



# **Pennsylvania's 1332 Waiver Application**

February 11, 2020

*Pennsylvania Insurance Department*

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## **Executive Overview**

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### **Request**

The Commonwealth of Pennsylvania, through its Insurance Department, submits this 1332 State Innovation Waiver request to the Center for Medicare and Medicaid Services (CMS), a division of the United States Department of Health and Human Services (HHS), and the Department of the Treasury. This request seeks waiver of Section 1312(c)(1) under Section 1332 of the Affordable Care Act (ACA) for a period of up to five years beginning in the 2021 plan year to develop a state reinsurance program. This waiver will not affect any other provision of the ACA but will result in a lower market-wide index rate, thereby lowering gross premiums (i.e., prior to the application of federal premium tax credits) from what they would have been without the program and reducing the federal cost of the premium tax credits (PTCs).

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

Pennsylvania's individual market for health insurance is stable and has recently welcomed new insurers to the market and service area expansions of existing insurers. But a stable market does not necessarily mean an affordable market, and Pennsylvania has seen individual market rates rise in recent years. In particular, Pennsylvanians who are not eligible for financial assistance made available by the ACA are finding the full cost of premiums to be high and, for some, unaffordable.

The creation of a state reinsurance program through a 1332 waiver will further strengthen Pennsylvania's individual health insurance market through state-based innovation. By reimbursing insurers for high-cost claims, the reinsurance program will spread risk across the broader Pennsylvania health insurance market, thereby lowering gross premiums and increasing access to affordable private coverage. The program is also expected to encourage insurers to maintain and possibly expand geographic coverage areas. It may also assist the Commonwealth in attracting additional carriers to the state.

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

Act 42 of 2019, signed into law on July 2, 2019, establishes a reinsurance program to be administered by the Pennsylvania Insurance Department. Total funding for the reinsurance program for 2021 is estimated to be approximately \$139,300,000. Under Act 42, the program may be funded through user fees from the Pennsylvania Health Insurance Exchange, Federal funding, and other available sources. 40 Pa. C.S. §9502(b)(2); see also 40 Pa. C.S. §9305(b)(4), (5). 40 Pa. C.S. §9502 makes the operation of the reinsurance program contingent on this waiver request. Through this waiver request, Pennsylvania seeks federal pass-through funds to partially offset state expenditures.

The reinsurance program will reimburse qualifying individual health insurers for a percentage of individual claims between an attachment point and a cap. In 2021, the program will likely reimburse 60 percent of claims between the attachment point and an estimated \$100,000 cap. The Pennsylvania Insurance Department will determine and adopt the program parameters and publish them in accord with the enabling legislation. 40 Pa. C.S. §9504. The Pennsylvania Insurance Department estimates that the reinsurance program, as part of the waiver proposal, will result in an average decrease to gross premiums across rating areas equal to 4.6 percent in 2021 and in future years in which the program is expected to be in place, when compared against projected gross premiums without the program. (See Table 1 below.)

### **Compliance with Section 1332**

Pennsylvania's waiver, if approved, will reduce gross premiums and increase affordability of health insurance in Pennsylvania's individual ACA health insurance market. It is estimated that, as a result, enrollment in the individual ACA market will increase by approximately 0.5 percent in 2021 0.5 and in future years in which the program is expected to be in place, when compared to enrollment levels without the program. (See Table 2 below.) The waiver will not impact the comprehensiveness of coverage in Pennsylvania, except insofar as individuals with coverage have more comprehensive coverage than those without. The waiver will have no material impact on premiums, comprehensiveness, or enrollment in group coverage or public programs. The reduction in individual ACA health insurance gross premiums, including gross premiums for the second lowest cost silver plans offered through the Pennsylvania Marketplace (SLCSP), will reduce net federal spending on PTCs in each of the five years the waiver is expected to be in place. The state requests federal pass-through funding for each year equal to the amount of the federal savings in PTCs. (See Table 3 below.) Accordingly, the waiver will not increase the federal deficit in any year of the waiver. In addition, the waiver will advance several of the principles described in the section 1332 guidance released in October 2018, including expanding access to private coverage and supporting and empowering those in need.

Table 1

Estimated Second Lowest Cost Silver ACA Premium Rate by Rating Area  
21-Year-Old, Non-Tobacco User

Baseline											
Rating Area	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
1	\$292	\$306	\$327	\$350	\$375	\$401	\$429	\$459	\$491	\$526	\$562
2	\$378	\$397	\$424	\$454	\$486	\$520	\$556	\$595	\$637	\$681	\$729
3	\$367	\$382	\$409	\$438	\$468	\$501	\$536	\$574	\$614	\$657	\$703
4	\$273	\$286	\$306	\$327	\$350	\$375	\$401	\$429	\$459	\$491	\$525
5	\$320	\$335	\$359	\$384	\$411	\$440	\$470	\$503	\$538	\$576	\$616
6	\$435	\$454	\$485	\$519	\$556	\$594	\$636	\$681	\$728	\$779	\$834
7	\$440	\$458	\$490	\$524	\$561	\$600	\$642	\$687	\$735	\$786	\$841
8	\$361	\$379	\$406	\$434	\$465	\$497	\$532	\$569	\$609	\$652	\$697
9	\$410	\$426	\$456	\$488	\$522	\$558	\$598	\$639	\$684	\$732	\$783

Waiver											
Rating Area	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
1	\$292	\$292	\$312	\$334	\$358	\$383	\$409	\$438	\$469	\$502	\$537
2	\$378	\$378	\$405	\$433	\$464	\$496	\$531	\$568	\$608	\$650	\$696
3	\$367	\$363	\$388	\$416	\$445	\$476	\$509	\$545	\$583	\$624	\$667
4	\$273	\$272	\$292	\$312	\$334	\$357	\$382	\$409	\$438	\$468	\$501
5	\$320	\$320	\$342	\$366	\$392	\$419	\$449	\$480	\$514	\$550	\$588
6	\$435	\$427	\$457	\$489	\$523	\$559	\$598	\$640	\$685	\$733	\$784
7	\$440	\$429	\$459	\$491	\$526	\$562	\$602	\$644	\$689	\$737	\$789
8	\$361	\$366	\$391	\$419	\$448	\$479	\$513	\$549	\$587	\$628	\$672
9	\$410	\$399	\$427	\$457	\$489	\$523	\$559	\$598	\$640	\$685	\$733

% Difference in Second Lowest Cost Silver Plan Premium PMPM - Baseline to Waiver											
Rating Area	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
1	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
2	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
3	0.0%	-5.0%	-5.0%	-5.0%	-5.0%	-5.0%	-5.0%	-5.0%	-5.0%	-5.0%	-5.0%
4	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
5	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
6	0.0%	-5.9%	-5.9%	-5.9%	-5.9%	-5.9%	-5.9%	-5.9%	-5.9%	-5.9%	-5.9%
7	0.0%	-6.2%	-6.2%	-6.2%	-6.2%	-6.2%	-6.2%	-6.2%	-6.2%	-6.2%	-6.2%
8	0.0%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%
9	0.0%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%

Note: Values shown have been rounded to the nearest dollar

Table 2

Summary of Average Individual ACA Market Enrollment by Age

Baseline											
Age Range	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
0-18	37,200	39,000	39,000	39,000	39,100	39,100	39,100	39,100	39,100	39,200	39,200
18-25	35,000	35,200	35,200	35,300	35,300	35,300	35,300	35,300	35,300	35,400	35,400
26-34	61,000	61,900	62,000	62,000	62,000	62,100	62,100	62,100	62,100	62,200	62,200
35-44	52,700	53,500	53,500	53,500	53,500	53,600	53,600	53,600	53,600	53,700	53,700
45-54	75,900	76,300	76,300	76,300	76,400	76,400	76,500	76,500	76,500	76,600	76,600
55+	144,400	145,700	145,800	145,900	145,900	146,000	146,100	146,200	146,200	146,300	146,400
<b>Total ACA</b>	<b>406,300</b>	<b>411,600</b>	<b>411,800</b>	<b>412,000</b>	<b>412,200</b>	<b>412,400</b>	<b>412,600</b>	<b>412,800</b>	<b>413,000</b>	<b>413,200</b>	<b>413,400</b>

Waiver											
Age Range	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
0-18	37,200	39,900	39,900	39,900	39,900	39,900	40,000	40,000	40,000	40,000	40,000
18-25	35,000	35,200	35,200	35,200	35,200	35,200	35,300	35,300	35,300	35,300	35,300
26-34	61,000	62,200	62,300	62,300	62,300	62,400	62,400	62,400	62,400	62,500	62,500
35-44	52,700	53,900	53,900	54,000	54,000	54,000	54,000	54,100	54,100	54,100	54,100
45-54	75,900	76,400	76,400	76,400	76,500	76,500	76,600	76,600	76,600	76,700	76,700
55+	144,400	146,100	146,200	146,300	146,300	146,400	146,500	146,500	146,600	146,700	146,700
<b>Total ACA</b>	<b>406,300</b>	<b>413,700</b>	<b>413,900</b>	<b>414,100</b>	<b>414,300</b>	<b>414,500</b>	<b>414,700</b>	<b>414,900</b>	<b>415,100</b>	<b>415,300</b>	<b>415,500</b>

Change in Number of Enrollees - Baseline to Waiver											
Age Range	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
0-18	0	900	900	900	900	900	900	900	900	900	900
18-25	0	0	0	0	0	0	0	0	0	-100	-100
26-34	0	300	300	300	300	300	300	300	300	300	300
35-44	0	500	500	500	500	500	500	500	500	500	500
45-54	0	100	100	100	100	100	100	100	100	100	100
55+	0	400	400	400	400	400	400	400	400	400	400
<b>Total ACA</b>	<b>0</b>	<b>2,000</b>	<b>2,000</b>	<b>2,000</b>	<b>2,100</b>	<b>2,100</b>	<b>2,100</b>	<b>2,100</b>	<b>2,100</b>	<b>2,100</b>	<b>2,100</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 and the change in the number of enrollees may not equal the difference between the baseline and waiver membership shown due to rounding.

Table 3

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

	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>A - B - C - D</b>
<b>Year</b>	<b>Change in PTCs</b>	<b>Change in User Fees</b>	<b>Change in Shared Responsibility Payments</b>	<b>Change in Health Insurance Provider Fees</b>	<b>Change in Federal Deficit</b>
2020	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
2021	-\$95.1	\$0.0	\$0.0	\$0.0	-\$95.1
2022	-\$101.8	\$0.0	\$0.0	\$0.0	-\$101.8
2023	-\$109.0	\$0.0	\$0.0	\$0.0	-\$109.0
2024	-\$116.7	\$0.0	\$0.0	\$0.0	-\$116.7
2025	-\$124.9	\$0.0	\$0.0	\$0.0	-\$124.9
2026	-\$133.7	\$0.0	\$0.0	\$0.0	-\$133.7
2027	-\$143.1	\$0.0	\$0.0	\$0.0	-\$143.1
2028	-\$153.2	\$0.0	\$0.0	\$0.0	-\$153.2
2029	-\$163.9	\$0.0	\$0.0	\$0.0	-\$163.9
2030	-\$175.5	\$0.0	\$0.0	\$0.0	-\$175.5

Note: PTCs are considered expenditures for the federal government whereas Exchange User Fees, Shared Responsibility Payments, and Health Insurance Providers Fees are considered revenue sources for the federal government. Therefore, a reduction in PTCs will decrease the federal deficit whereas a reduction in Exchange User Fees, Shared Responsibility Payments, or Health Insurance Provider Fees will increase the federal deficit.

Table 4

**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)
2020	262,800	\$479.4	\$1,511.9	262,800	\$479.4	\$1,511.9	\$0.0
2021	263,200	\$501.4	\$1,583.5	263,200	\$471.3	\$1,488.4	-\$95.1
2022	263,300	\$543.3	\$1,716.7	263,300	\$511.1	\$1,614.9	-\$101.8
2023	263,400	\$588.3	\$1,859.9	263,400	\$553.9	\$1,750.9	-\$109.0
2024	263,600	\$636.7	\$2,013.8	263,600	\$599.8	\$1,897.1	-\$116.7
2025	263,700	\$688.7	\$2,179.1	263,700	\$649.2	\$2,054.2	-\$124.9
2026	263,800	\$744.4	\$2,356.7	263,800	\$702.2	\$2,223.0	-\$133.7
2027	263,900	\$804.3	\$2,547.4	263,900	\$759.1	\$2,404.4	-\$143.1
2028	264,100	\$868.6	\$2,752.3	264,100	\$820.2	\$2,599.2	-\$153.2
2029	264,200	\$937.6	\$2,972.3	264,200	\$885.8	\$2,808.3	-\$163.9
2030	264,300	\$1,011.6	\$3,208.4	264,300	\$956.2	\$3,033.0	-\$175.5

Notes:

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



## I. Pennsylvania 1332 Waiver Request

As was the case across the country, Pennsylvania’s individual insurance market experienced significant changes since the ACA was implemented. As shown in Table 5, in the first three years following the implementation of the ACA, insurers doing business in the individual market realized large underwriting losses, with the most significant of those losses occurring in 2015 and 2016. Following those results, some insurers exited Pennsylvania’s individual ACA market in 2017. While the individual market experienced fluctuations since the implementation of the major market reforms of the ACA, as noted in Table 5, Pennsylvania has recently experienced positive trends and noteworthy stabilization. In addition to some insurers reporting rate decreases over the last two plan years, Pennsylvania’s individual market has recently added two new insurers and has seen existing insurers expand their service areas.

