

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



May 2, 2024

VIA ELECTRONIC MAIL: Josette.Manning@delaware.gov

Josette D. Manning, Esq.
Cabinet Secretary
Delaware Department of Health and Social Services
1901 N. Dupont Highway
New Castle, DE 19720

Dear Cabinet Secretary Manning:

Thank you for your submission on April 2, 2024, of Delaware's waiver extension application for a State Innovation Waiver under section 1332 of the Affordable Care Act (ACA). I am pleased to send this letter from the Center for Consumer Information and Insurance Oversight (CCIIO) within the Centers for Medicare & Medicaid Services (CMS) under the Department of Health and Human Services (HHS), as well as on behalf of the Department of the Treasury (collectively, the Departments).

Delaware's currently approved waiver of the ACA requirement for the single risk pool contained in ACA section 1312(c)(1),¹ allows the state to implement a state-based reinsurance program for the individual health insurance market from January 1, 2020, through December 31, 2024.² Delaware's waiver extension request seeks to continue the waiver of ACA section 1312(c)(1) and implementation of its state-based reinsurance program for an additional five years, for plan years 2025 through 2029. Delaware is not otherwise seeking to make changes to its section 1332 waiver state-based reinsurance program. Should Delaware seek to make changes to its waiver program during the extension period, the state would need to follow the procedures detailed in the terms and conditions in effect at that time.

Consistent with 31 C.F.R. § 33.132 and 45 C.F.R. § 155.1332, the processes and procedures for extension requests finalized in rulemaking,³ and the next steps outlined in the Departments' November 22, 2023, letter in response to Delaware's waiver extension letter of intent,⁴ the Departments have conducted a preliminary review of the waiver extension application and have made a preliminary determination that Delaware's waiver extension application is complete.

¹ Delaware's currently approved waiver waives the individual market single risk pool requirement to the extent it would otherwise require excluding total expected state reinsurance payments when establishing the market-wide index rate.

² <https://www.cms.gov/cciio/programs-and-initiatives/state-innovation-waivers/downloads/1332-stc-delaware-signed.pdf>

³ See Patient Protection and Affordable Care Act; Updating Payment Parameters and Improving Health Insurance Markets for 2022 and Beyond; Final Rule, 86 FR 53412 at 53483 – 53486 (Sept. 27, 2021).

⁴ <https://www.cms.gov/files/document/1332-de-waiver-extension-loi-response-letter.pdf>

As provided in the November 22, 2023, letter, and similar to the Federal public notice and approval process for new section 1332 waiver applications outlined in 45 C.F.R. § 155.1308(d) and 31 C.F.R. § 33.108(d), the date of this letter marks the beginning of the 30-day Federal public notice and comment process and 90-day Federal decision-making period. Public comments on Delaware's waiver extension application will be accepted by the Departments from May 2, 2024, through June 1, 2024, and more information about the Federal public notice process and section 1332 waivers generally can be found on the CCIIO website.⁵ The decision of the Departments regarding approval or denial of Delaware's waiver extension application will be issued within 90 days of this preliminary determination of completeness in accordance with section 1332(e) of the ACA.

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

Sincerely,



Jeff Wu
Acting Director, Center for Consumer Information & Insurance Oversight
Centers for Medicare & Medicaid Services

CC: Aviva Aron-Dine, Acting Assistant Secretary, Tax Policy, U.S. Department of the Treasury
The Honorable John Carney, Governor, State of Delaware
Elisabeth Massa, Executive Director, Delaware Health Care Commission
Steven Costantino, Director of Health Care Reform, Delaware Department of Health and Social Services

⁵ https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section_1332_state_Innovation_Waivers-.html