant uncertainty exists with respect to future enrollment and premiums in the individual ACA health insurance market. As a result, actual experience will likely differ from that which is being assumed in this analysis. We note that some of the key assumptions related to health insurance markets that we have made in the development of our projections include the following: CSR subsidies will continue to be unfunded by the Federal Government and issuers will continue to load premiums for their on-Exchange silver plans by an amount estimated to be equal to the lost CSR payments, issuer plan and network offerings will be similar to those available to consumers in 2019, issuer pricing assumptions will be similar to those used in 2019 (except where explicitly stated), issuers will offer at least one off-Exchange only Silver plan in

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<sup>17</sup> As described by the Henry J Kaiser Family Foundation, states entering into a Partnership Marketplace conduct plan management and may administer in-person consumer assistance; HHS performs the remaining Marketplace functions. Consumers in states with a Partnership Marketplace apply for and enroll in coverage through [healthcare.gov](https://healthcare.gov)

2020 and beyond on which no CSR load will be applied, there will be no significant issuer entries or exits, due to state regulation there will be no significant impact expected as a result of recent federal regulations around association health plans (AHPs) and short-term limited duration insurance (STLDI) plans, and there will be no additional significant legislative changes at either the state or Federal level.<sup>18,19</sup> To the extent these assumptions do not hold true in future years, we would expect that actual results would vary, potentially significantly, from those assumed in this analysis. Further, given that Federal pass-through funding will ultimately be based on actual premium rates filed by issuers offering coverage in Delaware's individual ACA market and actual enrollment volumes, final funding amounts are likely to differ from the estimates provided in this report.

Given the level of uncertainty which exists, we performed significant sensitivity testing of key assumptions being made and shared those results with the State of Delaware. Some of the key assumptions which were sensitivity tested include the following:

- Overall membership volumes
- PTC membership volumes
- Non-PTC membership volumes
- The percentage of issuer administrative costs which are assumed to be fixed vs. variable
- The level of the second lowest cost silver premium
- The change in the second lowest cost silver premium PMPM due to presence of the reinsurance program
- The ratio of PTCs to APTCs
- The level of assumed morbidity improvement due to the presence of the reinsurance program

We note that in each of the scenarios tested, while the changes made to the specified assumptions impacted the cost estimates of the reinsurance program and projected Federal pass-through funding amounts, there were no cases where any of the four Federal requirements associated with Section 1332 Waivers would not be expected to be met.

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<sup>18</sup> <http://regulations.delaware.gov/AdminCode/title18/1400/1405.shtml>

<sup>19</sup> <http://regulations.delaware.gov/register/november2018/emergency/22%20DE%20Reg%20326%2011-01-18.htm>

## 4. Data Sources and Modeling Methodology

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The projections underlying our analysis are based on results from Oliver Wyman's HRM Model, which was utilized to examine the impact that the proposed Section 1332 Waiver is expected to have on the insurance markets in the State of Delaware, and in meeting the requirements associated with Section 1332 Waivers as outlined in Federal statute and regulation. As noted earlier, the HRM Model is an economic utility model that captures the flow of individuals across various markets and coverage options based on their economic purchasing decisions. It is integrated with actuarial modeling designed to assess the impact that various reforms are expected to have on the health insurance markets.

We are estimating that the proposed Section 1332 Waiver will not have a material impact on the number of Delawareans covered under employer-sponsored plans, Medicaid, Medicare, or other public programs. As a result, we did not present detailed modeling results for those markets.

The primary basis for the population underlying the HRM Model is data from the 2016 American Community Survey (ACS). The ACS data provides detailed information for each individual in a surveyed household unit, including demographic, socioeconomic, geographic, and employment information. The data also provides information regarding health insurance coverage type. The ACS data was supplemented and synthesized with several other data sources, including information from an issuer data call, in order to develop a complete and comprehensive view of the current insurance market in Delaware.

In April 2019, Delaware Health and Social Services issued a data call to the only health insurance issuer currently offering coverage in Delaware's individual ACA market in 2019 in order to collect detailed information for that market to aid in calibrating the HRM Model. The data included premium, claims, and enrollment information from January 2017 through March 2019. The issuer provided data was further augmented with information from a number of other sources, including but not limited to:

- 2017 and 2018 statutory financial statements submitted by issuers in Delaware's health insurance markets
- 2017 medical loss ratio (MLR) data
- 2017, 2018, and 2019 Marketplace enrollment public use files
- 2017 and 2018 effectuated enrollment reports
- U.S. Census Bureau data
- 2017 final and 2018 interim summary reports on risk adjustment transfers
- 2016 and 2017 health insurance coverage estimates from the Kaiser Family Foundation
- Delaware population projections from [delaware.gov](http://delaware.gov)
- National CPI and CMS Personal Health Care Price Index projections
- Publicly available 2018 rate filing information (e.g., Unified Rate Review Template data)
- 2017, 2018, and 2019 Marketplace premium rates

These additional data sources were utilized to determine the overall average annual enrollment volumes in the health insurance market for each of 2017, 2018, and 2019 (accounting for those issuers that exited the market prior to 2018), to validate the issuer data which was provided

(e.g., average premiums PMPM), and to gather additional information utilized in our modeling but not captured through the issuer data call (e.g., the distribution of individuals enrolling through the FFM, including by income range).

Health status was assigned to various sub-populations within the HRM Model based on a statistical analysis of self-reported health status data obtained from the Current Population Survey (CPS). The CPS data provides the starting assumptions for the population morbidity, because the data includes a self-reported health status indicator as well as fields classifying income, age, gender, geography, coverage type, and other categories. Respondents to the survey classify their health into one of five categories: excellent, very good, good, fair and poor. The model reflects these classifications numerically by assigning a morbidity load to each category.

Information from the Agency for Health Care Research and Quality's MEPS data was used to simulate the Delaware employer-based market. MEPS identifies key statistics for the employer-based market for every state by group size, including employer offer rates, employee take-up rates, and self-funding rates among employers. Individuals in the ACS data identified as working for private employers were categorized into employer group size segments (e.g., small employer groups) based on the distribution of employees by group size according to MEPS. Additionally the MEPS data was used to determine the number of individuals enrolled in self-funded plans to estimate the total size of the employer-based market. MEPS data was further used to inform our estimates of employer offer rates and self-funding rates.

The utility functions underlying the HRM Model were then calibrated to replicate the number of individuals in each of the individual, employer-based, and uninsured markets in Delaware for 2017, 2018, and 2019. The various parameters of HRM Model's utility functions were then further adjusted until the model also projected individual market enrollment in each of 2017, 2018, and 2019 that was consistent with key characteristics of the actual individual market enrollment for each year (e.g., by age range, income range, etc.).

The HRM Model assumes a "steady" state population beyond 2019. This means the overall distribution by income, health status, employer size, and family composition of the population being modeled is not expected to change significantly. Additional adjustments were applied to the modeled results to reflect anticipated population growth within the State of Delaware. The population growth adjustments were developed based on population projections which are publicly available on the delaware.gov website.<sup>20</sup>

Average claim costs were calibrated and adjusted on an overall basis using information provided in the issuer data call, statutory financial statements, and from other public data sources previously noted. Beyond 2019, claim costs within the HRM Model were trended forward assuming an average annual claims trend rate in the individual market equal to 9.5%. This assumption was developed based on discussions with the sole issuer in the Delaware individual health insurance market. As an additional reasonability check of this assumption, we note that Oliver Wyman develops a semi-annual Carrier Trend Survey which reports the nationwide pricing trends utilized by numerous issuers within the industry. The most recent survey available is for January 2019 effective dates and reflects pricing trends being used for approximately 100 million commercial members nationwide. Based on the January 2019 survey,

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<sup>20</sup> <http://www.stateplanning.delaware.gov/demography/dpc-projection-data.shtml>

the 25<sup>th</sup> and 75<sup>th</sup> percentile trend rates being used are 6.2% and 9.0% for individual medical PPO plans, 4.3% and 7.3% for individual medical HMO plans, and 7.9% and 10.5% for prescription drug coverage. Relative to these results, assuming prescription drug claims make up approximately 20% to 25% of total claim costs, 9.5% is at the high end of the industry's trend assumptions but not unreasonable. Claim costs in the Small and Large Group markets were trended forward using National Health Expenditure (NHE) data published by CMS.<sup>21</sup>

Member cost-sharing and incurred claims were calculated by the HRM Model, with the assumed annual limitation on cost-sharing indexed for inflation each year according to Federal regulations using the most recent NHE data.