**Table 5 – Individual Market Underwriting Gain/Loss (in thousands)**

	2014	2015	2016	2017	2018
Premium	\$2,099,691	\$2,576,875	\$2,637,044	\$3,077,400	\$3,605,637
Gain/(Loss)	(\$180,850)	(\$441,406)	(\$288,114)	\$314,168	\$594,948
G/L% of Prem	-8.6%	-17.1%	-10.9%	10.2%	16.5%

Sources: CMS MLR Reported Data (2014 through 2018)

Still of concern is the lack of affordability for all Pennsylvanians, particularly those who do not receive subsidies. The high points of enrollment preceded the Commonwealth implementing a Medicaid expansion program, first through a Section 1115 demonstration waiver and later that same year with a traditional ACA approach. A large average rate increase in the 2017 plan year and a second increase in 2018 caused further enrollment deterioration. As shown in Table 6, Pennsylvania estimates that the average gross premium per member per month (PMPM) in Pennsylvania’s individual market has more than doubled over the time period from 2014 to 2018, from \$289 to \$641. Meanwhile, total membership in Pennsylvania’s individual market has decreased almost to the level which existed prior to the ACA.

**Table 6 – Individual Market Member Months and Average Premium PMPM**

	2013	2014	2015	2016	2017	2018
Member Months	456,000	606,000	642,000	598,000	511,000	469,000
Premium PMPM	\$243	\$289	\$334	\$368	\$502	\$641

Sources: CMS MLR Reported Data (2013 through 2018)

Pennsylvania seeks waiver of Section 1312(c)(1) under Section 1332 of the ACA for a period of up to five years beginning in the 2021 plan year to develop a state reinsurance program. Through the reinsurance program and associated market stabilization efforts, Pennsylvania expects to see

a continuation of reduced rates, increased enrollment, and continued downward pressure on rates in the coming years. Pennsylvania believes that a reinsurance program is the most cost-effective mechanism to immediately push rates downward, encourage enrollees to maintain coverage, and to attract more enrollees into the market for the 2021 plan year.

Section 1312(c)(1) requires “all enrollees in all health plans . . . offered by [an] issuer in the individual market . . . to be members of a single risk pool.” This application calls for waiving the single risk pool requirement to the extent it would otherwise require excluding expected state reinsurance payments when establishing the market-wide index rate. A lower index rate will result in lower premiums for Pennsylvania’s SLCSP, resulting in a reduction in the overall PTCs that the federal government is obligated to pay for subsidy-eligible consumers in Pennsylvania. The waiver does not require changes to any other ACA provision.

Without a reinsurance program, individual ACA health insurance premiums will be less affordable for many Pennsylvanians. Consequently, more Pennsylvania residents may choose or be forced to go without health insurance, which could further drive up gross premiums due to adverse selection and provider cost shifting. By implementing a reinsurance program, Pennsylvania will reduce the potential for further market disruption, lower the cost of individual ACA gross premiums, and decrease federal subsidy obligations.

By mitigating high-cost individual health insurance claims, the reinsurance program will help to stabilize Pennsylvania’s individual market and make gross premiums more affordable than if the program were not in place. Table 1 above shows that, with the waiver and reinsurance program in place, individual ACA market gross premiums, including gross premiums for the SLCSP, are expected to be 4.6 percent lower, on average, in 2021 than they would be absent the waiver.

This premium reduction will reduce federal PTC costs. Table 7 shows that absent the waiver, 2021 federal PTC spending in Pennsylvania will be an estimated \$1,583,500,000. After factoring in the waiver, total 2021 federal PTC spending is estimated to be \$1,488,400,000 a savings of \$95,100,000. Additional savings are estimated for each year of the 10-year budget window. (See Table 8.)

To establish the state’s reinsurance program, Pennsylvania seeks federal pass-through funds in the amount of the federal savings for PTCs, subject to the cap imposed by the statutory deficit neutrality requirement. Table 7 below shows that Pennsylvania requests pass-through funding of \$95,100,000 in 2021.

Table 7

**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)
2020	262,800	\$479.4	\$1,511.9	262,800	\$479.4	\$1,511.9	\$0.0
2021	263,200	\$501.4	\$1,583.5	263,200	\$471.3	\$1,488.4	-\$95.1
2022	263,300	\$543.3	\$1,716.7	263,300	\$511.1	\$1,614.9	-\$101.8
2023	263,400	\$588.3	\$1,859.9	263,400	\$553.9	\$1,750.9	-\$109.0
2024	263,600	\$636.7	\$2,013.8	263,600	\$599.8	\$1,897.1	-\$116.7
2025	263,700	\$688.7	\$2,179.1	263,700	\$649.2	\$2,054.2	-\$124.9
2026	263,800	\$744.4	\$2,356.7	263,800	\$702.2	\$2,223.0	-\$133.7
2027	263,900	\$804.3	\$2,547.4	263,900	\$759.1	\$2,404.4	-\$143.1
2028	264,100	\$868.6	\$2,752.3	264,100	\$820.2	\$2,599.2	-\$153.2
2029	264,200	\$937.6	\$2,972.3	264,200	\$885.8	\$2,808.3	-\$163.9
2030	264,300	\$1,011.6	\$3,208.4	264,300	\$956.2	\$3,033.0	-\$175.5

## Notes:

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

Table 8

# Ten Year Budget Period Projections

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

Baseline											
	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Total Individual ACA Enrollment	406,300	411,600	411,800	412,000	412,200	412,400	412,600	412,800	413,000	413,200	413,400
ACA PTC Enrollment	262,800	263,200	263,300	263,400	263,600	263,700	263,800	263,900	264,100	264,200	264,300
ACA Non-PTC Enrollment	143,400	148,400	148,500	148,600	148,700	148,700	148,800	148,900	148,900	149,000	149,100
Aggregate ACA Premium (millions)	\$2,954.6	\$3,093.8	\$3,311.9	\$3,545.5	\$3,795.4	\$4,063.1	\$4,349.5	\$4,656.2	\$4,984.5	\$5,336.0	\$5,712.2
Average ACA Premium Rate PMPM	\$606	\$626	\$670	\$717	\$767	\$821	\$878	\$940	\$1,006	\$1,076	\$1,151
Aggregate APTCs (millions)	\$1,583.0	\$1,657.9	\$1,797.4	\$1,947.3	\$2,108.4	\$2,281.5	\$2,467.5	\$2,667.2	\$2,881.7	\$3,112.0	\$3,359.2
Aggregate PTCs (millions)	\$1,511.9	\$1,583.5	\$1,716.7	\$1,859.9	\$2,013.8	\$2,179.1	\$2,356.7	\$2,547.4	\$2,752.3	\$2,972.3	\$3,208.4
Average PTCs PMPM	\$479	\$501	\$543	\$588	\$637	\$689	\$744	\$804	\$869	\$938	\$1,012
Waiver											
	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Total Individual ACA Enrollment	406,300	413,700	413,900	414,100	414,300	414,500	414,700	414,900	415,100	415,300	415,500
ACA PTC Enrollment	262,800	263,200	263,300	263,400	263,600	263,700	263,800	263,900	264,100	264,200	264,300
ACA Non-PTC Enrollment	143,400	150,500	150,600	150,600	150,700	150,800	150,800	150,900	151,000	151,100	151,100
Aggregate ACA Premium (millions)	\$2,954.6	\$2,976.5	\$3,186.4	\$3,411.1	\$3,651.6	\$3,909.0	\$4,184.7	\$4,479.7	\$4,795.6	\$5,133.7	\$5,495.7
Average ACA Premium Rate PMPM	\$606	\$600	\$642	\$686	\$735	\$786	\$841	\$900	\$963	\$1,030	\$1,102
Aggregate APTCs (millions)	\$1,583.0	\$1,558.3	\$1,690.8	\$1,833.2	\$1,986.3	\$2,150.8	\$2,327.5	\$2,517.4	\$2,721.3	\$2,940.3	\$3,175.5
Aggregate PTCs (millions)	\$1,511.9	\$1,488.4	\$1,614.9	\$1,750.9	\$1,897.1	\$2,054.2	\$2,223.0	\$2,404.4	\$2,599.2	\$2,808.3	\$3,033.0
Average PTCs PMPM	\$479	\$471	\$511	\$554	\$600	\$649	\$702	\$759	\$820	\$886	\$956
Change - Baseline Scenario to Waiver Scenario											
	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Total Individual ACA Enrollment	0	2,000	2,000	2,000	2,100	2,100	2,100	2,100	2,100	2,100	2,100
Total Individual ACA Enrollment (%)	0.0%	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%
Average ACA Premium Rate PMPM (%)	0.0%	-4.3%	-4.3%	-4.3%	-4.3%	-4.3%	-4.3%	-4.3%	-4.3%	-4.3%	-4.3%
Average PTCs PMPM (%)	0.0%	-6.0%	-5.9%	-5.9%	-5.8%	-5.7%	-5.7%	-5.6%	-5.6%	-5.5%	-5.5%
Demonstration of Deficit Neutrality Requirement (amounts shown in millions)											
	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Change in Total APTCs	\$0.0	-\$99.6	-\$106.6	-\$114.1	-\$122.1	-\$130.7	-\$139.9	-\$149.8	-\$160.4	-\$171.6	-\$183.7
Change in Total PTCs	\$0.0	-\$95.1	-\$101.8	-\$109.0	-\$116.7	-\$124.9	-\$133.7	-\$143.1	-\$153.2	-\$163.9	-\$175.5
Change in Other (e.g., User Fees)	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Net Savings to Federal Government	\$0.0	-\$95.1	-\$101.8	-\$109.0	-\$116.7	-\$124.9	-\$133.7	-\$143.1	-\$153.2	-\$163.9	-\$175.5
Projected Reinsurance Program Cost and Funding Levels											
	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Cost of Reinsurance Program (millions)	\$0.0	\$139.3	\$149.2	\$159.7	\$170.9	\$183.0	\$195.9	\$209.7	\$224.5	\$240.3	\$257.3
Federal Pass Through Funding (millions)	\$0.0	\$95.1	\$101.8	\$109.0	\$116.7	\$124.9	\$133.7	\$143.1	\$153.2	\$163.9	\$175.5
State Funding (millions)	\$0.0	\$44.2	\$47.4	\$50.7	\$54.3	\$58.1	\$62.2	\$66.6	\$71.3	\$76.4	\$81.8

## Notes:

1. Enrollment volumes have been rounded to the nearest hundred and reflect average monthly 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
4. Average ACA premium rate change shown is not equal to 4.6% due to differences in member mix (e.g., demographics, plan mix) between the baseline and waiver scenarios
5. The ratio of PTCs to APTCs is assumed to be 0.955.

## II. Compliance with Section 1332 Guardrails

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### A. Scope of Coverage Requirement (1332(b)(1)(C)):

As previously noted, the waiver will reduce the cost of coverage in the individual ACA market. The lower cost of coverage will allow more Pennsylvania residents to purchase or maintain coverage in the individual ACA market than without the waiver. As indicated in Table 2, in which the program is expected to be in place, when compared to gross premiums without the program. Because federal PTC costs are tied to the SLCSP, these lower premiums will result in lower federal spending net of revenues in each year of the waiver. Combining these factors, the waiver will produce net federal savings of about \$95,100,000 in 2021 and additional amounts in later years. Pennsylvania requests pass-through funds in each year equal to the expected PTC savings, and not to exceed net expected savings under the waiver. As shown in Table 9 for selected time periods and in Attachment 1 for each year, granting pass-through funding in these amounts will not result in the waiver increasing the federal deficit in any year, over the 5 years of the waiver, or over a 10-year budget window.

**Table 9**

Impact to Federal Deficit Savings/Costs, Selected Time Periods			
Category of Impact	2021	2021-2025	2021-2030
Savings in PTC	\$95.1	\$547.5	\$1,316.9
Requested Pass-through funds	\$95.1	\$547.5	\$1,316.9
<b>Total Impact on Federal Deficit</b>	<b>\$0.0</b>	<b>\$0.0</b>	<b>\$0.0</b>

## III. Description of the Pennsylvania 1332 Waiver Proposal

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### A. Authorizing Legislation

Act 42 of 2019,<sup>1</sup> which establishes the reinsurance program and gives the Pennsylvania Insurance Department the authority to implement a 1332 waiver, was signed into law by Pennsylvania Gov. Tom Wolf on July 2, 2019. The goal of the reinsurance program under Act 42 of 2019 is to stabilize premiums for health insurance in the individual market and provide greater financial certainty to health insurers and health insurance consumers.

Act 42 of 2019 requires the Pennsylvania Insurance Department, after consultation with the insurers then currently participating in the exchange, to determine and adopt reinsurance parameters, including the reinsurance program attachment point, coinsurance rate, reinsurance

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<sup>1</sup> A copy of Act 42 of 2019 is included with this waiver application, is marked as Attachment 2 and available here: <https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2019&sessInd=0&billBody=H&billTyp=B&billNbr=0003&pn=2211>.

cap, and payment processes. See 40 Pa.C.S. §9504(a). (It is not anticipated that regulations will be promulgated to govern this process). The law also gives the Pennsylvania Insurance Department the authority to apply for a federal waiver to carry out the reinsurance program.

The reinsurance program will reimburse qualified individual health insurers for a proportion (coinsurance amount) of high-cost enrollee claims between a lower bound (attachment point) and an upper bound (cap). For 2021, Pennsylvania is likely to set the reinsurance cap at \$100,000, the coinsurance rate at 60%, and the attachment point at \$60,000, such that the total estimated reinsurance payments match the funding available. If 2021 experience is worse than expected and the funding is not sufficient, Pennsylvania will calculate and make payments on a pro rata basis. If the 2021 experience is better than expected, Pennsylvania will retain the funds in reserve for future payouts.

Act 42 of 2019 also creates the Pennsylvania Health Insurance Exchange Authority, with one duty being to assess and collect fees to support the reinsurance program. See 40 Pa. C.S. 9305(b)(4),(5). Act 42 contemplates that the Exchange Authority will disburse receipted fees to benefit the reinsurance program (see §9305(b)(5)) and the Reinsurance Program will receive that funding (see 9503(2)(i)). If any process documentation is found to be necessary, it will be executed.

