

North Dakota: State Innovation Waiver under section 1332 of the PPACA

July 31, 2019

The U.S. Department of Health and Human Services and the U.S. Department of the Treasury (the Departments) approved North Dakota's application for a State Innovation Waiver under section 1332 of the Patient Protection and Affordable Care Act (PPACA) (the waiver). North Dakota's application seeks to implement a reinsurance program called the Reinsurance Association of North Dakota (RAND) for plan year 2020 through 2024. As a result of the waiver approval, more consumers in North Dakota may have coverage, consumers are expected to see lower premiums, and the North Dakota Insurance Department (NDID) will receive Federal funds to cover a substantial portion of state costs for the reinsurance program.

North Dakota's State Innovation Waiver under section 1332 of the PPACA is approved subject to North Dakota accepting the specific terms and conditions (STCs). This approval is effective from January 1, 2020 through December 31, 2024.

Summary of North Dakota's Application for a State Innovation Waiver under section 1332 of the PPACA

North Dakota's application for a State Innovation Waiver under section 1332 of the PPACA seeks to waive section 1312(c)(1) of the PPACA, the requirement to consider all enrollees in a market to be part of a single risk pool, to the extent it would otherwise require excluding total expected state reinsurance payments when establishing the market-wide index rate, in order to implement the RAND for plan years 2020 through 2024. The RAND will operate like a traditional, claims-based attachment point reinsurance program by reimbursing qualified health plan carriers for a percentage of an enrollee's claims costs exceeding a specified threshold (attachment point) and up to a specified ceiling (reinsurance cap). Specifically, for 2020, the RAND will set a coinsurance rate of 75%, with an attachment point of \$100,000 up to a cap of \$1,000,000.

As a result of the waiver approval, consumers are expected to see lower premiums, which should attract new consumers while also keeping consumers in the individual marketplace. NDID will receive pass-through funding to help offset a substantial portion of state costs for the state-established reinsurance program. The NDID projects that under the section 1332 waiver, premiums will be up to 20% lower in plan year 2020 than they would be without the waiver. In addition, the NDID projects that the number of insured persons will increase by 1% compared to the baseline without the waiver, as lower premiums will enable consumers to retain coverage rather than forgo coverage due to unaffordable rates. These projections were certified by independent actuaries and reviewed by the Departments.

Because the RAND is expected to lower premiums on the second lowest cost silver plan premium, the plan used to establish the value of premium tax credits, the Federal government will spend less in premium tax credits under the waiver. As such, the RAND will receive pass-through funding to support the reinsurance program based on the amount of premium tax credits that would have been provided to North Dakotans absent the waiver. Therefore, the pass-through funding amount may be reduced, if necessary, to ensure deficit neutrality.

The Departments have determined that North Dakota's application for a State Innovation Waiver under section 1332 of the PPACA meets the requirements outlined in section 1332(b)(1) of the PPACA.

Specifically, the waiver is projected:

- to provide coverage at least as comprehensive as the coverage defined in section 1302(b),
- to provide coverage as affordable as would otherwise be provided,
- to provide coverage to at least a comparable number of people as would otherwise be covered, and
- to not increase the Federal deficit.

Section 1332: State Innovation Waivers

Section 1332 of the PPACA permits a state to apply for a State Innovation Waiver to pursue innovative strategies for providing their residents with access to high quality, affordable health insurance. These waivers provide states with the opportunity to develop strategies that best suit their individual needs. Through innovative thinking, tailored to specific state circumstances, states can lower premiums for consumers, improve market stability, and increase consumer choice.

State Innovation Waivers allow 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, provide 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.

State Innovation Waivers are available beginning January 1, 2017. State Innovation Waivers are approved up to five-year periods, and can be renewed. The Departments welcome the opportunity to work with states on Section 1332 State Innovation Waivers. Read more about State Innovation Waivers and related guidance [here](#). States interested in applying for a section 1332 waiver can find application tools and resources, including an application checklist and application templates, on our website [here](#).

The approval letter and STCs for North Dakota can be found here:

https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section_1332_State_Innovation_Waivers-.html