Actual lowest-cost premium rates for Delaware's individual ACA market in 2017, 2018, and 2019 were utilized within the HRM Model. Premium rates for 2020 (the baseline scenario) were developed based on proprietary feedback received from the sole issuer in Delaware's individual ACA market. Premium rates in the individual market for 2021 and beyond are assumed to increase by the assumed annual premium/claims trend rate equal to 9.5%. Premium rates in the Small and Large Group markets are assumed to increase by the projected annual claims trend rates for private employer sponsored health insurance per the NHE data published by CMS.

Federal premium tax credits for eligible individual market enrollees were assumed to change each year based on premium changes associated with the second lowest cost silver plan available changes in the Applicable Percentage Tables. The Applicable Percentage Tables, while known for 2016 through 2019, were adjusted each year beyond 2019 according to the methodology outlined by the 2020 Final Benefit and Payment Parameter Notice, including specifically adjusting for the change in methodology in 2020 which accounts for changes in both individual and group premiums in developing the applicable percentages.<sup>22</sup> Premium and income growth rates utilized in developing the Adjustment Ratio that was applied to the projected Applicable Percentage Tables were based on the most recent NHE projections published by CMS.

As noted earlier, additional key assumptions which were incorporated into the HRM Model include the following: CSR subsidies will continue to be unfunded by the Federal Government and issuers will continue to load premiums for their silver plans by an amount estimated to be equal to the lost CSR payments, issuer plan and network offerings will be similar to those available to consumers in 2019, issuer pricing assumptions will be similar to those used in 2019, there will be no significant issuer entries or exits, due to state regulation there will be no significant impact expected as a result of recent federal regulations around association health plans (AHPs) and short-term limited duration insurance (STLDI) plans, and there will be no additional significant legislative changes at either the state or Federal level.

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<sup>21</sup> <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/NationalHealthAccountsProjected.html> - Table 17; employer-sponsored private health insurance

<sup>22</sup> <https://s3.amazonaws.com/public-inspection.federalregister.gov/2019-08017.pdf>

## 5. Distribution and Use

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This report was prepared for the sole use of the State of Delaware. All decisions in connection with the implementation or use of advice or recommendations contained in this report are the sole responsibility of the State of Delaware. This report is not intended for general circulation or publication, nor is it to be used or distributed to others for any purpose other than those that may be set forth herein or in the definitive documentation pursuant to which this report was issued. Oliver Wyman understands that the report will be public and used to support the State of Delaware's 1332 Waiver application. All decisions in connection with the implementation or use of advice or recommendations contained in this report are the sole responsibility of the State of Delaware.

Oliver Wyman's consent to any distribution of this report to parties other than the State of Delaware does not constitute advice by Oliver Wyman to any such third parties and shall be solely for informational purposes and not for purposes of reliance by any such third parties. Oliver Wyman assumes no liability related to third party use of this report or any actions taken or decisions made as a consequence of the results, advice or recommendations set forth herein. This report should not replace the due diligence on behalf of any such third party.



## 6. Disclosures and Limitations

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Oliver Wyman Actuarial Consulting, Inc., through a sub-contracting agreement with its sister company Mercer Government Human Services Consulting, was engaged by the State of Delaware to assist in performing actuarial and economic analyses as part of their State Innovation Waiver application under Section 1332 of the Patient Protection and Affordable Care Act. The actuarial services provided consisted of analyses and forecasting to determine whether the proposed Section 1332 Waiver will satisfy the Section 1332 Waiver guardrail requirements.

Tammy Tomczyk and Ryan Schultz, Fellows of the Society of Actuaries and Taylor Gehrke, an Associate of the Society of Actuaries are responsible for this actuarial communication. They are all Members of the American Academy of Actuaries and meet the requirements to issue this report.

For our analysis, we relied on a wide range of data and information as described throughout this report. This includes information received from the sole issuer currently offering coverage in the individual market in Delaware. Though we have reviewed the data for reasonableness and consistency, we have not independently audited or otherwise verified this data. Our review of the data may not reveal errors or imperfections. We have assumed the data provided is both accurate and complete. The results of our analysis are dependent on this assumption. If this data or information are inaccurate or incomplete, our findings and conclusions may need to be revised. All projections are based on data and information available as of July 10, 2019, and the projections are not a guarantee of results which might be achieved.

The estimates included within are based on Federal law, regulations issued by the United States Department of Health and Human Services and the Internal Revenue Service, and applicable laws and regulations of the State of Delaware. Further, our estimates assume that current law as it relates to the Affordable Care Act, and other statutes and regulations that impact the health insurance markets, will continue in the future years without material change that would impact the results included in this report.

In addition, the projections we show in this report are dependent upon a number of assumptions regarding the future economic environment, medical trend rates, issuer behavior, the behavior of individuals and employers in light of incentives and penalties, and a number of other factors. These assumptions are disclosed within the report and have been discussed with representatives from the State of Delaware.

While this analysis complies with the applicable Actuarial Standards of Practice, in particular ASOP No. 23, Data Quality and ASOP No 41, Actuarial Communication, users of this analysis should recognize that our projections involve estimates of future events, and are subject to economic, statistical and other unforeseen variations from projected values. We have not anticipated any extraordinary changes to the legal, social, or economic environment that might affect our projections. For these reasons, no assurance can be given that the emerging experience will correspond to the projections in this analysis. To the extent future conditions are at variance with the assumptions we have made in developing these projections, actual results will vary from our projections, and the variance may be substantial.

Oliver Wyman is not engaged in the practice of law and this report, which may include commentary on legal issues and regulations, does not constitute, nor is it a substitute for, legal advice. Accordingly, Oliver Wyman recommends that the State of Delaware secure the advice of competent legal counsel with respect to any legal matters related to this report or otherwise.

This report is intended to be read and used as a whole and not in parts. Separation or alteration of any section or page from the main body of this report is expressly forbidden and invalidates this report.

## 7. Actuarial Certification

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I, Tammy Tomczyk, am a Partner with Oliver Wyman Actuarial Consulting, Inc. I am a Fellow in the Society of Actuaries, a Member of the American Academy of Actuaries, and am qualified to provide the following certification.

This actuarial certification applies to the State of Delaware's application for a State Innovation Waiver under Section 1332 of the Patient Protection and Affordable Care Act. The State is seeking to waive §1312(c)(1) of the Affordable Care Act, which requires that all enrollees in all health plans offered by an issuer in the individual market be members of a single risk pool.

### Reliance

In performing the analyses outlined in this report and arriving at my opinion, I used and relied on information provided by the State of Delaware, information obtained from issuers currently offering coverage in the individual market in Delaware, financial statement information, and additional information published by various agencies of the Federal government.