The process contemplated by Act 42 is that the Exchange Authority will collect a 3% User Fee (User Fee Revenue) from the insurers and deposited into the Authority's Fund monthly. (The Authority's Fund is established under §9312.) The annual Exchange Authority budget, which determines the Exchange Expenses, is anticipated to be completed and approved each August. Funds net of User Fee Revenue less Exchange Expenses will be transferred to the Reinsurance Fund (established under §9510). The Reinsurance Fund also includes the Federal Pass-Through Funds designated for Pennsylvania. The funds in the Reinsurance Fund will be used to "(i) implement and operate the reinsurance program"; and "(ii) make reinsurance payments to eligible insurers under the reinsurance program." (§9510(c)(1)). Thus, the funds for Reinsurance Payments will be the funds transferred from the Exchange Authority less Reinsurance Administration Expenses, plus the Federal Pass-Through Funds.

Under §9510(c)(2), Pennsylvania will first exhaust the Federal Pass-Through Funds to make Reinsurance Payments, then will use the remainder of the Reinsurance Fund to cover any remaining Reinsurance Payments. Pennsylvania intends to use conservative reinsurance program estimates, which could result in a balance being retained in the Reinsurance Fund account. The Reinsurance Fund is a nonlapsing fund. (§9510(e)(1)).

The amounts due each insurer will be produced by the CMS Edge Reinsurance system by calculating reinsurance payments from the claims data received by the insurers and the

reinsurance parameters set by the Pennsylvania Insurance Department. If the funds in the Reinsurance Fund are not sufficient to make Reinsurance Payments in the amounts calculated to be due each insurer, payments will be recalculated and made on a pro rata basis. (§9510(c)(1)(ii)). That is, the amount calculated to be due each insurer will be quantified as a percentage of the total amount due all insurers, and the amount of available funds will be divided by those percentages to determine the amount payable to each insurer. Those calculated amounts will be transmitted to the Pennsylvania Treasury for issuance of payment.

### **B. Federal Pass-Through Funding**

The waiver is designed to improve Pennsylvania residents’ access to affordable and comprehensive coverage. The goal of the reinsurance program is to “stabiliz[e] the rates and premiums for health insurance policies in the individual market and provid[e] greater financial certainty to consumers of health insurance” in Pennsylvania. 40 Pa. C.S. §9502(b). In doing so, the reinsurance program will incentivize individuals to join or remain in the individual market, encourage insurer participation, and reduce overall instability.

Because the amounts of PTCs available for eligible consumers are tied to the SLCSF, the waiver will reduce net federal expenditures due to PTCs. Through this waiver request, Pennsylvania seeks the amount of these federal savings, net of other costs that result from the waiver. Pennsylvania will use these funds to help fund the reinsurance program.

## **IV. Draft Waiver Implementation Timeline**

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The Pennsylvania Insurance Department will be responsible for implementing the reinsurance program. The Pennsylvania Insurance Department will determine and adopt reinsurance terms, establish requirements for submission of claims, and promulgate regulations as may be necessary and appropriate to operate the program. The Pennsylvania Insurance Department will receive funding from the Pennsylvania Health Insurance Exchange Authority (which will assess and collect Exchange user fees), collect data submissions and reinsurance payment requests, and distribute reinsurance payments to eligible insurers. 40 Pa. C.S. §9503(b). Pennsylvania has a number of initiatives designed to incentivize providers, payers, and enrollees to contain and manage health care costs and utilization for high-claims-cost individuals. The reinsurance program is not anticipated to include additional incentives.

<b>PID Dates</b>	<b>Activity</b>
7/2/2019	Legislation authorizing the waiver application was signed into law.
11/15/2019	Public comment period began.
12/3/2019	First public hearing is held.
12/5/2019	Second public hearing is held.
12/14/2019	Public comment period ends.

2/11/2020	The 1332 waiver application is submitted to the federal government.
2/21/2020	The federal government determines that the waiver application is complete.
2/28/2020	PID completes contract with vendor(s) for reinsurance program administration.
3/30/2020	Reinsurance parameters for the (2021) reinsurance program are adopted.
5/21/2020	Insurers submit (2021) rates with reinsurance parameter impact included.
3/1/2021	PID consultation with insurers for 2022 reinsurance program parameters.
3/29/2021	Reinsurance parameters for the (2022) reinsurance program are adopted.
4/1/2021	The federal government provides pass-through funds to the reinsurance program.
4/30/2021	Insurers submit first quarter 2021 claims to the reinsurance program.
5/14/2021	PID submits its first quarterly report to the federal government.
6/11/2021	PID posts date, time, and location on PID website announcing public forum to solicit comments.
7/14/2021	PID holds six-month public forum required by 45 CFR 155.1320(c).
7/30/2021	Insurers submit second quarter 2021 claims to the reinsurance program.
8/14/2021	PID submits its second quarterly report to the federal government.
10/30/2021	Insurers submit third quarter 2020 claims to the reinsurance program.
11/14/2021	PID submits its third quarterly report to the federal government.
1/30/2022	Insurers submit fourth quarter 2021 claims to the reinsurance program.
1/30/2022	Insurers submit 2021 reinsurance claims to the PID.
2/14/2022	PID submits its fourth quarter and annual report to the federal government.
3/1/2022	PID consultation with insurers for 2023 reinsurance program parameters.
3/28/2022	Reinsurance parameters for the (2023) reinsurance program are adopted.
4/1/2022	The federal government provides pass-through funds to the reinsurance program.
4/30/2022	Insurers submit first quarter 2022 claims to the reinsurance program.
7/30/2022	PID makes reinsurance payments to insurers in accordance with reinsurance parameters.

## V. Additional Information and Reporting

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### A. Administrative Burden

Waiver of Section 1312(c) will cause minimal administrative burden and expense for Pennsylvania and for the federal government. The waiver will cause no additional administrative burden to employers and individual consumers because Section 1312(c) does not relate to the administrative functions or requirements typically undertaken by employers or individuals. Qualified individual health insurers will experience some administrative burden and associated expense as a result of the reinsurance program; however, the monetary benefit to insurers from the program will far exceed any resulting administrative expense, which is expected to be minimal.

Pennsylvania has the resources and staff necessary to absorb the following administrative tasks that the waiver will require the state to perform:

- Administer the reinsurance program.



- Distribute federal pass-through funds.
- Monitor compliance with federal law.
- Collect and analyze data related to the waiver.
- Perform reviews of the implementation of the waiver.
- Hold annual public forums to solicit comments on the progress of the waiver.
- Submit annual reports (and quarterly reports if ultimately required) to the federal government.

The waiver will require the federal government to perform the following administrative tasks:

- Review documented complaints, if any, related to the waiver.
- Review state reports.
- Periodically evaluate the state's 1332 waiver program.
- Calculate and facilitate the transfer of pass-through funds to the state.

Pennsylvania believes that the above administrative tasks are similar to other administrative functions currently performed by the federal government, so that their impact will be minimal. Waiver of Section 1312(c)(1) does not necessitate any changes to the Federally-Facilitated Marketplace or to IRS operations and will not impact how PTC payments are calculated or paid.

### **B. Impact on Residents Who Need to Obtain Health Care Services Out-of-State**

Because Pennsylvania shares borders with New Jersey, Delaware, Maryland, West Virginia, Ohio, and New York, insurer service areas and networks that cover border counties generally contain providers in those states, especially in areas where the closest large hospital system is located in the border state. Granting this waiver request will not impact insurer networks or service areas that provide coverage for services performed by out-of-state providers.

### **C. Ensuring Compliance, Waste, Fraud and Abuse**

The Pennsylvania Insurance Department is responsible for regulating and ensuring regulatory compliance and monitoring the solvency of all insurers; performing market conduct analysis, examinations, and investigations; and providing consumer outreach and protection. The Pennsylvania Insurance Department investigates all complaints that fall within the agency's regulatory authority.

The Commonwealth of Pennsylvania and its Insurance Department prepare comprehensive financial accounting statements annually. Financial statements are audited annually by the Pennsylvania Office of Auditor General, with the most recent audit completed for the state fiscal year ending June 30, 2018. Pursuant to the enabling legislation (40 Pa. C.S. §9508), the reinsurance program will be audited annually by an independent certified public accounting firm. Auditing and reporting obligations of participating insurers are subject to Article IX (Examinations) of The Insurance Department Act of 1921 (40 P.S. §§323.1 – 323.8.).

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

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

The Pennsylvania Insurance Department will assume responsibility for the reporting requirements of 45 CFR 155.1324, including the following:

- Quarterly reports (45 CFR 155.1324(a)): To the extent required, the Pennsylvania Insurance Department will submit quarterly reports, including reports of ongoing operational challenges, if any, and plans for, and results of, associated corrective actions.
- Annual reports (45 CFR 155.1324(b)): The Pennsylvania Insurance Department will submit annual reports documenting the following:
  - (1) The progress of the waiver.
  - (2) Data, similar to that contained in Attachment 1, on compliance with Section 1332(b)(1)(B) through (D) of the ACA.
  - (3) Modifications, if any, to the essential health benefits for compliance with Section 1332(b)(1)(A) of the ACA.
  - (4) The premium for the SLCSP 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.
  - (5) A summary of the annual post-award public forum required by 45 CFR 155.1320(c) together with a summary of action taken in response to public input.
  - (6) Any additional information required by the terms of the waiver.

To the extent that quarterly reporting is required under 45 CFR 155.1324(a), the Pennsylvania Insurance Department recommends that such reporting commence no sooner than April 30, 2021, in order to provide some experience with the program about which to report. The Pennsylvania Insurance Department will submit and publish annual reports by the deadlines established in 45 CFR 155.1324(c) or the deadlines established by the terms of the waiver.

## **VI. Supporting Information and Miscellaneous**

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### **A. 45 CFR 155.1308(f)(4)(i) – (iii)**

The supporting information required by 45 CFR 155.1208(f)(4)(i) – (iii), including the actuarial analyses and certifications, the economic analyses, the detailed deficit neutral 10-year budget plan, and the data and assumptions demonstrating that the proposed waiver is in compliance with 1332(b)(1)(A) – (B) is in Attachment 1.

## VII. Public Comment and Tribal Consultation

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### A. Public Comment

On November 15, 2019, PID opened public comment on this waiver request and posted notice of the opportunity to comment on the Insurance Department's website ([www.insurance.pa.gov/PA1332waiver](http://www.insurance.pa.gov/PA1332waiver)). (See Attachment Three for information related to the Public Comment Period).

PID sent notice via email to its' list of interested parties and stakeholders, sent a press release advising of the comment period and forwarded a bulletin notice advising of the public comment period.

The Pennsylvania Bulletin is a weekly journal produced by the Commonwealth that provides information and rulemaking. The Bulletin provides interested Pennsylvanians the ability to participate in policy making.

On December 3, 2019, PID held a public informational hearing at the Nittany Lion Inn in State College, Pennsylvania from 11:00am- 2:00pm. At the public hearing, zero members of the public testified.

On December 5, 2019, PID held an additional public informational hearing from 11:00am- 2:00pm in the Keystone Building Hearing Room 3 in Harrisburg, Pennsylvania. Two members of the public attended. (See Attachment Three for public comments).

PID received eleven written public comments on this waiver request. (See Attachment Three for public written comments and responses to written public comment).

The public comment period closed on December 14, 2019 at 5:00pm.

### B. Tribal Consultation

Not applicable. The Commonwealth of Pennsylvania does not have any Federally-recognized Indigenous People tribes within its borders.

## VIII. Alignment with Section 1332 Principles

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Pennsylvania's waiver, if approved, will advance several of the principles described in the October 2018 §1332 guidance:

- **Provide increased access to affordable private market coverage.** The reinsurance program will reduce gross premiums exclusively for those purchasing private health insurance. Specifically, it is expected to reduce gross premiums for private health

insurance in the individual market by an average of approximately 4.6 percent from what they otherwise would have been for each of the five years the waiver is expected to be in effect. The reinsurance program will also support competition in the health insurance market, helping to ensure access to private insurance coverage.

- **Support and empower those in need.** By reducing gross premiums in the individual ACA market, the waiver will target its impact to those who are not currently eligible for financial assistance and therefore generally face the largest premiums for health insurance. Individuals with incomes under 400 percent of the federal poverty level (and who are not eligible for other coverage) are generally eligible for the PTC, which generally limits their contribution towards individual ACA market health insurance to a fixed percentage of their income. Under the proposed program, the population of individuals with incomes under 400 percent of the federal poverty level are expected to be mostly insulated from the impact of the resulting gross premium changes. But individuals with incomes over 400 percent of the poverty line are ineligible for the PTC and therefore pay the full premium cost, which may be over ten thousand dollars for a single individual.
- **Foster state innovation.** The waiver is a state-run approach to making coverage more affordable that is suited to the specific needs of Pennsylvania. States across the country have pursued innovative approaches to strengthening their health care systems. A reinsurance waiver has been identified by Pennsylvania as the best approach that meets its needs while allowing it to take control of its own health care system.
- **Encourage Sustainable Spending Growth.** Pennsylvania'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 insurers and corresponding premium contributions made by consumers will be reduced. Additionally, as more individuals who are currently uninsured enroll in the individual market, costs associated with uncompensated care for health providers will be expected to be reduced. Through helping to drive increased stability in the individual market and lower uninsured rates, Pennsylvania's 1332 waiver is expected to encourage more sustainable spending growth, both in the individual market and overall.

## **ADDITIONAL DOCUMENTS TO INCLUDE IN APPLICATION**

Samples of each element may be found in the Pennsylvania application. The numbers in parentheses correspond to the page numbers on the bottom of each page in the Pennsylvania application packet.

