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

CMS
CENTERS FOR MEDICARE & MEDICAID SERVICES
CENTER FOR CONSUMER INFORMATION & INSURANCE OVERSIGHT

October 19, 2017

VIA ELECTRONIC MAIL: doug.ommen@iid.iowa.gov
Commissioner Doug Ommen
Iowa Insurance Division
601 Locust St. - 4th Floor
Des Moines, IA 50309

Dear Commissioner Ommen:

Thank you for your submission on August 21, 2017, of Iowa's application for a State Innovation Waiver under Section 1332 of the Patient Protection and Affordable Care Act (PPACA). Under Section 1332 of the Affordable Care Act (PPACA), a state can apply for a State Innovation Waiver, allowing states to implement innovative ways to provide access to quality health care that is at least as comprehensive and affordable as would be provided absent the waiver, provides coverage to a comparable number of residents of the state as would be provided coverage absent a waiver, and does not increase the federal deficit. This letter is intended to inform you how the federal pass-through would be calculated, if the waiver is approved.

Section 1332(a)(3) of the PPACA provides that if,

> "With respect to a State waiver under paragraph (1), under which, due to the structure of the State plan, individuals and small employers in the State would not qualify for the premium tax credits, cost-sharing reductions, or small business credits under section 36B of the Internal Revenue Code of 1986 or under part I of subtitle E for which they would otherwise be eligible, the Secretary shall provide for an alternative means by which the aggregate amount of such credits or reductions that would have been paid on behalf of participants in the Exchanges established under this title had the State not received such waiver, shall be paid to the State for purposes of implementing the State plan under the waiver. Such amount shall be determined annually by the Secretary, taking into consideration the experience of other States with respect to participation in an Exchange and credits and reductions provided under such provisions to residents of other States."

Under Iowa's waiver plan, residents of the State would not be eligible to receive Federal premium tax credits. Thus, if Iowa's application for a waiver is approved, Iowa will be eligible to receive an amount equal to the premium tax credits that would have been paid to participants in the Iowa Exchange, had the State not received such a waiver. Section 1332 does not provide for any other source of funding of Iowa's proposed state innovation waiver.

If Iowa's waiver is approved, the aggregate amount of premium tax credits that would have been paid on behalf of Iowa residents had the State not received such a waiver will be estimated by the Department of Health and Human Services and the Department of the Treasury (collectively, the

Departments) using information that includes data on Exchange enrollment and subsidies paid on behalf of Iowa residents to date. If Iowa's waiver is extended beyond 2018, data on Exchange participation and subsidies in other States in 2018 and beyond will also be used to inform estimates of the amount of premium tax credits that would have been paid on behalf of Iowa residents had the State not received such a waiver. The actual level of participation in Iowa's waiver plan would not affect this estimate because it would not establish what would have happened in the State absent approval of the waiver.

Section 1332(b)(1)(D) provides that a waiver may be granted only if it does not increase the Federal deficit. Therefore, a waiver may not be approved if it would cause a net increase in Federal costs. The pass-through calculation as described above is, of course, exactly offset by Federal savings on premium tax credits. However, if there are other effects on Federal spending or revenues, these must be accounted for to maintain deficit neutrality. If it is determined that the waiver would otherwise increase net Federal costs, a condition of approval is that the pass-through be limited so as to achieve deficit neutrality.

If the Departments were to pass the entire premium tax credit savings through to Iowa, the waiver likely would increase the Federal deficit. This is because several components of the State's proposed plan would reduce Federal revenues or increase Federal costs. First, any increase in the number of insured persons may reduce individual shared responsibility payments for failure to maintain health coverage due under Internal Revenue Code (IRC) section 5000A. Second, because individuals in Iowa will not receive premium tax credits, employers of Iowa residents will not be liable for employer shared responsibility payments with respect to their Iowa employees under IRC section 4980H. Third, the Federal government will incur certain costs for rendering the Federal Exchange unavailable to Iowans and for changing notices to be sent to Iowans. Fourth, the Federal government would forego Federal Exchange user fees on QHP enrollment in Iowa (but would save certain costs related to call center support, eligibility and enrollment support, and outreach and education). However, another provision would increase federal revenues and slightly offset these effects; the expected increase in the number of insured persons caused by the waiver will increase the amount of the Patient Centered Outcome Fee provided under IRC section 4375, as this fee is levied on the average number of covered lives per insurer.

To prevent the waiver from increasing the Federal deficit, the Departments would provide pass-through funding equal to the estimated amount of premium tax credits that would have been paid on behalf of Iowa residents had the State not received such a waiver, less the estimated reduction in individual and employer shared responsibility payments and the net increase in administrative costs, plus the increased amount of Patient Centered Outcome Fees. This amount will be determined by the Departments annually, as required under the statute.

If your waiver plan is approved, the Departments will require as a condition of approval that the state ensure sufficient funds, on an annual or other appropriate basis, for the waiver plan to operate as described in the state's waiver application.

We look forward to working with you on your application and will be in touch if we need additional information. Please do not hesitate to contact us if you have any questions.

Sincerely,

Randy Pate
Director, Center for Consumer Information & Insurance Oversight
Deputy Administrator, Centers for Medicare & Medicaid Services

Cc: David Kautter, Assistant Secretary for Tax Policy, U.S. Department of the Treasury
Kim Reynolds, Governor of Iowa