I used and relied on this information without independent investigation or audit. If this information is inaccurate, incomplete, or out of date, my findings and conclusions may need to be revised. While I have relied on the data provided without independent investigation or audit, I have reviewed the data for consistency and reasonableness. Where I found the data inconsistent or unreasonable, I requested clarification.

### Actuarial Certification

In my opinion, the State of Delaware's proposed Section 1332 Waiver application complies with the following requirements:

- **Scope of Coverage Requirement** – The Section 1332 Waiver will provide coverage to at least a comparable number of the State's residents as would be covered absent the waiver.
- **Affordability Requirement** - The Section 1332 Waiver will provide access to coverage and cost-sharing protections against excessive out-of-pocket spending that results in coverage which is at least as affordable for the State's residents as would be provided absent the waiver.
- **Comprehensiveness of Coverage Requirement** – The Section 1332 Waiver will provide access to coverage that is at least as comprehensive for the State's residents as would be provided absent the waiver.
- **Deficit Neutrality Requirement** – The Section 1332 Waiver will not increase the Federal deficit.

This certification conforms to the applicable Actuarial Standards of Practice promulgated by the Actuarial Standards Board.



Tammy Tomczyk, FSA, FCA, MAAA

July 10, 2019

Date

# Appendix A. Overview of Oliver Wyman's Healthcare Reform Microsimulation Model

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We utilized Oliver Wyman's HRM Model to assess the impact that the proposed Section 1332 Waiver is expected to have on the individual health insurance market and correspondingly the uninsured population in the State of Delaware. The HRM Model is an economic utility model that captures the flow of individuals across various markets and coverage options based on their economic purchasing decisions and is integrated with actuarial modeling designed to assess the impact various reforms are expected to have on the health insurance markets. This model is a leading edge tool for analyzing the impact of various healthcare reforms or proposed legislation.

The HRM Model projects the number of individuals expected to seek coverage under each health insurance coverage type through the use of economic utility functions. The decision-making process for determining which health insurance coverage type is selected is made at the health insurance unit (HIU) level, where an HIU is defined as any grouping of family members where each person within the HIU might be eligible for coverage under the same policy. One exception to this is that individuals who are identified as being eligible for Medicare, Medicaid, CHIP, and other government sponsored coverage (e.g., government workers) are assumed to retain their government sponsored coverage, and the economic utility associated with employer-based coverage, individual market coverage or being uninsured is only evaluated by the HRM Model for the remaining individuals within an HIU.

HIUs are generally assumed to make economically rational decisions in selecting the health insurance option that maximizes the economic utility for the HIU. The HRM Model does allow for some irrational behavior, including the principle of "inertia" in HIU decision making (i.e., people are unlikely to make significant changes in their situation for relatively small changes in utility) and the assumption that not all uninsured individuals will actually shop for health insurance coverage each year.

An HIU's decision to enroll in ACA coverage is based on the lowest cost bronze, silver, or gold plan available in each rating area (RA) which provides the greatest economic value. Both on-Exchange and off-Exchange plans are made available to each HIU, with PTCs applied for those HIUs who are eligible. The economic utilities for all members of the HIU are aggregated to develop the corresponding utility for the HIU under each health insurance option.

Individuals identified as working for private employers are randomly categorized into synthetic employer groups of varying group sizes based on the distribution of group size from the Medical Expenditure Panel Survey (MEPS). An employer-based economic utility function, which takes into account items such as the expected costs which would be incurred as a result of not offering coverage (e.g., the penalty for not offering coverage) and the benefits that would be available to an employer's employees if they were to purchase coverage in the individual market (e.g., PTCs), determines whether or not a given employer will offer health insurance coverage to its employees and their dependents. If an employer offers coverage, all eligible employees and their dependents within each HIU (i.e., individuals who are not eligible for health insurance

coverage through a government sponsored program) are assumed to evaluate the health insurance coverage options offered by the employer.

The decision as to whether an HIU will take up coverage in either the employer-based market, the individual market, or choose to be uninsured is based on the result from comparing two economic utility functions. The first economic utility function calculates the utility associated with taking up coverage in either the employer-based market or the individual market (depending on whether the employer of the primary or spouse within an HIU is modeled to offer coverage) and is a function of the premium the HIU would be expected to pay (net of employer subsidies or Federal premium subsidies, respectively), any cost-sharing the HIU would be expected to pay out-of-pocket (net of any CSRs for applicable individual market coverage), and the risk aversion of the HIU. If multiple coverage options are available within a given market (e.g., bronze-level coverage, silver-level coverage), the utility of each coverage option is evaluated. The second economic utility function calculates the utility associated with not taking coverage and remaining uninsured, and is a function of any tax penalty the HIU would be assessed, total allowed claim costs for the HIU (assuming a reduced level of utilization due to the lack of insurance coverage), and the risk aversion of the HIU. If the utility of being uninsured is greater than the utility associated with taking up health insurance coverage, the HIU is assumed to be uninsured. Otherwise, the HIU is assumed to take up coverage in either the employer-based market or the individual market for the coverage option that provides the maximum utility for the HIU.

# Appendix B. Ten Year Budget Period Projections

## Detailed Summary of Individual Market Projections- Baseline and Waiver Scenarios

Baseline											
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
Total Individual Enrollment	21,700	22,100	22,100	22,100	22,100	22,100	22,000	22,000	21,900	21,900	21,800
ACA PTC Enrollment	16,300	16,400	16,400	16,400	16,500	16,500	16,500	16,500	16,500	16,500	16,600
ACA Non-PTC Enrollment	5,400	5,700	5,700	5,700	5,600	5,600	5,500	5,400	5,400	5,300	5,200
Aggregate Premium (millions)	\$216.3	\$205.3	\$226.0	\$247.9	\$272.9	\$299.3	\$328.4	\$360.3	\$395.3	\$433.7	\$475.9
Average Premium Rate PMPM	\$830	\$775	\$852	\$934	\$1,027	\$1,129	\$1,242	\$1,367	\$1,503	\$1,654	\$1,819
Aggregate PTCs (millions)	\$139.6	\$128.5	\$143.6	\$159.2	\$177.7	\$197.4	\$219.2	\$243.3	\$269.9	\$299.2	\$331.5
Average PTCs PMPM	\$713	\$654	\$728	\$807	\$896	\$995	\$1,105	\$1,226	\$1,359	\$1,507	\$1,669
Exchange User Fees (millions)	\$6.5	\$5.2	\$5.8	\$6.3	\$7.0	\$7.7	\$8.4	\$9.3	\$10.2	\$11.2	\$12.4
Waiver											
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
Total Individual Enrollment	21,700	22,600	22,600	22,700	22,700	22,600	22,500	22,500	22,400	22,400	22,300
ACA PTC Enrollment	16,300	16,400	16,400	16,400	16,500	16,500	16,500	16,500	16,500	16,500	16,600
ACA Non-PTC Enrollment	5,400	6,200	6,200	6,200	6,200	6,100	6,000	5,900	5,900	5,800	5,700
Aggregate Premium (millions)	\$216.3	\$182.5	\$200.8	\$220.4	\$242.4	\$265.8	\$291.5	\$319.6	\$350.5	\$384.5	\$421.7
Average Premium Rate PMPM	\$830	\$673	\$739	\$810	\$891	\$980	\$1,077	\$1,185	\$1,303	\$1,433	\$1,576
Aggregate PTCs (millions)	\$139.6	\$107.9	\$120.9	\$134.3	\$150.1	\$167.1	\$185.8	\$206.5	\$229.3	\$254.5	\$282.3
Average PTCs PMPM	\$713	\$549	\$613	\$681	\$757	\$842	\$936	\$1,040	\$1,155	\$1,282	\$1,421
Exchange User Fees (millions)	\$6.5	\$4.6	\$5.0	\$5.5	\$6.1	\$6.7	\$7.4	\$8.1	\$8.9	\$9.8	\$10.8
Change - Baseline Scenario to Waiver Scenario											
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
Total Individual Enrollment	0	500	500	500	500	500	500	500	500	500	500
Total Individual Enrollment (%)	0.0%	2.3%	2.3%	2.7%	2.7%	2.3%	2.3%	2.3%	2.3%	2.3%	2.3%
Average Premium Rate PMPM (%)	0.0%	-13.2%	-13.2%	-13.2%	-13.2%	-13.3%	-13.3%	-13.3%	-13.3%	-13.3%	-13.4%
Average PTCs PMPM (%)	0.0%	-16.1%	-15.8%	-15.7%	-15.5%	-15.4%	-15.3%	-15.1%	-15.0%	-14.9%	-14.8%
Demonstration of Deficit Neutrality Requirement (amounts shown in millions)											
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
Change in Total PTCs	\$0.0	-\$20.6	-\$22.8	-\$24.9	-\$27.6	-\$30.4	-\$33.4	-\$36.8	-\$40.6	-\$44.7	-\$49.2
Change in Exchange User Fees	\$0.0	-\$0.7	-\$0.7	-\$0.8	-\$0.9	-\$1.0	-\$1.1	-\$1.2	-\$1.3	-\$1.4	-\$1.6
Net Savings to Federal Government	\$0.0	-\$20.0	-\$22.0	-\$24.1	-\$26.7	-\$29.4	-\$32.4	-\$35.7	-\$39.3	-\$43.2	-\$47.6
Projected Reinsurance Program Cost and Funding Levels											
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
Cost of Reinsurance Program (millions)	\$0.0	\$26.9	\$29.6	\$32.5	\$35.7	\$39.2	\$42.9	\$47.1	\$51.6	\$56.6	\$62.1
Federal Pass Through Funding (millions)	\$0.0	\$20.0	\$22.0	\$24.1	\$26.7	\$29.4	\$32.4	\$35.7	\$39.3	\$43.2	\$47.6
State Funding (millions)	\$0.0	\$6.9	\$7.6	\$8.3	\$9.0	\$9.8	\$10.6	\$11.4	\$12.4	\$13.4	\$14.5