- Actuarial and Economic Analysis (pg. 22-53)
- 40 Pa. C.S. Ch. 95 (Act 42 of 2019) (pg. 54-83)
- Documentation of public notice and comment period and public hearings (pg. 84-99)
- Written comments received during the state notice and comment period (pg. 100-132)
- Pennsylvania's 1332 Waiver page [www.insurance.pa.gov/PA1332waiver](http://www.insurance.pa.gov/PA1332waiver) (pg. 125-132)

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## Attachments

- Attachment One: Actuarial and Economic Analysis
- Attachment Two: Pennsylvania's Act 42
- Attachment Three: Documentation of the Commonwealth's Public Comment Period
- Attachment Four: Pennsylvania's Updated Section 1332 Waiver Page

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Attachment One:  
Actuarial and Economic Analysis

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

## **ACTUARIAL AND ECONOMIC ANALYSES**

JANUARY 9, 2020

Tammy Tomczyk, FSA, MAAA, FCA  
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# 1. Introduction

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The Commonwealth of Pennsylvania (the Commonwealth) 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 (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, 2021, for an initial period of up to five years.

Oliver Wyman Actuarial Consulting, Inc. (Oliver Wyman) was retained by the Pennsylvania Insurance Department (PID) to perform the actuarial and economic analyses related to the Commonwealth's proposal to waive §1312(c)(1) of the ACA. 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 estimates that the proposed Section 1332 Waiver will satisfy the following requirements:

- **Scope of Coverage Requirement** – The Section 1332 Waiver will provide coverage to at least a comparable number of the Commonwealth'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 Commonwealth'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 Commonwealth's residents as would be provided absent the waiver.
- **Deficit Neutrality Requirement** – 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, 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 our actuarial and economic projections. 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

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The Commonwealth is submitting a Section 1332 Waiver application that seeks to implement a state-based and state-administered reinsurance program to help improve the affordability of premium rates in Pennsylvania's individual ACA market. Under the proposed Section 1332 Waiver, a reinsurance program would be established for plan year 2021 and beyond with the objective of reducing gross premium rates (i.e., premium rates prior to the application of premium tax credits) in the individual ACA market by an average of 4.6%, relative to the premium rates which would otherwise be charged if no reinsurance program were in place.

In this section, focusing on plan year 2021, we provide the estimated cost of the reinsurance program, describe how the reinsurance program is expected to be funded, provide the parameters anticipated to be utilized to determine payments from the PID to issuers, and provide the 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 will be adjusted, as necessary, by the PID to ensure the reinsurance program remains fully funded (net of federal pass-through funding) and, to the extent possible, continues to target the Commonwealth's overall objective for each plan year (i.e., reducing gross premium rates in the individual ACA market by an average of 4.6% relative to the premium rates which would otherwise be charged if no reinsurance program were in place).

### Cost and Funding of the State-Based Reinsurance Program in 2021

We estimate the total funding needed to support a reinsurance program that will accomplish Pennsylvania's stated objective (i.e., reducing gross premium rates in the individual ACA market by an average of 4.6% relative to the premium rates which would otherwise be charged if no reinsurance program were in place) for 2021 is \$139.3 million. This estimate was developed based on projected enrollment, premium, claims, and non-benefit expenses in the individual ACA market in 2021. In developing the estimate, it was assumed that issuer claim expenses as a percentage of premium in 2021 will be equal to the statewide average target loss ratio filed by the issuers offering coverage in Pennsylvania's individual ACA market in 2020, adjusted to reflect the anticipated impact of the repeal of the Health Insurance Providers (HIP) Fee for each issuer. Then, based on feedback received from each issuer offering coverage in Pennsylvania's individual ACA market in 2020 related to fixed non-benefit expenses and the reductions in claim expenses needed to drive various levels of premium rate changes, we estimated the reduction in issuer claim expenses which would be needed to accomplish Pennsylvania's stated objective for 2021. Finally, accounting for the change in morbidity expected to occur in 2021 under the proposed Section 1332 Waiver (i.e., as a result of increased enrollment due to lower premium rates in 2021 with the reinsurance program in place), the total projected cost of the program was calculated as follows:

*Projected 2021 Cost of Reinsurance Program = Projected 2021 Premium Volume x [Statewide Average Target Loss Ratio] x Target Reduction in Issuer Claim Expenses*

Funding for the reinsurance program in 2021 is expected to come from the following sources:<sup>2</sup>

1. *Federal pass-through funds* received as a result of the Section 1332 Waiver
2. A portion of the state-based *exchange user fee*, to be assessed on health and dental products offered through the Pennsylvania Health Insurance Exchange

Regarding the first item, through its Section 1332 Waiver application, Pennsylvania 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) resulting from the reduction in gross premium rates in the individual ACA market due to the reinsurance program. Section 1332(a)(3) of the ACA authorizes pass-through funding in Section 1332 Waiver applications.

### Estimated 2021 Reinsurance Parameters and Payment Calculation

Consistent with the Federal Transitional Reinsurance Program which was in place from 2014 through 2016, Pennsylvania's reinsurance program will reimburse issuers for a portion of high dollar claim expenses occurring 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 expected to apply in 2021:

**Table 1: 2021 Reinsurance Parameters**

Parameter	Value
Attachment Point	\$60,000
Reinsurance Cap	\$100,000
Coinsurance %	60.0%

These parameters were estimated using issuer provided claims data from plan years 2018 and year-to-date 2019, adjusted to reflect projected plan year 2021 cost levels (e.g., annualizing the year-to-date 2019 claims data) and enrollment volumes, and to reflect a projected distribution of claim expenses consistent with assumed market-wide morbidity levels. Additionally, issuer feedback was obtained to assess the reasonability of the resulting parameters.

Utilizing the parameters outlined in Table 1, reinsurance payments will be calculated based on an issuer's annual paid claim expenses<sup>3</sup> for a given member as follows:

$$2021 \text{ Reinsurance Payment for ACA Member}_i = \text{Maximum} [\text{Minimum} [\text{Member}_i \text{ Annual Paid Claim Expense}, \$100,000] - \$60,000, \$0] \times 60.0\%$$

<sup>2</sup> Act 42 of 2019, signed into law by Governor Wolf on July 2, 2019, indicates that the state-based reinsurance program may be funded through user fees from the Pennsylvania Health Insurance Exchange, Federal funding, and other available sources.

<sup>3</sup> Paid by the insurer; includes medical and pharmacy claims

In Table 2 below, we provide a summary of the expected distribution of members and claims by annual claim size to which the parameters outlined in Table 1 are expected to apply:

**Table 2: Projected Distribution of 2021 Individual ACA Incurred Claims Expenses**

Annual Incurred Claims	% of Members	% of Claims	Average Claim Cost PMPY
\$0 to \$59,999	98.6%	57.3%	\$2,552
\$60,000 to \$99,999	0.7%	11.7%	\$76,806
\$100,000+	0.7%	31.0%	\$197,921

In utilizing the specified parameters, 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, since 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 2021

As noted earlier, the objective of the reinsurance program in 2021 is to reduce gross premium rates in the individual ACA market by an average of 4.6% relative to the premium rates which would otherwise be charged if no reinsurance program were in place. To the extent gross premium rates are reduced, enrollment levels in the individual ACA market are expected to increase, leading to an improvement in the overall morbidity of Pennsylvania's individual ACA market. We estimate that the morbidity improvement as a result of the proposed Section 1332 Waiver will be 0.1% in 2021. This morbidity improvement is included in the estimated 4.6% premium reduction.

### 3. Actuarial and Economic Analyses

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 are provided in this section.<sup>4</sup> Oliver Wyman’s Healthcare Reform Microsimulation Model (HRM Model) was utilized to estimate the expected impact of the proposed Section 1332 Waiver on the health insurance markets in Pennsylvania, 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 expected impact of various reforms on the health insurance markets. Appendix A provides additional information about the specifications and functionality underlying the HRM Model.

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 Requirement** – The Section 1332 Waiver will provide coverage to at least a comparable number of the Commonwealth’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 Commonwealth’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 Commonwealth’s residents as would be provided absent the waiver.
- **Deficit Neutrality Requirement** – The Section 1332 Waiver will not increase the federal deficit.

Table 3 summarizes at a high level the expected impact of the proposed Section 1332 Waiver as it relates to these requirements. Our analyses show that the proposed Section 1332 Waiver is expected to meet these requirements in 2021 and each following year for the ten-year period ending in 2030. A more detailed discussion of the results as they relate to these requirements follows.

**Table 3: 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 Pennsylvania health insurance markets is expected to increase
Affordability of Coverage	Gross premium rates in the individual ACA 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

<sup>4</sup> <https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Downloads/Checklist-for-Section-1332-State-Relief-and-Empowerment-Waivers.pdf>

### 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>5</sup> For this purpose, "coverage" refers to minimum essential coverage as defined in 26 U.S.C. 5000A(f) and 26 CFR 1.5000A-2, and health insurance coverage as defined in 45 CFR 144.103. In assessing this requirement, we estimate that the proposed Section 1332 Waiver will not have a material impact on the number of Pennsylvanians covered under employer-sponsored plans, Medicaid, Medicare, CHIP, other public programs, or individual plans which are not ACA-compliant (e.g., grandfathered individual plans).<sup>6</sup> As a result, the focus of our analysis is on the impact of the proposed Section 1332 Waiver to Pennsylvania's individual ACA market.

Table 4 summarizes the projected average volume of individual ACA market enrollees and uninsured individuals in Pennsylvania by year under the baseline and waiver scenarios, assuming gross premium rates in the individual ACA market are reduced by an average of approximately 4.6% under the waiver scenario (i.e., relative to the premium rates which would otherwise be charged if no reinsurance program were in place):

**Table 4: Summary of Average Individual ACA Market Enrollment and Uninsured Volumes**

Year	Individual ACA Market			Uninsured		
	Baseline	Waiver	Change vs. Baseline	Baseline	Waiver	Change vs. Baseline
2020	406,300	-	-	724,600	-	-
2021	411,600	413,700	0.5%	727,300	725,300	-0.3%
2022	411,800	413,900	0.5%	727,600	725,700	-0.3%
2023	412,000	414,100	0.5%	728,000	726,000	-0.3%
2024	412,200	414,300	0.5%	728,300	726,400	-0.3%
2025	412,400	414,500	0.5%	728,700	726,700	-0.3%
2026	412,600	414,700	0.5%	729,000	727,100	-0.3%
2027	412,800	414,900	0.5%	729,400	727,400	-0.3%
2028	413,000	415,100	0.5%	729,700	727,800	-0.3%
2029	413,200	415,300	0.5%	730,100	728,100	-0.3%
2030	413,400	415,500	0.5%	730,400	728,500	-0.3%

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

Absent the proposed Section 1332 Waiver and corresponding reinsurance program, total enrollment volumes in the baseline scenario in Pennsylvania's individual ACA market are expected to increase by approximately 1.3% between 2020 and 2021, due primarily to the assumed termination of transitional individual policies at the end of 2020 which is required under current law, and the repeal of the HIP Fee starting in 2021. Under the proposed Section 1332 Waiver, enrollment in the individual ACA market is expected to be approximately 0.5% higher than baseline enrollment levels each year over the time period of 2021 through 2030. 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 gross premium

<sup>5</sup> 45 CFR 155.1308(f)(3)(iv)(C)

<sup>6</sup> Through a data request issued to Pennsylvania's individual market issuers and other publicly available data sources (e.g., 2018 MLR reported data, 2018 summary of risk adjustment transfers), it is estimated that there were approximately 14,100 lives covered through grandfathered and transitional individual plans, on average, in 2018.

rates.<sup>7</sup>

Overall, it is expected that the new enrollees who enter the ACA market in 2021 and later due to the presence of the proposed reinsurance program will, on average, have slightly lower health expenses on a PMPM basis when compared to the individuals who would be expected to enroll in individual ACA plans regardless of the presence of the reinsurance program. However, as noted earlier, the impact of the new enrollees on the overall morbidity of Pennsylvania's individual ACA market is expected to be relatively small (i.e., 0.1%). Correspondingly, the distribution of individuals by health expenses between the baseline and waiver scenarios in future years is not expected to be materially different.

### Individual ACA Market Enrollment by Household Income

Table 4a presents projected enrollment levels in the individual ACA market by household income over the time period of 2020 through 2030 assuming gross premium rates in the individual ACA market are reduced by an average of approximately 4.6% under the waiver scenario relative to the premium rates which would otherwise be charged if no reinsurance program were in place. For this comparison, household income is measured as a percentage of the federal poverty level (FPL).

**Table 4a: Summary of Average Individual ACA Market Enrollment by FPL**

Baseline											
Income Range	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
< 100%	3,100	3,200	3,300	3,300	3,300	3,300	3,300	3,300	3,300	3,300	3,300
100% - 150%	52,900	52,900	52,900	52,900	53,000	53,000	53,000	53,000	53,100	53,100	53,100
151% - 200%	82,500	82,500	82,600	82,600	82,600	82,700	82,700	82,800	82,800	82,800	82,900
201% - 250%	50,200	50,300	50,400	50,400	50,400	50,400	50,500	50,500	50,500	50,500	50,600
251% - 300%	31,300	31,300	31,300	31,300	31,300	31,400	31,400	31,400	31,400	31,400	31,400
301% - 400%	46,000	46,100	46,200	46,200	46,200	46,200	46,200	46,300	46,300	46,300	46,300
401%+	140,300	145,200	145,300	145,300	145,400	145,500	145,500	145,600	145,700	145,700	145,800
<b>Total ACA</b>	<b>406,300</b>	<b>411,600</b>	<b>411,800</b>	<b>412,000</b>	<b>412,200</b>	<b>412,400</b>	<b>412,600</b>	<b>412,800</b>	<b>413,000</b>	<b>413,200</b>	<b>413,400</b>
Waiver											
Income Range	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
< 100%	3,100	3,200	3,300	3,300	3,300	3,300	3,300	3,300	3,300	3,300	3,300
100% - 150%	52,900	52,900	52,900	52,900	53,000	53,000	53,000	53,000	53,100	53,100	53,100
151% - 200%	82,500	82,500	82,600	82,600	82,600	82,700	82,700	82,800	82,800	82,800	82,900
201% - 250%	50,200	50,300	50,400	50,400	50,400	50,400	50,500	50,500	50,500	50,500	50,600
251% - 300%	31,300	31,300	31,300	31,300	31,300	31,400	31,400	31,400	31,400	31,400	31,400
301% - 400%	46,000	46,100	46,200	46,200	46,200	46,200	46,200	46,300	46,300	46,300	46,300
401%+	140,300	147,200	147,300	147,400	147,500	147,500	147,600	147,700	147,700	147,800	147,900
<b>Total ACA</b>	<b>406,300</b>	<b>413,700</b>	<b>413,900</b>	<b>414,100</b>	<b>414,300</b>	<b>414,500</b>	<b>414,700</b>	<b>414,900</b>	<b>415,100</b>	<b>415,300</b>	<b>415,500</b>
Change in Number of Enrollees - Baseline to Waiver											
Income Range	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
< 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	2,000	2,000	2,000	2,100	2,100	2,100	2,100	2,100	2,100	2,100
<b>Total Change</b>	<b>0</b>	<b>2,000</b>	<b>2,000</b>	<b>2,000</b>	<b>2,100</b>	<b>2,100</b>	<b>2,100</b>	<b>2,100</b>	<b>2,100</b>	<b>2,100</b>	<b>2,100</b>

Note: Values shown have been rounded to the nearest hundred; the sum within each column may not be equal to the total shown and the change in the number of enrollees may not equal the difference between the baseline and waiver membership shown due to rounding.

<sup>7</sup> While there may be some migration of enrollees from the employer market to the individual ACA market, based on our modeling, we expect any migration from the employer market to be *de minimis*.



We estimate that there will be minimal change in enrollment between the baseline and waiver scenarios for individuals who receive PTCs. This is because, due to the way in which premium rates are calculated under the ACA for these individuals (i.e., maximum premium rates as a percentage of income, net of PTCs), their net out-of-pocket costs are expected to be mostly insulated, on average, from changes in gross premium rates.

Conversely, individuals who do not receive PTCs will experience favorable changes to their total out-of-pocket costs. For these individuals, the full impact of the reinsurance program is expected to be realized through reductions to their premium rates, resulting in an expected increase in enrollment for that segment of the population in 2021 and beyond.

### Individual ACA Market Enrollment by Metal Level

Table 4b presents projected enrollment levels in the individual ACA market by metal level over the time period of 2020 through 2030 assuming gross premium rates in the individual ACA market are reduced by an average of approximately 4.6% under the waiver scenario relative to the premium rates which would otherwise be charged if no reinsurance program were in place.

**Table 4b: Summary of Average Individual ACA Market Enrollment by Metal Level**

Baseline											
Metal Level	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Catastrophic	1,900	1,900	1,900	1,900	1,900	1,900	1,900	1,900	1,900	1,900	1,900
Bronze	115,300	130,300	130,400	130,500	130,500	130,600	130,600	130,700	130,800	130,800	130,900
Silver	203,600	197,500	197,600	197,700	197,800	197,900	198,000	198,000	198,100	198,200	198,300
Gold	83,600	79,900	79,900	80,000	80,000	80,100	80,100	80,100	80,200	80,200	80,300
Platinum	1,900	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000
<b>Total ACA</b>	<b>406,300</b>	<b>411,600</b>	<b>411,800</b>	<b>412,000</b>	<b>412,200</b>	<b>412,400</b>	<b>412,600</b>	<b>412,800</b>	<b>413,000</b>	<b>413,200</b>	<b>413,400</b>
Waiver											
Metal Level	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Catastrophic	1,900	1,900	1,900	1,900	1,900	1,900	1,900	1,900	1,900	1,900	1,900
Bronze	115,300	125,000	125,100	125,200	125,200	125,300	125,300	125,400	125,500	125,500	125,600
Silver	203,600	197,100	197,200	197,300	197,400	197,500	197,600	197,700	197,800	197,900	197,900
Gold	83,600	87,600	87,600	87,700	87,700	87,800	87,800	87,900	87,900	87,900	88,000
Platinum	1,900	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000
<b>Total ACA</b>	<b>406,300</b>	<b>413,700</b>	<b>413,900</b>	<b>414,100</b>	<b>414,300</b>	<b>414,500</b>	<b>414,700</b>	<b>414,900</b>	<b>415,100</b>	<b>415,300</b>	<b>415,500</b>
Change in Number of Enrollees - Baseline to Waiver											
Metal Level	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Catastrophic	0	0	0	0	0	0	0	0	0	0	0
Bronze	0	-5,300	-5,300	-5,300	-5,300	-5,300	-5,300	-5,300	-5,300	-5,300	-5,300
Silver	0	-400	-400	-400	-400	-400	-400	-400	-400	-400	-400
Gold	0	7,700	7,700	7,700	7,700	7,700	7,700	7,700	7,700	7,700	7,700
Platinum	0	0	0	0	0	0	0	0	0	0	0
<b>Total ACA</b>	<b>0</b>	<b>2,000</b>	<b>2,000</b>	<b>2,000</b>	<b>2,100</b>	<b>2,100</b>	<b>2,100</b>	<b>2,100</b>	<b>2,100</b>	<b>2,100</b>	<b>2,100</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 and the change in the number of enrollees may not equal the difference between the baseline and waiver membership shown due to rounding.

As shown in Table 4b, at lower gross premium rates with the reinsurance program in place, it is expected that ACA enrollees will not seek out leaner benefit plans at the same rate as they would absent the reinsurance program.

### Individual ACA Market Enrollment by Age

Table 4c presents projected enrollment levels in the individual ACA market by age over the time period of 2020 to 2030 assuming gross premium rates in the individual ACA market are reduced by an average of approximately 4.6% under the waiver scenario relative to the premium rates which would otherwise be charged if no reinsurance program were in place. Enrollment in the individual ACA market is expected to increase or stay flat across every age group and the distribution of individual ACA enrollment by age is not expected to shift significantly under the proposed Section 1332 Waiver.

**Table 4c: Summary of Average Individual ACA Market Enrollment by Age**

Baseline											
Age Range	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
0-18	37,200	39,000	39,000	39,000	39,100	39,100	39,100	39,100	39,100	39,200	39,200
19-25	35,000	35,200	35,200	35,300	35,300	35,300	35,300	35,300	35,300	35,400	35,400
26-34	61,000	61,900	62,000	62,000	62,000	62,100	62,100	62,100	62,100	62,200	62,200
35-44	52,700	53,500	53,500	53,500	53,500	53,600	53,600	53,600	53,600	53,700	53,700
45-54	75,900	76,300	76,300	76,300	76,400	76,400	76,500	76,500	76,500	76,600	76,600
55+	144,400	145,700	145,800	145,900	145,900	146,000	146,100	146,200	146,200	146,300	146,400
<b>Total ACA</b>	<b>406,300</b>	<b>411,600</b>	<b>411,800</b>	<b>412,000</b>	<b>412,200</b>	<b>412,400</b>	<b>412,600</b>	<b>412,800</b>	<b>413,000</b>	<b>413,200</b>	<b>413,400</b>

Walver											
Age Range	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
0-18	37,200	39,900	39,900	39,900	39,900	39,900	40,000	40,000	40,000	40,000	40,000
19-25	35,000	35,200	35,200	35,200	35,200	35,200	35,300	35,300	35,300	35,300	35,300
26-34	61,000	62,200	62,300	62,300	62,300	62,400	62,400	62,400	62,400	62,500	62,500
35-44	52,700	53,900	53,900	54,000	54,000	54,000	54,000	54,100	54,100	54,100	54,100
45-54	75,900	76,400	76,400	76,400	76,500	76,500	76,600	76,600	76,600	76,700	76,700
55+	144,400	146,100	146,200	146,300	146,300	146,400	146,500	146,500	146,600	146,700	146,700
<b>Total ACA</b>	<b>406,300</b>	<b>413,700</b>	<b>413,900</b>	<b>414,100</b>	<b>414,300</b>	<b>414,500</b>	<b>414,700</b>	<b>414,900</b>	<b>415,100</b>	<b>415,300</b>	<b>415,500</b>

Change In Number of Enrollees - Baseline to Walver											
Age Range	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
0-18	0	900	900	900	900	900	900	900	900	900	900
19-25	0	0	0	0	0	0	0	0	0	-100	-100
26-34	0	300	300	300	300	300	300	300	300	300	300
35-44	0	500	500	500	500	500	500	500	500	500	500
45-54	0	100	100	100	100	100	100	100	100	100	100
55+	0	400	400	400	400	400	400	400	400	400	400
<b>Total ACA</b>	<b>0</b>	<b>2,000</b>	<b>2,000</b>	<b>2,000</b>	<b>2,100</b>	<b>2,100</b>	<b>2,100</b>	<b>2,100</b>	<b>2,100</b>	<b>2,100</b>	<b>2,100</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 and the change in the number of enrollees may not equal the difference between the baseline and walver membership shown due to rounding.

### Affordability of Coverage

Under the affordability requirement, Pennsylvanians must retain access to health care coverage which is at least as affordable as would be absent the waiver.<sup>8</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.

<sup>8</sup> 45 CFR 155.1308(f)(3)(iv)(B)

As with the scope of coverage requirement, in assessing this requirement, we estimate 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, individual plans which are not ACA-compliant, Medicaid, Medicare, CHIP 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 Pennsylvania'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 in which they are currently enrolled), 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 in the individual ACA market will decrease. Total out-of-pocket costs for enrollees who receive PTCs under both the baseline and the Section 1332 Waiver, including those with high expected health care 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 continue to be capped at the applicable maximum percentage of household income they are required to pay under the ACA.<sup>9</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), including those with high expected health care costs, the proposed reinsurance program will result in an improvement in the overall affordability of health coverage relative to the baseline scenario.

The gross premium rates for the second lowest cost silver plans in Pennsylvania's individual ACA market are expected to decrease, on average, by approximately 4.6% in all years under the proposed Section 1332 Waiver (i.e., relative to the baseline). It is important to note, however, that while the statewide average decrease in premium rates relative to the baseline is expected to be equal to approximately 4.6%, the actual change in premium rates under the Section 1332 Waiver will vary by issuer, dependent on each issuer's specific claim cost distribution as well as fixed non-benefit expenses. As a result, the projected average rate changes are shown to vary by county and rating area.

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<sup>9</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 slightly 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 low income individuals enrolled in those plans.

Table 5a presents estimates of the average second lowest cost silver plan monthly premium rates offered through the Exchange for a single, 21-year-old, non-tobacco user in Pennsylvania by rating area under both the baseline and waiver scenarios. The weighted average premium rates in Table 5a were calculated based on the anticipated second lowest cost silver plan gross premium rates offered through the Exchange in each county and the volume of each county's 2019 open enrollment plan selections through the Exchange. Tables 5b and 5c present estimates of the second lowest cost silver plan monthly premium rates offered through the Exchange for a single, 21-year-old, non-tobacco user in Pennsylvania by county under the baseline and waiver scenarios, respectively. Table 5d presents estimates of the change in the second lowest cost silver plan monthly premium rates offered through the Exchange by county between the baseline and waiver scenarios. The values in these tables reflect the anticipated impact of the repeal of the HIP Fee, which was evaluated at the issuer level, on premium rates in 2021 and beyond.

**Table 5a: Estimated Second Lowest Cost Silver ACA Premium Rate by Rating Area  
 21-Year-Old, Non-Tobacco User**

Baseline											
Rating Area	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
1	\$292	\$306	\$327	\$350	\$375	\$401	\$429	\$459	\$491	\$526	\$562
2	\$378	\$397	\$424	\$454	\$486	\$520	\$556	\$595	\$637	\$681	\$729
3	\$367	\$382	\$409	\$438	\$468	\$501	\$536	\$574	\$614	\$657	\$703
4	\$273	\$286	\$306	\$327	\$350	\$375	\$401	\$429	\$459	\$491	\$525
5	\$320	\$335	\$359	\$384	\$411	\$440	\$470	\$503	\$538	\$576	\$616
6	\$435	\$454	\$485	\$519	\$556	\$594	\$636	\$681	\$728	\$779	\$834
7	\$440	\$458	\$490	\$524	\$561	\$600	\$642	\$687	\$735	\$786	\$841
8	\$361	\$379	\$406	\$434	\$465	\$497	\$532	\$569	\$609	\$652	\$697
9	\$410	\$426	\$456	\$488	\$522	\$558	\$596	\$639	\$684	\$732	\$783

Waiver											
Rating Area	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
1	\$292	\$292	\$312	\$334	\$358	\$383	\$409	\$438	\$469	\$502	\$537
2	\$378	\$378	\$405	\$433	\$464	\$496	\$531	\$568	\$608	\$650	\$696
3	\$367	\$363	\$388	\$416	\$445	\$476	\$509	\$545	\$583	\$624	\$667
4	\$273	\$272	\$292	\$312	\$334	\$357	\$382	\$409	\$438	\$468	\$501
5	\$320	\$320	\$342	\$366	\$392	\$419	\$449	\$480	\$514	\$550	\$588
6	\$435	\$427	\$457	\$489	\$523	\$559	\$598	\$640	\$685	\$733	\$784
7	\$440	\$429	\$459	\$491	\$526	\$562	\$602	\$644	\$689	\$737	\$789
8	\$361	\$366	\$391	\$419	\$448	\$479	\$513	\$549	\$587	\$628	\$672
9	\$410	\$399	\$427	\$457	\$489	\$523	\$559	\$598	\$640	\$685	\$733