Notes:

1. Enrollment volumes have been rounded to the nearest hundred and reflect average month enrollment levels
2. Aggregate values are in millions and have been rounded to the nearest hundred thousand
3. PMPM values have been rounded to the nearest whole dollar



Oliver Wyman  
411 East Wisconsin Avenue, Suite 1300  
Milwaukee, WI 53202-4419  
414-223-7988  
[tammy.tomczyk@oliverwyman.com](mailto:tammy.tomczyk@oliverwyman.com)

## Attachment 3

Notice of Public Comment on DOI Website,  
Press Release Announcing Public Comment  
Period, Waiver FAQs



**!** Department of Insurance's Dover office will be moving to 1351 West North Street, Suite 101, Dover, DE 19904, effective 7/15/19. ✕

Delaware 1332 Waiver Application Public Comment (Email: [1332waiver@delaware.gov](mailto:1332waiver@delaware.gov)) (mailto:1332waiver@delaware.gov) [More Info](#) → (/1332waiver/)

## Insurance Menu

(<http://delaware.gov>)

Delaware Department of  
Insurance

# Delaware 1332 Waiver Application Public Comment



- Press Release Describing the State Innovation Waiver Application [📄](https://news.delaware.gov/2019/06/05/public-comment-period-opens-for-delaware-1332-state-innovation-waiver/) (<https://news.delaware.gov/2019/06/05/public-comment-period-opens-for-delaware-1332-state-innovation-waiver/>)
- State Innovation Waiver Application [📄](/wp-content/uploads/sites/15/2019/05/de-summary-for-public-comment-1.pdf) (/wp-content/uploads/sites/15/2019/05/de-summary-for-public-comment-1.pdf)
- Frequently Asked Questions about Delaware's 1332 waiver application [📄](/wp-content/uploads/sites/15/2019/06/1332-FAQs-1.pdf) (/wp-content/uploads/sites/15/2019/06/1332-FAQs-1.pdf) **UPDATED**
- Send Questions And Comments To [1332waiver@delaware.gov](mailto:1332waiver@delaware.gov) (mailto:1332waiver@delaware.gov)

**Related Topics:** [1332 \(https://insurance.delaware.gov/tag/1332/\)](https://insurance.delaware.gov/tag/1332/), [ACA \(https://insurance.delaware.gov/tag/aca/\)](https://insurance.delaware.gov/tag/aca/), [affordable care act \(https://insurance.delaware.gov/tag/affordable-care-act/\)](https://insurance.delaware.gov/tag/affordable-care-act/), [comment \(https://insurance.delaware.gov/tag/comment/\)](https://insurance.delaware.gov/tag/comment/), [de \(https://insurance.delaware.gov/tag/de/\)](https://insurance.delaware.gov/tag/de/), [del. \(https://insurance.delaware.gov/tag/del/\)](https://insurance.delaware.gov/tag/del/), [delaware \(https://insurance.delaware.gov/tag/delaware/\)](https://insurance.delaware.gov/tag/delaware/), [innovation \(https://insurance.delaware.gov/tag/innovation/\)](https://insurance.delaware.gov/tag/innovation/), [state \(https://insurance.delaware.gov/tag/state/\)](https://insurance.delaware.gov/tag/state/), [waiver \(https://insurance.delaware.gov/tag/waiver/\)](https://insurance.delaware.gov/tag/waiver/)

# Public Comment Period Open for Delaware 1332 State Innovation Waiver

June 5, 2019

DOVER, DE –Delaware Insurance Commissioner Trinidad Navarro announced that the Delaware Department of Insurance has posted Delaware’s 1332 Waiver Application (the “Application”) for public comment. The period during which members of the public may comment on the proposed Application runs until June 29, 2019.

Under Section 1332 of the Affordable Care Act (the “ACA”) states may apply to waive certain provisions of the ACA in order to develop strategies to, among other things, mitigate high rates for individual plans on the Marketplace. Since 2015, Delaware’s Marketplace has experienced repeated rate increases and significant deterioration in membership. If approved, Delaware’s Application would establish the Delaware Health Insurance Individual Market Stabilization Reinsurance Program & Fund (the “Fund”) to reinsure high dollar claims on the Exchange. The Fund would be administered by the Delaware Health Care Commission (the “DHCC”) and financed through an assessment of 2.75% on all amounts used to calculate a health insurer’s premium written on the individual market, as well as the small and large group markets in Delaware. Under the terms of this proposal, the reinsurance program is expected to reduce Marketplace rates by 20% for Plan Year 2020 and increase enrollment in the ACA individual market by as much as 3.2%.

Consumers who wish to submit comments on the proposed plan may do so by reviewing the proposal on the Department’s website at [www.insurance.delaware.gov](http://www.insurance.delaware.gov), and writing to the Department of Insurance’s Dover address listed below, or by emailing [1332waiver@delaware.gov](mailto:1332waiver@delaware.gov). The Department will also hold two public hearings on the Application as follows:

Tuesday, June 11, 2019 at 9:00 a.m.

Delaware Department of Insurance

841 Silver Lake Boulevard

Dover, DE 19904

and

Friday, June 14, 2019, at 1:00 p.m.