% Difference in Second Lowest Cost Silver Plan Premium PMPM - Baseline to Waiver											
Rating Area	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
1	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
2	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
3	0.0%	-5.0%	-5.0%	-5.0%	-5.0%	-5.0%	-5.0%	-5.0%	-5.0%	-5.0%	-5.0%
4	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
5	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
6	0.0%	-5.9%	-5.9%	-5.9%	-5.9%	-5.9%	-5.9%	-5.9%	-5.9%	-5.9%	-5.9%
7	0.0%	-6.2%	-6.2%	-6.2%	-6.2%	-6.2%	-6.2%	-6.2%	-6.2%	-6.2%	-6.2%
8	0.0%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%
9	0.0%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%

Note: Values shown have been rounded to the nearest dollar

**Table 5b: Estimated Second Lowest Cost Silver ACA Premium Rate by County  
 21-Year-Old, Non-Tobacco User – Baseline Scenario**

Baseline County	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Adams	\$483	\$502	\$537	\$575	\$615	\$658	\$704	\$753	\$806	\$863	\$923
Allegheny	\$262	\$274	\$294	\$314	\$336	\$360	\$385	\$412	\$441	\$471	\$504
Armstrong	\$345	\$362	\$387	\$414	\$443	\$474	\$507	\$543	\$581	\$622	\$665
Beaver	\$277	\$291	\$311	\$333	\$356	\$381	\$408	\$436	\$467	\$500	\$534
Bedford	\$262	\$275	\$294	\$315	\$337	\$361	\$386	\$413	\$442	\$473	\$506
Berks	\$414	\$431	\$461	\$493	\$528	\$565	\$604	\$647	\$692	\$741	\$792
Blair	\$262	\$275	\$294	\$315	\$337	\$361	\$386	\$413	\$442	\$473	\$506
Bradford	\$372	\$387	\$414	\$443	\$475	\$508	\$543	\$581	\$622	\$666	\$712
Bucks	\$360	\$378	\$405	\$433	\$463	\$496	\$530	\$568	\$607	\$650	\$695
Butler	\$277	\$291	\$311	\$333	\$356	\$381	\$408	\$436	\$467	\$500	\$534
Cambria	\$345	\$362	\$387	\$414	\$443	\$474	\$507	\$543	\$581	\$622	\$665
Cameron	\$378	\$397	\$424	\$454	\$486	\$520	\$556	\$595	\$637	\$681	\$729
Carbon	\$372	\$387	\$414	\$443	\$475	\$508	\$543	\$581	\$622	\$666	\$712
Centre	\$464	\$486	\$520	\$557	\$596	\$638	\$682	\$730	\$781	\$836	\$894
Chester	\$363	\$382	\$409	\$438	\$469	\$501	\$536	\$574	\$614	\$657	\$703
Clarion	\$345	\$362	\$387	\$414	\$443	\$474	\$507	\$543	\$581	\$622	\$665
Clearfield	\$345	\$362	\$387	\$414	\$443	\$474	\$507	\$543	\$581	\$622	\$665
Clinton	\$331	\$347	\$372	\$398	\$425	\$455	\$487	\$521	\$558	\$597	\$638
Columbia	\$465	\$487	\$521	\$558	\$597	\$639	\$683	\$731	\$782	\$837	\$896
Crawford	\$345	\$362	\$387	\$414	\$443	\$474	\$507	\$543	\$581	\$622	\$665
Cumberland	\$406	\$423	\$452	\$484	\$518	\$554	\$593	\$634	\$679	\$726	\$777
Dauphin	\$406	\$423	\$452	\$484	\$518	\$554	\$593	\$634	\$679	\$726	\$777
Delaware	\$363	\$382	\$409	\$438	\$469	\$501	\$536	\$574	\$614	\$657	\$703
Elk	\$378	\$397	\$424	\$454	\$486	\$520	\$556	\$595	\$637	\$681	\$729
Erie	\$262	\$274	\$294	\$314	\$336	\$360	\$385	\$412	\$441	\$471	\$504
Fayette	\$277	\$291	\$311	\$333	\$356	\$381	\$408	\$436	\$467	\$500	\$534
Forest	\$345	\$362	\$387	\$414	\$443	\$474	\$507	\$543	\$581	\$622	\$665
Franklin	\$406	\$423	\$452	\$484	\$518	\$554	\$593	\$634	\$679	\$726	\$777
Fulton	\$475	\$495	\$529	\$566	\$606	\$648	\$694	\$742	\$794	\$850	\$909
Greene	\$345	\$362	\$387	\$414	\$443	\$474	\$507	\$543	\$581	\$622	\$665
Huntingdon	\$345	\$362	\$387	\$414	\$443	\$474	\$507	\$543	\$581	\$622	\$665
Indiana	\$345	\$362	\$387	\$414	\$443	\$474	\$507	\$543	\$581	\$622	\$665
Jefferson	\$345	\$362	\$387	\$414	\$443	\$474	\$507	\$543	\$581	\$622	\$665
Juniata	\$473	\$495	\$529	\$566	\$606	\$648	\$694	\$742	\$794	\$850	\$909
Lackawanna	\$372	\$387	\$414	\$443	\$475	\$508	\$543	\$581	\$622	\$666	\$712
Lancaster	\$414	\$431	\$461	\$493	\$528	\$565	\$604	\$647	\$692	\$741	\$792
Lawrence	\$262	\$275	\$294	\$315	\$337	\$361	\$386	\$413	\$442	\$473	\$506
Lebanon	\$406	\$423	\$452	\$484	\$518	\$554	\$593	\$634	\$679	\$726	\$777
Lehigh	\$421	\$438	\$468	\$501	\$536	\$574	\$614	\$657	\$703	\$752	\$805
Luzerne	\$372	\$387	\$414	\$443	\$475	\$508	\$543	\$581	\$622	\$666	\$712
Lycoming	\$331	\$347	\$372	\$398	\$425	\$455	\$487	\$521	\$558	\$597	\$638
McKean	\$345	\$362	\$387	\$414	\$443	\$474	\$507	\$543	\$581	\$622	\$665
Mercer	\$262	\$275	\$294	\$315	\$337	\$361	\$386	\$413	\$442	\$473	\$506
Mifflin	\$485	\$504	\$540	\$577	\$618	\$661	\$707	\$757	\$810	\$866	\$927
Monroe	\$372	\$387	\$414	\$443	\$475	\$508	\$543	\$581	\$622	\$666	\$712
Montgomery	\$360	\$378	\$405	\$433	\$463	\$496	\$530	\$568	\$607	\$650	\$695
Montour	\$485	\$504	\$540	\$577	\$618	\$661	\$707	\$757	\$810	\$866	\$927
Northampton	\$421	\$438	\$468	\$501	\$536	\$574	\$614	\$657	\$703	\$752	\$805
Northumberland	\$465	\$487	\$521	\$558	\$597	\$639	\$683	\$731	\$782	\$837	\$896
Perry	\$406	\$423	\$452	\$484	\$518	\$554	\$593	\$634	\$679	\$726	\$777
Philadelphia	\$360	\$378	\$405	\$433	\$463	\$496	\$530	\$568	\$607	\$650	\$695
Pike	\$372	\$387	\$414	\$443	\$475	\$508	\$543	\$581	\$622	\$666	\$712
Potter	\$378	\$397	\$424	\$454	\$486	\$520	\$556	\$595	\$637	\$681	\$729
Schuylkill	\$421	\$438	\$468	\$501	\$536	\$574	\$614	\$657	\$703	\$752	\$805
Snyder	\$465	\$487	\$521	\$558	\$597	\$639	\$683	\$731	\$782	\$837	\$896
Somerset	\$345	\$362	\$387	\$414	\$443	\$474	\$507	\$543	\$581	\$622	\$665
Sullivan	\$372	\$387	\$414	\$443	\$475	\$508	\$543	\$581	\$622	\$666	\$712
Susquehanna	\$372	\$387	\$414	\$443	\$475	\$508	\$543	\$581	\$622	\$666	\$712
Tioga	\$331	\$347	\$372	\$398	\$425	\$455	\$487	\$521	\$558	\$597	\$638
Union	\$465	\$487	\$521	\$558	\$597	\$639	\$683	\$731	\$782	\$837	\$896
Venango	\$262	\$275	\$294	\$315	\$337	\$361	\$386	\$413	\$442	\$473	\$506
Warren	\$345	\$362	\$387	\$414	\$443	\$474	\$507	\$543	\$581	\$622	\$665
Washington	\$273	\$284	\$304	\$326	\$348	\$373	\$399	\$427	\$457	\$488	\$523
Wayne	\$372	\$387	\$414	\$443	\$475	\$508	\$543	\$581	\$622	\$666	\$712
Westmoreland	\$277	\$291	\$311	\$333	\$356	\$381	\$408	\$436	\$467	\$500	\$534
Wyoming	\$372	\$387	\$414	\$443	\$475	\$508	\$543	\$581	\$622	\$666	\$712
York	\$483	\$502	\$537	\$575	\$615	\$658	\$704	\$753	\$806	\$863	\$923

**Table 5c: Estimated Second Lowest Cost Silver ACA Premium Rate by County  
 21-Year-Old, Non-Tobacco User – Waiver Scenario**

County	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Adams	\$483	\$472	\$505	\$541	\$578	\$619	\$662	\$709	\$758	\$811	\$868
Allegheny	\$262	\$262	\$280	\$300	\$321	\$343	\$367	\$393	\$420	\$450	\$481
Armstrong	\$345	\$345	\$369	\$395	\$423	\$452	\$484	\$518	\$554	\$593	\$634
Beaver	\$277	\$277	\$297	\$318	\$340	\$364	\$389	\$416	\$445	\$477	\$510
Bedford	\$262	\$263	\$281	\$301	\$322	\$344	\$368	\$394	\$422	\$451	\$483
Berks	\$414	\$403	\$432	\$462	\$494	\$529	\$566	\$605	\$648	\$693	\$742
Blair	\$262	\$263	\$281	\$301	\$322	\$344	\$368	\$394	\$422	\$451	\$483
Bradford	\$372	\$368	\$393	\$421	\$450	\$482	\$515	\$552	\$590	\$631	\$676
Bucks	\$360	\$365	\$390	\$417	\$447	\$478	\$511	\$547	\$586	\$627	\$670
Butler	\$277	\$277	\$297	\$318	\$340	\$364	\$389	\$416	\$445	\$477	\$510
Cambria	\$345	\$345	\$369	\$395	\$423	\$452	\$484	\$518	\$554	\$593	\$634
Cameron	\$378	\$378	\$405	\$433	\$464	\$496	\$531	\$568	\$608	\$650	\$696
Carbon	\$372	\$368	\$393	\$421	\$450	\$482	\$515	\$552	\$590	\$631	\$676
Centre	\$464	\$464	\$497	\$531	\$568	\$608	\$651	\$696	\$745	\$797	\$853
Chester	\$363	\$369	\$395	\$422	\$452	\$483	\$517	\$553	\$592	\$634	\$678
Ciaron	\$345	\$345	\$369	\$395	\$423	\$452	\$484	\$518	\$554	\$593	\$634
Clearfield	\$345	\$345	\$369	\$395	\$423	\$452	\$484	\$518	\$554	\$593	\$634
Clinton	\$331	\$331	\$355	\$379	\$406	\$434	\$465	\$497	\$532	\$569	\$609
Columbia	\$465	\$465	\$497	\$532	\$569	\$609	\$652	\$698	\$746	\$799	\$855
Crawford	\$345	\$345	\$369	\$395	\$423	\$452	\$484	\$518	\$554	\$593	\$634
Cumberland	\$406	\$396	\$423	\$453	\$485	\$519	\$555	\$594	\$635	\$680	\$727
Dauphin	\$406	\$396	\$423	\$453	\$485	\$519	\$555	\$594	\$635	\$680	\$727
Delaware	\$363	\$369	\$395	\$422	\$452	\$483	\$517	\$553	\$592	\$634	\$678
Elk	\$378	\$378	\$405	\$433	\$464	\$496	\$531	\$568	\$608	\$650	\$696
Erie	\$262	\$262	\$280	\$300	\$321	\$343	\$367	\$393	\$420	\$450	\$481
Fayette	\$277	\$277	\$297	\$318	\$340	\$364	\$389	\$416	\$445	\$477	\$510
Forest	\$345	\$345	\$369	\$395	\$423	\$452	\$484	\$518	\$554	\$593	\$634
Franklin	\$406	\$396	\$423	\$453	\$485	\$519	\$555	\$594	\$635	\$680	\$727
Fulton	\$475	\$463	\$495	\$530	\$567	\$607	\$649	\$695	\$743	\$795	\$851
Greene	\$345	\$345	\$369	\$395	\$423	\$452	\$484	\$518	\$554	\$593	\$634
Huntingdon	\$345	\$345	\$369	\$395	\$423	\$452	\$484	\$518	\$554	\$593	\$634
Indiana	\$345	\$345	\$369	\$395	\$423	\$452	\$484	\$518	\$554	\$593	\$634
Jefferson	\$345	\$345	\$369	\$395	\$423	\$452	\$484	\$518	\$554	\$593	\$634
Juniata	\$473	\$463	\$495	\$530	\$567	\$607	\$649	\$695	\$743	\$795	\$851
Lackawanna	\$372	\$368	\$393	\$421	\$450	\$482	\$515	\$552	\$590	\$631	\$676
Lancaster	\$414	\$403	\$432	\$462	\$494	\$529	\$566	\$605	\$648	\$693	\$742
Lawrence	\$262	\$263	\$281	\$301	\$322	\$344	\$368	\$394	\$422	\$451	\$483
Lebanon	\$406	\$396	\$423	\$453	\$485	\$519	\$555	\$594	\$635	\$680	\$727
Lehigh	\$421	\$410	\$438	\$469	\$502	\$537	\$575	\$615	\$658	\$704	\$753
Luzerne	\$372	\$368	\$393	\$421	\$450	\$482	\$515	\$552	\$590	\$631	\$676
Lycoming	\$331	\$331	\$355	\$379	\$406	\$434	\$465	\$497	\$532	\$569	\$609
Mckean	\$345	\$345	\$369	\$395	\$423	\$452	\$484	\$518	\$554	\$593	\$634
Mercer	\$262	\$263	\$281	\$301	\$322	\$344	\$368	\$394	\$422	\$451	\$483
Mifflin	\$485	\$472	\$505	\$540	\$578	\$619	\$662	\$708	\$758	\$811	\$868
Monroe	\$372	\$368	\$393	\$421	\$450	\$482	\$515	\$552	\$590	\$631	\$676
Montgomery	\$360	\$365	\$390	\$417	\$447	\$478	\$511	\$547	\$586	\$627	\$670
Montour	\$485	\$472	\$505	\$540	\$578	\$619	\$662	\$708	\$758	\$811	\$868
Northampton	\$421	\$410	\$438	\$469	\$502	\$537	\$575	\$615	\$658	\$704	\$753
Northumberland	\$465	\$465	\$497	\$532	\$569	\$609	\$652	\$698	\$746	\$799	\$855
Perry	\$406	\$396	\$423	\$453	\$485	\$519	\$555	\$594	\$635	\$680	\$727
Philadelphia	\$360	\$365	\$390	\$417	\$447	\$478	\$511	\$547	\$586	\$627	\$670
Pike	\$372	\$368	\$393	\$421	\$450	\$482	\$515	\$552	\$590	\$631	\$676
Potter	\$378	\$378	\$405	\$433	\$464	\$496	\$531	\$568	\$608	\$650	\$696
Schuylkill	\$421	\$410	\$438	\$469	\$502	\$537	\$575	\$615	\$658	\$704	\$753
Snyder	\$465	\$465	\$497	\$532	\$569	\$609	\$652	\$698	\$746	\$799	\$855
Somerset	\$345	\$345	\$369	\$395	\$423	\$452	\$484	\$518	\$554	\$593	\$634
Sullivan	\$372	\$368	\$393	\$421	\$450	\$482	\$515	\$552	\$590	\$631	\$676
Susquehanna	\$372	\$368	\$393	\$421	\$450	\$482	\$515	\$552	\$590	\$631	\$676
Tioga	\$331	\$331	\$355	\$379	\$406	\$434	\$465	\$497	\$532	\$569	\$609
Union	\$465	\$465	\$497	\$532	\$569	\$609	\$652	\$698	\$746	\$799	\$855
Venango	\$262	\$263	\$281	\$301	\$322	\$344	\$368	\$394	\$422	\$451	\$483
Warren	\$345	\$345	\$369	\$395	\$423	\$452	\$484	\$518	\$554	\$593	\$634
Washington	\$273	\$270	\$289	\$309	\$330	\$354	\$378	\$405	\$433	\$464	\$496
Wayne	\$372	\$368	\$393	\$421	\$450	\$482	\$515	\$552	\$590	\$631	\$676
Westmoreland	\$277	\$277	\$297	\$318	\$340	\$364	\$389	\$416	\$445	\$477	\$510
Wyoming	\$372	\$368	\$393	\$421	\$450	\$482	\$515	\$552	\$590	\$631	\$676
York	\$483	\$472	\$505	\$541	\$578	\$619	\$662	\$709	\$758	\$811	\$868

**Table 5d: Change in Estimated Second Lowest Cost Silver ACA Premium Rate by County  
 21-Year-Old, Non-Tobacco User – Baseline to Waiver Scenario**

County	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Adams	0.0%	-6.0%	-6.0%	-6.0%	-6.0%	-6.0%	-6.0%	-6.0%	-6.0%	-6.0%	-6.0%
Allegheny	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
Armstrong	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
Beaver	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
Bedford	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
Berks	0.0%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%
Blair	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
Bradford	0.0%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%
Bucks	0.0%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%
Butler	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
Cambria	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
Cameron	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
Carbon	0.0%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%
Centre	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
Chester	0.0%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%
Clarton	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
Clearfield	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
Clinton	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
Columbia	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
Crawford	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
Cumberland	0.0%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%
Dauphin	0.0%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%
Delaware	0.0%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%
Elk	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
Erie	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
Fayette	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
Forest	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
Franklin	0.0%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%
Fulton	0.0%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%
Greene	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
Huntingdon	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
Indiana	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
Jefferson	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
Juniata	0.0%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%
Lackawanna	0.0%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%
Lancaster	0.0%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%
Lawrence	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
Lebanon	0.0%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%
Lehigh	0.0%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%
Luzerne	0.0%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%
Lycorning	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
Mckean	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
Mercer	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
Mifflin	0.0%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%
Monroe	0.0%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%
Montgomery	0.0%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%
Montour	0.0%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%
Northampton	0.0%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%
Northumberland	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
Perry	0.0%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%
Philadelphia	0.0%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%
Pike	0.0%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%
Potter	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
Schuylkill	0.0%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%	-6.4%
Snyder	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
Somerset	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
Sullivan	0.0%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%
Susquehanna	0.0%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%
Tioga	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
Union	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
Venango	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
Warren	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
Washington	0.0%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%
Wayne	0.0%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%
Westmoreland	0.0%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%	-4.6%
Wyoming	0.0%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%	-5.1%
York	0.0%	-6.0%	-6.0%	-6.0%	-6.0%	-6.0%	-6.0%	-6.0%	-6.0%	-6.0%	-6.0%

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>10</sup>

### 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 Pennsylvania residents as coverage absent the waiver.<sup>11</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 the Medicaid or CHIP programs. Therefore, the proposed Section 1332 Waiver is expected to have no impact on the comprehensiveness of coverage available to Pennsylvania 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>12</sup>

The proposed Section 1332 Waiver was analyzed to determine its expected impact on costs associated with PTCs. Table 6 summarizes the expected impact of the proposed Section 1332 Waiver on the federal deficit for each year from 2021 through 2030 assuming gross premium rates in the individual ACA market are reduced by an average of approximately 4.6% (i.e., relative to the premium rates which would otherwise be charged if no reinsurance program were in place). A detailed discussion of these items, as well as a discussion of other items considered in determining the impact to the federal deficit, follows.

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<sup>10</sup> <https://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Market-Reforms/Downloads/StateSpecAgeCrv053117.pdf>

<sup>11</sup> 45 CFR 155.1308(f)(3)(iv)(A)

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



**Table 6: 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
Year	Change in PTCs	Change in User Fees	Change in Shared Responsibility Payments	Change in Health Insurance Provider Fees	Change in Federal Deficit
2020	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
2021	-\$95.1	\$0.0	\$0.0	\$0.0	-\$95.1
2022	-\$101.8	\$0.0	\$0.0	\$0.0	-\$101.8
2023	-\$109.0	\$0.0	\$0.0	\$0.0	-\$109.0
2024	-\$116.7	\$0.0	\$0.0	\$0.0	-\$116.7
2025	-\$124.9	\$0.0	\$0.0	\$0.0	-\$124.9
2026	-\$133.7	\$0.0	\$0.0	\$0.0	-\$133.7
2027	-\$143.1	\$0.0	\$0.0	\$0.0	-\$143.1
2028	-\$153.2	\$0.0	\$0.0	\$0.0	-\$153.2
2029	-\$163.9	\$0.0	\$0.0	\$0.0	-\$163.9
2030	-\$175.5	\$0.0	\$0.0	\$0.0	-\$175.5

Note: PTCs are considered expenditures for the federal government whereas Exchange User Fees, Shared Responsibility Payments, and Health Insurance Providers Fees are considered revenue sources for the federal government. Therefore, a reduction in PTCs will decrease the federal deficit whereas a reduction in Exchange User Fees, Shared Responsibility Payments, or Health Insurance Provider Fees will increase the federal deficit.

A more detailed summary providing projected results over the ten-year budget period under both the baseline and Section 1332 Waiver scenarios, including all additional information requested in the "Checklist for Section 1332 State Innovation Waiver Applications" that has not already been presented (i.e., the projected volume of individual ACA market enrollees by PTC eligibility, the overall average individual ACA 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) is shown 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 7, assuming gross premium rates in the individual ACA market are reduced by an average of approximately 4.6% under the waiver scenario relative to the baseline scenario, the proposed Section 1332 Waiver is expected to significantly decrease the volume of PTCs paid by the federal government each year beginning in 2021.

**Table 7: 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)
2020	262,800	\$479.4	\$1,511.9	262,800	\$479.4	\$1,511.9	\$0.0
2021	263,200	\$501.4	\$1,583.5	263,200	\$471.3	\$1,488.4	-\$95.1
2022	263,300	\$543.3	\$1,716.7	263,300	\$511.1	\$1,614.9	-\$101.8
2023	263,400	\$588.3	\$1,859.9	263,400	\$553.9	\$1,750.9	-\$109.0
2024	263,600	\$636.7	\$2,013.8	263,600	\$599.8	\$1,897.1	-\$116.7
2025	263,700	\$688.7	\$2,179.1	263,700	\$649.2	\$2,054.2	-\$124.9
2026	263,800	\$744.4	\$2,356.7	263,800	\$702.2	\$2,223.0	-\$133.7
2027	263,900	\$804.3	\$2,547.4	263,900	\$759.1	\$2,404.4	-\$143.1
2028	264,100	\$868.6	\$2,752.3	264,100	\$820.2	\$2,599.2	-\$153.2
2029	264,200	\$937.6	\$2,972.3	264,200	\$885.8	\$2,808.3	-\$163.9
2030	264,300	\$1,011.6	\$3,208.4	264,300	\$956.2	\$3,033.0	-\$175.5

Notes:

1. Enrollment volumes have been rounded to the nearest hundred and reflect average monthly enrollment levels
2. PMPM values have been rounded to the nearest ten cents
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 minimal. Therefore, the decrease in PTC payments shown is driven entirely by the expected decrease in gross premium rates as a result of the implementation of the reinsurance program in 2021 which reduces gross premium rates by approximately 4.6% (i.e., relative to the premium rates which would otherwise be charged if no reinsurance program were in place).

**Other Considerations Related to the Federal Deficit**

Other items considered in estimating the impact of the Section 1332 Waiver on the federal deficit include the following:

- **Exchange User Fees** - Starting in 2021, Pennsylvania will implement the Pennsylvania Health Insurance Exchange, its state-based exchange, through which issuers will sell ACA insurance plans to individuals and families. Given that no Exchange User Fees are anticipated to be paid to the federal government in 2021 and later under either of the baseline or waiver scenarios, there is no impact on the federal deficit as a result of Pennsylvania's Section 1332 Waiver.
- **Federal Individual Mandate Penalty** - 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.
- **Cost-Sharing Reduction 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 assumed in the volume of CSR payments between the baseline and waiver scenarios.

- **Health Insurance Providers Fee** - With respect to the HIP Fee, given that this fee will be repealed starting in 2021, the proposed Section 1332 Waiver will have no impact on HIP Fee revenues.
- **Federal Income Taxes** - There is the potential for the proposed Section 1332 Waiver to impact the amount of federal income taxes paid by issuers. However, we considered 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 market. As a result, actual experience will likely differ from what is assumed in this analysis. We note that some of the key assumptions related to health insurance markets that we 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 2020, issuer pricing assumptions will be similar to those used in 2020 (except where explicitly stated), there will be no significant issuer entries or exits, due to state policies 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, the HIP Fee will be repealed starting in 2021, and there will be no additional significant legislative changes at either the state or federal level. 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 Pennsylvania'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, we performed significant sensitivity testing of key assumptions and shared those results with the PID. Some of the key assumptions which were sensitivity tested include the following:

- Overall membership volumes
- Non-PTC membership volumes
- The change in the second lowest cost silver premium PMPM due to the reinsurance program
- The ratio of PTCs to APTCs
- The level of assumed morbidity improvement due to the reinsurance program

We note that in each of scenario 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 in which any of the four federal requirements associated with Section 1332 Waivers was not expected to be met.

## 4. Data Sources and Modeling Methodology

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 health insurance markets in Pennsylvania, and in meeting the requirements 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.

We estimate that the proposed Section 1332 Waiver will not have a material impact on the number of Pennsylvanians covered under employer-sponsored plans, Medicaid, Medicare, CHIP, 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 health insurance market in Pennsylvania.

The PID issued a data call to the health insurance issuers expected to offer coverage in Pennsylvania's individual ACA market in 2021 to collect detailed information for that market to aid in calibrating the HRM Model. The data included premium, claims, and enrollment information from January 2018 through August 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 Pennsylvania's health insurance markets
- 2016-2018 medical loss ratio (MLR) data
- 2016-2019 Marketplace enrollment public use files
- 2016-2019 effectuated enrollment reports
- U.S. Census Bureau data
- 2016-2018 final summary reports on risk adjustment transfers
- 2016-2018 health insurance coverage estimates from the Kaiser Family Foundation
- National CPI and CMS Personal Health Care Price Index projections
- Publicly available 2020 rate filing information (e.g., Unified Rate Review Template data)
- 2016-2020 individual and small group ACA market premium rates

These additional data sources were utilized to determine the overall average annual enrollment volumes in the health insurance market for each of 2016, 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 Pennsylvania 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. The MEPS data was also 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 Pennsylvania for 2016, 2017, 2018, and 2019. The various parameters of HRM Model's utility functions were then further adjusted until the model also projected individual ACA market enrollment in each of 2016, 2017, 2018, and 2019 that was consistent with key characteristics of the actual individual ACA market enrollment for each year (e.g., by age range, income range, geography, etc.).