Delaware Department of Insurance

1007 N Orange St, Suite 1010

Wilmington, DE 19801

###

Contact: Vince Ryan

Office: (302) 674-7303

Email: [vince.ryan@delaware.gov](mailto:vince.ryan@delaware.gov)

# Frequently Asked Questions about Delaware's 1332 Waiver Application

## Overview

Delaware intends to submit a 1332 waiver application to the U.S. Department of Health and Human Services and the U.S. Treasury (the Departments) which, if approved, would establish a reinsurance program that would be expected to lower premium rates for Individual health insurance plans by approximately 20.0% and improve the morbidity of the Individual single risk pool by as much as 0.6%.

If approved and implemented, the waiver application would take effect for the 2020 plan year and would be eligible to remain in effect for five years.

## How would the reinsurance program work?

Insurers who offer coverage in Delaware's Individual market would be reimbursed by the reinsurance program for a percentage of the annual claims which they incur on a per member basis between a specified lower threshold ("attachment point") and upper threshold ("reinsurance cap"), to be determined each year by the Delaware Health Care Commission (DHCC).

Due to these reimbursements and the anticipated improvement in morbidity, it is expected that insurers would incur lower costs on their Individual health insurance plans each year, and that those lower costs would be required to be passed on to consumers in the form of lower premium rates (i.e., prior to the application of federal premium tax credits).

## Who would benefit from the reinsurance program?

Consumers in the Individual market who do not receive federal premium tax credits (PTCs) would particularly benefit from the lower premium rates.

Consumers in the Individual market who do receive PTCs would be expected to experience little to no impact from the lower premium rates. This is because the PTCs are set such that eligible individuals pay no more than a specified percentage of their income for the second-lowest cost silver plan, regardless of the cost of the second-lowest cost silver plan. However, if the lower premium rates for the second-lowest cost silver plan were to be less than the specified percentage of income for certain individuals, they would pay the lower amount.

All consumers in the Individual market would be expected to benefit from increased stability due to an expectation that overall membership in the single risk pool would increase due to lower premium rates.

### **How much would the reinsurance program cost and how would it be funded?**

Preliminarily, the total cost of the reinsurance pool needed for the 2020 plan year is expected to be approximately \$43.8 million.

Based on actuarial modeling, over 80% of the cost of the reinsurance program is expected to be funded through federal “pass-through” dollars. These amounts are made available to the State under a 1332 waiver based on the presumption that the federal government would spend less in premium tax credits than it otherwise would have, due to lower premium rates.

The remainder of the cost of the program is expected to be funded through an assessment which would be equally applied to specified insurers based upon their premium tax liability, or the amount of their premium tax exemption value for the previous calendar year. The assessment would be equal to 2.75% of premium annually in years that the Health Insurance Providers Fee (i.e., as defined under 9010 of the Affordable Care Act) is waived, and 1.00% of premium annually in years that the Health Insurance Providers Fee is assessed. The State of Delaware would not be able to hold more than 5 years of operating and administrative funds to cover the expected cost of the reinsurance program.

### **What additional steps must be taken before Delaware’s 1332 waiver application is approved?**

Senate Concurrent Resolution 70 (SCR 70) was passed on June 28, 2018 and authorizes the State’s submission of a 1332 waiver application. The establishment of the reinsurance program and the securement of a funding source for the reinsurance program, contingent on the approval of the State’s 1332 waiver application, is being established in the House Bill 193 (HB 193), which was introduced on June 3, 2019. HB 193 will need to be passed by the legislature and signed by the Governor prior to the submission of the State’s 1332 waiver application.

Additionally, two public hearings must be held prior to submission of the State’s 1332 waiver application. These public hearings are currently scheduled to take place on Tuesday, June 11, 2019 and Friday, June 14, 2019.

Once the two public hearings have been held and HB 193 has been passed and signed, the State of Delaware intends to submit its 1332 waiver application to the Departments for approval. Based on the timing of recent 1332 waiver applications filed by other states, it is expected that the Departments' review and decision of whether to approve Delaware's application will take approximately 6-7 weeks. It should be noted, however, that the Departments ultimately have up to 45 days following receipt of the application to determine its completeness and another 180 days following the determination of completeness to make a final decision regarding approval.

### **What happens if Delaware's 1332 waiver application is not approved?**

Per HB 193, funding for the reinsurance program is contingent on the approval of the State's 1332 waiver application. If the application is not approved, it is expected that the State would no longer proceed with the implementation of a state-based reinsurance program for plan year 2020.

## Attachment 4

Sign-in Sheet from the June 11, 2019 Public  
Hearing



## PUBLIC HEARING SIGN-IN SHEET

Tuesday, June 11, 2019

### 1332 WAIVER HEARING

PRINT NAME	ORGANIZATION	EMAIL	Speaking? YES / NO
Pam Price	Highmark		
Jill Freda	DHSS	jill.freda@delaware.gov	NO
Fleur McEldell	DOI		No
Rebecca Kidner	RB Kidner PA	rbk@kidner.com	No
Monica Shockley Porter	Dover Behavioral Health		NO

## Attachment 5

Sign-in Sheet and Written Testimony from  
the June 14, 2019 Public Hearing







**Edward J. Donahue, Jr.**  
Second Vice President  
Regional Director and Counsel

June 14, 2019

House Administration Committee  
Delaware State Capitol  
411 Legislative Avenue  
Dover, DE 19901

Dear Committee Members,

On behalf of Aflac I would like to express our concerns with the language in House Bill 193 as it relates to the funding structure for the proposed state reinsurance program.

We are concerned with the language in the bill that would subject some policies which do not pay for medical expenses to an assessment under the proposed funding structure. The assessment proposed levies a tax on health insurers, but not all health insurance specifically “excepted benefits” pays medical expenses. “Excepted benefits” are defined in the Health Insurance Portability and Accountability Act (HIPAA), and include accident-only insurance, disability income insurance, limited scope dental or vision benefits, specified disease or illness policies, and hospital or fixed indemnity insurance. These policies should not be included in the funding base for a program that does not impact or benefit them. Although licensed as health insurance, these products provide very different benefits from medical expense insurance. “Excepted benefits” – sometimes referred to as supplemental products – are intended to supplement major medical coverage, not serve as a substitute for it. These products are not intended to pay providers directly for medical expenses, they provide additional financial protection directly to insureds. These products are not subject to the requirements that would apply to major medical coverage under the Affordable Care Act (ACA), and should not be lumped in with products that would be directly impacted by the reinsurance program.

We appreciate that Medicare Supplement, stand-alone dental and vision, long-term care insurance, disability income insurance, and accident-only insurance (all HIPAA “excepted benefits”) are already excluded from the reinsurance funding mechanism. No other state has included “excepted benefit” in its assessment mechanism for state reinsurance programs. We strongly recommend that House Bill 193 be amended to exclude the remaining “excepted benefit” products from the reinsurance association and remove them from the assessment base. We support the efforts of our trade association American Council of Life Insurance, (ACLI), in advocacy of this important charge.

If you have any questions about the concerns raised in this letter, please feel free to contact me at [edonahue@aflac.com](mailto:edonahue@aflac.com) or (508) 254-7534.

Thank you in advance for your consideration.

A handwritten signature in black ink, appearing to read "Ed Donahue". The signature is fluid and cursive, with the first name "Ed" being more prominent and the last name "Donahue" following in a similar style.

Ed Donahue

## Attachment 6

### Written Public Comments Received



via electronic submission

June 6, 2019  
Commissioner Navarro  
C/O Leslie Ledogar  
Delaware Department of Insurance  
841 Silver Lake Blvd.  
Dover, DE 19904

**RE: ACS CAN's Comments on Proposed 1332 Waiver**

Dear Commissioner Navarro:

The American Cancer Society Cancer Action Network (ACS CAN) appreciates the opportunity to comment on the Department of Health and Social Services and the Department of Insurance's draft Section 1332 waiver proposal. ACS CAN, the nonprofit, nonpartisan advocacy affiliate of the American Cancer Society, supports evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem. As the nation's leading advocate for public policies that are helping to defeat cancer, ACS CAN ensures that cancer patients, survivors, and their families have a voice in public policy matters at all levels of government.

ACS CAN supports a robust marketplace from which consumers can choose a health plan that best meets their needs. Access to health care coverage is paramount for persons with cancer and survivors. Research from the American Cancer Society has shown that uninsured Americans are less likely to get screened for cancer and thus are more likely to have their cancer diagnosed at an advanced stage when survival is less likely and the cost of care more expensive.<sup>1</sup> In the United States, more than 1.7 million Americans will be diagnosed with cancer this year – an estimated 5,870 in Delaware.<sup>2</sup> An additional 15.5 million Americans are living with a history of cancer – 50,760 in Delaware.<sup>3</sup> For these Americans access to affordable health insurance is a matter of life or death.

ACS CAN supports Delaware's proposed reinsurance program. A well-designed reinsurance program can help to lower premiums and mitigate plan risk associated with high-cost enrollees. We note that the Departments plan to target the reinsurance program to reduce premiums by

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<sup>1</sup> E Ward et al, "Association of Insurance with Cancer Care Utilization and Outcomes, *CA: A Cancer Journal for Clinicians* 58:1 (Jan./Feb. 2008), <http://www.cancer.org/cancer/news/report-links-health-insurance-status-with-cancer-care>.

<sup>2</sup> American Cancer Society. *Cancer Facts & Figures: 2019*. Atlanta: American Cancer Society, 2019.

<sup>3</sup> Id.

20 percent in plan year 2020.<sup>4</sup> These savings could reduce federal subsidy payments, and lower premiums for consumers not eligible for subsidies who enroll in coverage through the exchange.

The Departments state that the number of issuers offering coverage in the individual market in Delaware has declined in recent years.<sup>5</sup> A reinsurance program may encourage insurance carriers to continue offering plans through the exchange, or begin to offer plans. The expected maintenance or increase in plan competition due to the reinsurance program also may help to keep premiums from rising. These premium savings could help cancer patients and survivors afford health insurance coverage and may allow some individuals to enroll who previously could not afford coverage. The Departments estimate that enrollment in the individual market could increase as much as 3.2 percent because of the reinsurance program.<sup>6</sup>

We are pleased that the application states that the waiver “does not seek to alter or affect the comprehensiveness of coverage in Delaware’s market for health insurance.”<sup>7</sup> ACS CAN believes that patient protections in current law – like the prohibition on pre-existing condition exclusions, prohibition on lifetime and annual limits, and Essential Health Benefits requirements – are crucial to making the healthcare system work for cancer patients and survivors.

### **Conclusion**

On behalf of the American Cancer Society Cancer Action Network, we thank you for the opportunity to comment on the proposed section 1332 waiver, which we believe will provide long-term viability of the individual market while not eroding important consumer protections. If you have any questions, please feel free to contact me at 484-653-7807.

Sincerely,

Jeanne Chiquoine  
ACS CAN DE Government Relations Director

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<sup>4</sup> Delaware Department of Health and Social Services; Delaware Department of Insurance. State of Delaware Comprehensive Description: State Innovation Waiver Application. May 30, 2019.  
<https://insurance.delaware.gov/wp-content/uploads/sites/15/2019/05/de-summary-for-public-comment-1.pdf>

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

June 29, 2019

Kara Odom Walker  
Secretary  
Delaware Department of Health and Social Services  
1901 N. DuPont Highway  
New Castle, DE 19720

Trinidad Navarro  
Insurance Commissioner  
Delaware Department of Insurance  
841 Silver Lake Boulevard  
Dover, DE 19904

Re: Delaware State Innovation Waiver Application

Dear Secretary Walker and Commissioner Navarro:

The American Lung Association in Delaware appreciates the opportunity to submit comments on Delaware's draft State Innovation Waiver Application.

The American Lung Association is the oldest voluntary public health association in the United States, currently representing the 35 million Americans living with lung diseases including asthma, lung cancer and COPD, including more than 135,000 Delaware residents. The Lung Association is the leading organization working to save lives by improving lung health and preventing lung disease through research, education and advocacy.

The American Lung Association in Delaware believes everyone should have quality and affordable healthcare coverage. A strong, robust marketplace is essential for people with and at risk of lung disease to access the coverage that they need. The Lung Association supports Delaware's efforts to strengthen its marketplace by submitting this waiver application to implement a reinsurance program.

Reinsurance is an important tool to help stabilize health insurance markets. Reinsurance programs help insurance companies cover the claims of very high cost enrollees, which in turn keeps premiums affordable for other individuals buying insurance on the individual market. Reinsurance programs have been used to stabilize premiums in a number of healthcare programs, such as Medicare Part D. A temporary reinsurance fund for the individual market was also established under the Affordable Care Act and reduced premiums by an estimated 10 to 14 percent in its first year.<sup>i</sup> A recent analysis by Avalere of the seven states that have already created their own reinsurance programs through Section 1332 waivers found that these states reduced individual market premiums by an average of 19.9 percent in their first year.<sup>ii</sup>

Delaware's proposal will create a reinsurance program starting for the 2020 plan year and continuing for five years. Based on the initial analysis commissioned by the state, this program is projected to reduce premiums by up to 20 percent in 2020 and increase the number of individuals obtaining health insurance through the individual market by up to 3.2 percent. This would help patients with pre-existing conditions, including patients with lung disease, obtain affordable, comprehensive coverage.

The American Lung Association believes this waiver will help stabilize the individual market in Delaware and protect patients and consumers. Thank you for the opportunity to provide comments.

Sincerely,



Aleks Casper  
Director of Advocacy, Delaware  
American Lung Association

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<sup>i</sup> American Academy of Actuaries, Individual and Small Group Markets Committee. *An Evaluation of the Individual Health Insurance Market and Implications of Potential Changes*. January 2017. Retrieved from [https://www.actuary.org/files/publications/Acad\\_eval\\_indiv\\_mkt\\_011817.pdf](https://www.actuary.org/files/publications/Acad_eval_indiv_mkt_011817.pdf).

<sup>ii</sup> Avalere. *State-Run Reinsurance Programs Reduce ACA Premiums by 19.9% on Average*. March 2019. Retrieved from <https://avalere.com/press-releases/state-run-reinsurance-programs-reduce-aca-premiums-by-19-9-on-average>.





June 28, 2019

Delaware Department of Insurance  
Attn: Leslie Ledogar  
841 Silver Lake Blvd  
Dover, DE 19904

Re: Delaware Section 1332 State Innovation Waiver

Commissioner Navarro:

On behalf of people with cystic fibrosis, the Cystic Fibrosis Foundation appreciates the opportunity to support Delaware's 1332 State Innovation Waiver application to operate a reinsurance program.

Cystic fibrosis (CF) is a life-threatening genetic disease that affects 30,000 children and adults in the United States. CF causes the body to produce thick, sticky mucus that clogs the lungs and digestive system, which can lead to life-threatening infections. As a complex, multi-system condition, CF requires targeted, specialized treatment and medications.

People with CF benefit from insurance marketplaces that offer affordable health plans that cover their complex health needs. The Cystic Fibrosis Foundation supports Delaware's creation of a reinsurance program that will make coverage more affordable and expand plan choice by encouraging insurer participation in the marketplace.

Reinsurance is an important tool to help stabilize health insurance markets. Reinsurance programs help insurance companies cover the claims of very high cost enrollees, which in turn keeps premiums affordable for other individuals buying insurance on the individual market. These programs have been used to stabilize premiums in a number of healthcare programs, including Medicare Part D. A temporary reinsurance fund for the individual market was also established under the Affordable Care Act and reduced premiums by an estimated 10 to 14 percent in its first year.<sup>1</sup> A recent analysis by Avalere of the seven states that have created their own reinsurance programs through Section 1332 waivers found that these states reduced individual market premiums by an average of 19.9 percent in their first year.<sup>2</sup> Additionally, after Minnesota received approval to implement its reinsurance program, insurers proposed rates for 2019 that were between 3 and 12.4 percent below 2018 premiums.<sup>3</sup>

The Cystic Fibrosis Foundation appreciates the opportunity to provide input on these important policy changes and supports your efforts to stabilize the marketplace through reinsurance. As the health landscape continues to

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<sup>1</sup> American Academy of Actuaries. Drivers of 2015 Health Insurance Premium Changes. (Online). June 2014. Available: [https://www.actuary.org/files/2015\\_Premiums\\_Drivers\\_Updated\\_060414.pdf](https://www.actuary.org/files/2015_Premiums_Drivers_Updated_060414.pdf)

<sup>2</sup> Avalere. State-Run Reinsurance Programs Reduce ACA Premiums by 19.9% on Average. March 2019. Retrieved from <https://avalere.com/press-releases/state-run-reinsurance-programs-reduce-aca-premiums-by-19-9-on-average>.

<sup>3</sup> Minnesota Department of Commerce. Insurers' 2019 Proposed Health Insurance Rate. (Online). June 2018. Available: <https://mn.gov/commerce/consumers/yourinsurance/health-insurance/rates/rate-filings/2019>.

evolve, we look forward to working with the state of Delaware to ensure high quality, specialized CF care and improve the lives of all with cystic fibrosis. Please consider us a resource moving forward.

Sincerely,

**Mary B. Dwight**

Senior VP of Policy & Patient Assistance Programs  
Cystic Fibrosis Foundation

**Lisa B. Feng, DrPH**

Senior Director of Access Policy & Innovation  
Cystic Fibrosis Foundation



**American  
Heart  
Association.**

*Sent via email to 1332waiver@delaware.gov*

**New Castle County  
Board of Directors**

June 13, 2019

**Advocacy & Policy  
Committee Co-Chairs**

Dr. Brian Rahmer  
Louisa Phillips, MSN, MS,  
MBA, RN, NEA-BC, FACHE

Delaware Department of Insurance  
Attn: Leslie Ledogar  
841 Silver Lake Blvd.  
Dover, DE 19904

**Board Chair**

Todd L Goodman, Esq.

**Board President**

Jane Mericle

**RE: The American Heart Association's Written Comments on Delaware's 1332  
Waiver Application**

**Chair Elect**

Matthew Gooch

Dear Ms. Ledogar:

**Leadership Chair**

Guy F. Marcozzi

On behalf of the American Heart Association and the American Stroke Association (AHA/ASA), we would like to thank you for the opportunity to provide written comments on Delaware's Section 1332 State Innovation Waiver application.

**Leadership Chair**

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As the nation's oldest and largest voluntary organization dedicated to building healthier lives free from heart disease and stroke, our nonprofit and nonpartisan organization represents over 100 million patients with cardiovascular disease (CVD) and includes over 40 million volunteers and supporters committed to our goal of improving the cardiovascular health of all Americans. AHA has worked diligently for many years to support and advance strong public health policies in addition to providing critical tools and information to providers, patients, and families in order to prevent and treat these deadly diseases.

**Executive Director**

David Morris, M.B.A.

The AHA believes everyone should have quality and affordable healthcare coverage and a strong, robust marketplace is essential for people with CVD to access the coverage that they need. To that end, a well-designed reinsurance program can help offset the costs of enrollees with expensive health care needs. Implementing a robust reinsurance program could also help to alleviate other systemic problems within the state insurance exchange such as small provider networks and low issuer participation. The AHA would like to express our support for the state of Delaware's proposal.

As you are aware, reinsurance programs have been used to stabilize premiums in a number of healthcare programs, such as Medicare Part D. A temporary reinsurance fund for the individual market was also established under the Affordable Care Act and reduced premiums by an estimated 10 to 14 percent in its first year. In Minnesota, a state already implementing a



reinsurance program through a 1332 waiver approved last year, insurers filed proposed rates for 2019 that were between 3 and 12.4 percent below 2018 premiums. We are pleased to see that Delaware estimates that the program will reduce premiums by 20 percent and increase the number of people able to obtain coverage through the individual market in 2020.

The AHA is also pleased that the that the comprehensiveness and affordability of coverage offered on the individual markets will not be altered by the 1332 waiver proposal. The patient protections extended to individuals with pre-existing conditions under the Affordable Care Act (ACA) including the ten essential health benefit categories, guaranteed issue, out of pocket maximums and many other critical consumer protections are the bedrock of care for our patients. The guarantees and protections enshrined in the ACA make our healthcare system navigable for CVD patients and we commend the state for ensuring that the waiver proposal does not alter the integrity of these requirements. In addition to a strong reinsurance program, we appreciate the steps the state has taken to limit access to non-compliant plans to protect consumers and limit unnecessary premium spikes.

On behalf of the American Heart Association and American Stroke Association, thank you for reviewing our comments. We appreciate the opportunity to provide feedback on this application. If you have any questions, please contact Jonathan M. Kirch, Government Relations Director for the American Heart Association at [jonathan.m.kirch@heart.org](mailto:jonathan.m.kirch@heart.org).

Sincerely,

A handwritten signature in black ink that reads "Jonathan Kirch".

Jonathan M. Kirch  
Government Relations Director



June 29, 2019

Trinidad Navarro, Commissioner  
Delaware Department of Insurance  
841 Silver Lake Blvd  
Dover, DE 19904

**Re: NORD Support for Delaware's Section 1332 Waiver Application**

Dear Commissioner Navarro,

On behalf of the 1-in-10 Delaware residents with one of the over 7,000 known rare diseases, the National Organization for Rare Disorders (NORD) appreciates the opportunity to submit comments on Delaware's 1332 Waiver Application.

NORD is a unique federation of voluntary health organizations dedicated to helping people with rare "orphan" diseases and assisting the organizations that serve them. Since 1983, we have been committed to the identification, treatment, and cure of rare disorders through programs of education, advocacy, research, and patient services.

NORD believes everyone should have quality and affordable healthcare coverage. A strong, robust marketplace is essential for individuals with rare diseases to access the coverage that they need. NORD supports Delaware's efforts to strengthen its marketplace by submitting this 1332 State Innovation Waiver to implement a reinsurance program.

Reinsurance is an important tool to help stabilize health insurance markets. Reinsurance programs help insurance companies cover the claims of very high cost enrollees, which in turn keeps premiums affordable for other individuals buying insurance on the individual market. Reinsurance programs have been used to stabilize premiums in a number of healthcare programs, such as Medicare Part D. A temporary reinsurance fund for the individual market was also established under the Affordable Care Act and reduced premiums by an estimated 10 to 14 percent in its first year.<sup>i</sup> A recent analysis by Avalere of the seven states that have already created their own reinsurance programs through Section 1332 waivers found that these states reduced individual market premiums by an average of 19.9 percent in their first year.<sup>ii</sup>

Delaware's proposal will create a reinsurance program starting in the 2020 plan year and continuing for five years. This program is projected to reduce premiums by 20 percent and increase the number of individuals obtaining health insurance through the individual market by at least 3.2 percent. These benefits would help patients with pre-existing conditions, including patients with rare diseases, obtain affordable, comprehensive coverage.



NORD believes the 1332 State Innovation Waiver will help stabilize the individual market in Delaware and protect patients and consumers. Thank you again for the opportunity to provide comments on the state's 1332 waiver application. For further questions, please feel free to contact me at [tboyd@rarediseases.org](mailto:tboyd@rarediseases.org).

Sincerely,

Tim Boyd, MPH  
Director of State Policy

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<sup>i</sup> American Academy of Actuaries, Individual and Small Group Markets Committee. *An Evaluation of the Individual Health Insurance Market and Implications of Potential Changes*. January 2017. Retrieved from [https://www.actuary.org/files/publications/Acad\\_eval\\_indiv\\_mkt\\_011817.pdf](https://www.actuary.org/files/publications/Acad_eval_indiv_mkt_011817.pdf).

<sup>ii</sup> Avalere. *State-Run Reinsurance Programs Reduce ACA Premiums by 19.9% on Average*. March 2019. Retrieved from <https://avalere.com/press-releases/state-run-reinsurance-programs-reduce-aca-premiums-by-19-9-on-average>.

**From:** [Kathleen Purcell](#)  
**To:** [DOI 1332waiver Resource \(MailBox Resources\)](#)  
**Subject:** Eligibility  
**Date:** Friday, May 31, 2019 1:04:31 PM

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Are small nonprofit organizations, less than 15 employees eligible to offer health care insurance under the ACA and this waiver program?

If we are able to participate in this program we would be able to offer our employees a more affordable, yet quality healthcare plan.

The rising cost of healthcare for a nonprofit organization like ours, puts an acute strain on our general operating budget in that our funding does not keep up with the pace of rising costs.

I am happy to have further discussion about this. I am not very knowledgeable about the 1332 Waiver program, but am certainly willing to learn more if it will benefit my organization and other small grass roots organizations.

Please feel free to reach out to me if I can provide more information or you have questions. My direct office number is 302-651-3465.

Thank you!

Kathleen

Kathleen Purcell  
Executive Director  
Wilmington Senior Center  
1901 N Market St  
Wilmington, DE 19802  
302-651-3465  
***A Community for Life!***

**From:** [Larry Winingar](#)  
**To:** [DOI\\_1332waiver\\_Resource \(MailBox Resources\)](#)  
**Subject:** FW: Public input  
**Date:** Wednesday, June 5, 2019 9:32:00 AM

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To Whom it May Concern,

While it is laudable to allow other insurance companies into the Delaware market, I have several concerns.

I would suggest consideration be given to the following:

**Funding:**

1. Are companies vouched for and verified as to their viability and sustainability.
2. Can the company cover many of the necessary treatments before “dipping into” the proposed reserve funding.
3. Are the new insurance companies structured so they parent companies will adequately fund them ensuring subordinate company is not inadequately funded.  
(Similar to #2, this time, the company claims not to have made any money; files for bankruptcy leaving its customers high and dry. The parent company, meanwhile collects the profit through “management fees”.)

**Plan Offerings**

4. Are these new companies offering “diet” plans or true alternatives and if so will they clearly inform and differentiate them to the proposed customer in clear, understandable, non-legalese language.  
(Much of the US population reads at the 8<sup>th</sup> grade level.—Multiple sources)
5. In regards to #4, we should allow these companies to diet plans; but if they do, have them make it crystal clear to consumer they are a diet plan.

**Adequate Enforcement**

6. There should also be very heavy administrative fines if they do not comply.  
(Without the fines, there is no teeth to the proposal. Administrative fines, I think, reduces the chances of future lawsuits.)  
Prescription drug costs—See also related issue.
7. With some prescription medicines running as much as \$10,000 a month or more (see page 12, State News, 6/4/2019) to purported \$2 million dollars for a single dose of medicine (Novartis),  
Or \$850,000 for blindness medicine (Luxturna). How soon will these companies dip into the proposed funding? Now that some drug companies appear to be using what “the market will bear” strategy for pricing.
8. Summarized, my concerns is that we, Delawareans, get quality companies, with good competition, at reasonable prices, who are adequately backstopped; but, not at the risk of Delaware’s pocketbook.
9. Therefore, I suggest that this proposal go forward; but, only with adequate safeguards and that no public monies be used to fund this initiative.

Separate, but related issue.



Finally, with the cost of medicines rising at a rate that far exceeds either the cost of living, inflation, is there anything the Insurance Commissioner can do, with other states, to reduce the patent protection and encourage real competition among generic manufactures? (Note: Several generic manufactures are currently accused of conspiracy to fix prices. (State News, May 12, 2019, Pharmacy Times, May 14, 2019).

This fix will have to take place at multiple government levels; but, is the Commissioner willing to step forward now and take the lead and work to close the gap with other agencies and governmental levels?

Respectfully Submitted,

Larry Winingar  
208 Nicklaus Lane,  
Magnolia, DE 19962

**From:** [Claude Oconnor](#)  
**To:** [DOI\\_1332waiver\\_Resource \(MailBox Resources\)](#)  
**Subject:** Health Insurance Affordability  
**Date:** Friday, June 14, 2019 8:44:43 AM

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To: The Delaware Legislature

I want to comment on the proposed 1332 Waiver for getting some control over the cost of private health insurance in our state.

My wife and I are early retirees, for my wife it was medically necessary and for me, it was a forced retirement due to a company merger after 35 years of service.

At 56 years of age, neither of us expected to be retired but our savings and long term planning kept this from being a financial crisis for our family.

Our largest living expense is our health care insurance, which we have purchased each year through the marketplace. Highmark BCBS has been our provider for the last four years following the exhaustion of my company health plan. We are now both 60 years old with five more years of private health insurance premiums facing us.

Over the four years with Highmark, we have seen our premiums double in cost from roughly \$1400/month to @ \$2800/month. This is for a high deductible/HSA qualified policy. In addition to the monthly premiums, we have a family deductible of \$15,800 per year! Clearly, we were not prepared for anywhere near this annual outlay. We have considered the option of dropping our health insurance altogether and gambling on our health needs but my wife's medical history precludes us from going without health insurance.

I strongly support the proposed the 1332 Waiver as a means of

affording our health insurance going forward.

Thank you,  
Claude & Carol O'Connor  
Lewes, DE  
claudeo58@verizon.net  
302-644-4623

**From:** [John Diamond](#)  
**To:** [DOI\\_1332waiver\\_Resource \(MailBox Resources\)](#)  
**Subject:** Insurance comment  
**Date:** Monday, June 10, 2019 9:00:32 PM

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Thank you for letting us have a voice, I have a wife who works part time and a young son. I am self employed and my wife's work does not offer health insurance. We don't mind paying our share for health insurance but it is out of control with costs, it actually deters is somewhat to seek care in some cases because of the high deductible besides the extremely high premium. We do not qualify for any subsidies and have never taken advantage of the system and we are severely stressed with what is going on with the system, I wish I had answers or suggestions but we are too busy working to pay for the costs, I do have some faith though that our leaders can come with relief. We just want something fair for us that DON'T take advantage.

John Diamond

**From:** Stephen Blewitt <sblewitt@ifs-benefits.com>  
**Sent:** Friday, May 31, 2019 1:27 PM  
**To:** DOI\_1332waiver\_Resource (MailBox Resources)  
**Subject:** Question on 1332 waiver proposal

Am I correct that if the 1332 waiver program is implemented it will increase costs for employers due to the premium assessment fee that will be applied to health insurance companies. It would be expected that the health insurance companies would then pass this on to employers by increasing their premiums. Correct?

Also, does the premium assessment fee apply to self-insured health plans?

Thank you,

**Steve Blewitt, GBA**  
**Executive Vice President**  
**IFS Benefits, LLC**  
**302-652-2355 x114**



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