The HRM Model assumes a "steady" state population beyond 2020. This means the overall distribution by income, health status, employer size, and family composition of the entire population being modeled is not expected to change significantly. Additional adjustments were applied to the modeled results to reflect anticipated population growth within Pennsylvania. The population growth adjustments were developed based on population projections which are publicly available on the United States Census Bureau website.

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 2020, claim costs within the HRM Model were trended forward assuming an average annual claims trend rate in the individual ACA market equal to 7.0%. This assumption was developed based on discussions with issuers in Pennsylvania's individual ACA insurance market as well as through a review of publicly available information from Pennsylvania's individual ACA market rate filings for 2019 and 2020. Claim costs in the small and large group markets were trended forward using National Health Expenditure (NHE) data published by CMS.<sup>13</sup>

<sup>13</sup> <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/NationalHealthAccountsProjected.html> - Table 17: employer-sponsored private health insurance

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 bronze, silver, and gold premium rates and second-lowest cost silver premium rates for Pennsylvania's individual ACA market in 2016, 2017, 2018, 2019, and 2020 were utilized in the HRM Model. Premium rates for 2021 (the baseline scenario) were developed by trending the actual 2020 premium rates at the same 7.0% trend rate as was used for claims and then adjusting those premium rates to reflect the anticipated impact of the repeal of the HIP Fee, by carrier. Premium rates in the individual ACA market for 2021 and beyond are assumed to increase by the assumed annual premium/claims trend rate of 7.0%. 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 PTCs for eligible individual ACA 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 2020, were adjusted each year beyond 2020 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>14</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 2020, issuer pricing assumptions will be similar to those used in 2020, 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>14</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 Commonwealth. 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 Commonwealth's Section 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 Commonwealth.

Oliver Wyman's consent to any distribution of this report to parties other than the Commonwealth 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., was engaged by the Commonwealth of Pennsylvania to assist in performing actuarial and economic analyses as part of its 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 Sarah Langford, 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 issuers currently offering coverage in the individual ACA market in Pennsylvania. 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 November 25, 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 Commonwealth of Pennsylvania as of November 25, 2019. 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 Commonwealth of Pennsylvania.

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 Commonwealth of Pennsylvania 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 Commonwealth of Pennsylvania'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 Commonwealth of Pennsylvania, information obtained from issuers currently offering coverage in the individual ACA market in Pennsylvania, 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 Commonwealth of Pennsylvania'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.



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January 9, 2020

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## 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 Commonwealth of Pennsylvania. 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 using 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 allows 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 to eligible HIUs. 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 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 ACA Market Projections - Baseline and Waiver Scenarios

Baseline	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Total Individual ACA Enrollment	406,300	411,600	411,800	412,000	412,200	412,400	412,600	412,800	413,000	413,200	413,400
ACA PTC Enrollment	262,800	263,200	263,300	263,400	263,600	263,700	263,800	263,900	264,100	264,200	264,300
ACA Non-PTC Enrollment	143,400	148,400	148,500	148,600	148,700	148,700	148,800	148,900	148,900	149,000	149,100
Aggregate ACA Premium (millions)	\$2,954.6	\$3,093.8	\$3,311.9	\$3,545.5	\$3,795.4	\$4,063.1	\$4,349.5	\$4,656.2	\$4,984.5	\$5,336.0	\$5,712.2
Average ACA Premium Rate PMPM	\$606	\$626	\$670	\$717	\$767	\$821	\$878	\$940	\$1,006	\$1,076	\$1,151
Aggregate APTCs (millions)	\$1,583.0	\$1,657.9	\$1,797.4	\$1,947.3	\$2,108.4	\$2,281.5	\$2,467.5	\$2,667.2	\$2,881.7	\$3,112.0	\$3,359.2
Aggregate PTCs (millions)	\$1,511.9	\$1,583.5	\$1,716.7	\$1,859.9	\$2,013.8	\$2,179.1	\$2,356.7	\$2,547.4	\$2,752.3	\$2,972.3	\$3,208.4
Average PTCs PMPM	\$479	\$501	\$543	\$588	\$637	\$689	\$744	\$804	\$869	\$938	\$1,012
Waiver	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Total Individual ACA Enrollment	406,300	413,700	413,900	414,100	414,300	414,500	414,700	414,900	415,100	415,300	415,500
ACA PTC Enrollment	262,800	263,200	263,300	263,400	263,600	263,700	263,800	263,900	264,100	264,200	264,300
ACA Non-PTC Enrollment	143,400	150,500	150,600	150,700	150,700	150,800	150,800	150,900	151,000	151,100	151,200
Aggregate ACA Premium (millions)	\$2,954.6	\$2,976.5	\$3,186.4	\$3,411.1	\$3,651.6	\$3,909.0	\$4,184.7	\$4,479.7	\$4,795.6	\$5,133.7	\$5,495.7
Average ACA Premium Rate PMPM	\$606	\$600	\$642	\$686	\$735	\$786	\$841	\$900	\$963	\$1,030	\$1,102
Aggregate APTCs (millions)	\$1,583.0	\$1,558.3	\$1,690.8	\$1,833.2	\$1,986.3	\$2,150.8	\$2,327.5	\$2,517.4	\$2,721.3	\$2,940.3	\$3,175.5
Aggregate PTCs (millions)	\$1,511.9	\$1,488.4	\$1,614.9	\$1,750.9	\$1,897.1	\$2,054.2	\$2,223.0	\$2,404.4	\$2,599.2	\$2,808.3	\$3,033.0
Average PTCs PMPM	\$479	\$471	\$511	\$554	\$600	\$649	\$702	\$759	\$820	\$886	\$956
Change - Baseline Scenario to Waiver Scenario	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Total Individual ACA Enrollment	0	2,000	2,000	2,000	2,100	2,100	2,100	2,100	2,100	2,100	2,100
Total Individual ACA Enrollment (%)	0.0%	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%
Average ACA Premium Rate PMPM (%)	0.0%	-4.3%	-4.3%	-4.3%	-4.3%	-4.3%	-4.3%	-4.3%	-4.3%	-4.3%	-4.3%
Average PTCs PMPM (%)	0.0%	-6.0%	-6.9%	-6.9%	-6.8%	-6.7%	-6.7%	-6.6%	-6.6%	-6.5%	-6.5%
Demonstration of Deficit Neutrality Requirement (amounts shown in millions)	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Change in Total APTCs	\$0.0	-\$99.6	-\$106.6	-\$114.1	-\$122.1	-\$130.7	-\$139.9	-\$149.8	-\$160.4	-\$171.6	-\$183.7
Change in Total PTCs	\$0.0	-\$95.1	-\$101.8	-\$109.0	-\$116.7	-\$124.9	-\$133.7	-\$143.1	-\$153.2	-\$163.9	-\$175.5
Change in Other (e.g., User Fees)	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Net Savings to Federal Government	\$0.0	-\$95.1	-\$101.8	-\$109.0	-\$116.7	-\$124.9	-\$133.7	-\$143.1	-\$153.2	-\$163.9	-\$175.5
Projected Reinsurance Program Cost and Funding Levels	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Cost of Reinsurance Program (millions)	\$0.0	\$139.3	\$149.2	\$159.7	\$170.9	\$183.0	\$195.9	\$209.7	\$224.5	\$240.3	\$257.3
Federal Pass Through Funding (millions)	\$0.0	\$95.1	\$101.8	\$109.0	\$116.7	\$124.9	\$133.7	\$143.1	\$153.2	\$163.9	\$175.5
State Funding (millions)	\$0.0	\$44.2	\$47.4	\$50.7	\$54.3	\$58.1	\$62.2	\$66.6	\$71.3	\$76.4	\$81.8

Notes:

1. Enrollment volumes have been rounded to the nearest hundred and reflect average monthly 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
4. Average ACA premium rate change shown is not equal to 4.6% due to differences in member mix (e.g., demographics, plan mix) between the baseline and waiver scenarios
5. The ratio of PTCs to APTCs is assumed to be 0.955.



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Attachment Two:

Act 42

DRAFT

**Title 40 Pennsylvania Consolidated Statutes (Insurance)**

**Part V. Health Insurance Markets Oversight**

**Effective: July 2, 2019**

**Chapter 91. Preliminary Provisions**

**§ 9101. Scope of part**

This part relates to health insurance markets oversight.

**§ 9102. Purpose and intent**

The General Assembly finds and declares as follows:

- (1) The Commonwealth intends to maintain the Commonwealth's sovereignty over the regulation of health insurance in this Commonwealth.
- (2) The health insurance marketplace in this Commonwealth is unique and unlike the marketplace in any other state.
- (3) It is necessary to maintain the Commonwealth's sovereignty over the regulation of health insurance in this Commonwealth as permitted by Federal law, including the Federal acts. The provisions of this part are intended to meet these requirements while retaining the Commonwealth's authority to regulate health insurance in this Commonwealth.

**§ 9103. Definitions**

Subject to additional definitions contained in subsequent provisions of this part which are applicable to specific provisions of this part, the following words and phrases when used in this part shall have the meanings given to them in this section unless the context clearly indicates otherwise:

**"Affordable Care Act."** The Patient Protection and Affordable Care Act (Public Law 111-148, 124 Stat. 119), as amended by the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152, 124 Stat. 1029).



**“Attachment point.”** The threshold amount for claims costs incurred by an eligible insurer for an enrolled individual's covered benefits in a benefit year, above which the claims costs for benefits are eligible for reinsurance payments under this part.

**“Benefit year.”** The calendar year during which an eligible insurer provides coverage through a health care plan.

**“Board.”** The governing body of the exchange authority.

**“Children's Health Insurance Program.”** The children's health insurance program under Article XXIII-A of the act of May 17, 1921 (P.L. 682, No. 284) [40 P.S. § 991.2301-A et seq.], known as The Insurance Company Law of 1921.

**“Coinsurance rate.”** The percentage rate at which the reinsurance program will reimburse an eligible insurer for claims incurred for an enrollee's covered benefits in a benefit year above the attachment point and below the reinsurance cap.

**“Commissioner.”** The Insurance Commissioner of the Commonwealth.

**“Department.”** The Insurance Department of the Commonwealth.

**“Eligible insurer.”** An insurer offering reinsurance-eligible health care plans to consumers in this Commonwealth.

**“Enrollee.”** A policyholder, certificate holder, subscriber, covered person or other individual who is enrolled to receive health care services pursuant to a health insurance policy.

**“Exchange.”** A health insurance exchange as contemplated by the Affordable Care Act, established or operating in this Commonwealth, that facilitates or assists in facilitating enrollment in qualified plans.

**“Exchange assister.”** The term has the meaning given to it in section 2 of the act of June 19, 2015 (P.L. 25, No. 7) [40 P.S. § 4402 et seq.], known as the Navigator and Exchange Assister Accessibility and Regulation Act.

**“Exchange authority.”** The Pennsylvania Health Insurance Exchange Authority established under section 9302(a) (relating to Pennsylvania Health Insurance Exchange Authority).

**“Exchange fund.”** The Pennsylvania Health Insurance Exchange Fund established under section 9312 (relating to exchange fund).

**“Federal acts.”** The Affordable Care Act and any amendments thereto, and related provisions of the Public Health Service Act (58 Stat. 682, 42 U.S.C. §201 et seq.).

**“Government program.”** A program of government sponsored or subsidized health care coverage, including:

- (1) A premium tax credit or cost-sharing subsidy under the Federal acts.
- (2) Coverage under Medicare Parts A and B or Medicare Advantage Part C under Title XVIII of the Social Security Act (49 Stat. 620, 42 U.S.C. §1395 et seq.).
- (3) A TRICARE or other health care plan provided through the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) as defined under 10 U.S.C. §1072 (relating to definitions).
- (4) A health care plan provided through the Federal Employees Health Benefits Program established under 5 U.S.C. Ch. 89 (relating to health insurance).
- (5) The Commonwealth's medical assistance program established under the act of June 13, 1967 (P.L. 31, No. 21) [62 P.S. § 101 et seq.], known as the Human Services Code.
- (6) The Children's Health Insurance Program.
- (7) Health care coverage provided by the Commonwealth, a county, a city, or other State or local governmental entity or an agency, subdivision or department of a governmental entity, including:
  - (i) a corporation or other arrangement organized by the entity for the provision of health care coverage and subject to control by the entity or an instrumentality of one or more of them;
  - (ii) the Pennsylvania Employee Benefit Trust Fund for active and retired employees; and
  - (iii) benefit programs administered by the Department of Corrections.

**“Grandfathered health care plan.”** Individual or group health insurance coverage in which an individual was enrolled prior to the date of enactment of the Affordable Care Act, or as otherwise specified in section 1251 of the Affordable Care Act (42 U.S.C. §18011).

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**“Health care plan.”** A package of coverage benefits with a particular cost-sharing structure, network and service area that is purchased through a health insurance policy.

**“Health insurance policy.”** A policy, subscriber contract, certificate or plan issued by an insurer that provides hospital or medical/surgical health care coverage. The term does not include any of the following:

- (1) An accident only policy.
- (2) A credit only policy.
- (3) A long-term care or disability income policy.
- (4) A specified disease policy.
- (5) A Medicare supplement policy.
- (6) A fixed indemnity policy.
- (7) An adult-only dental only policy.
- (8) A vision only policy.
- (9) A workers' compensation policy.
- (10) An automobile medical payment policy.
- (11) A policy under which benefits are provided by the Federal Government to active or former military personnel and their dependents.
- (12) Any other similar policies providing for limited benefits.

**“Hospital plan corporation.”** An entity organized and operating under Chapter 61 (relating to hospital plan corporations).

**“Individual market.”** The market for health insurance coverage offered to individuals other than in connection with a group.

**“Innovation waiver.”** A waiver applied for pursuant to section 1332 of the Affordable Care Act (42 U.S.C. §18052).

**“Insurance producer.”** The term has the meaning given to it in section 601-A of the act of May 17, 1921 (P.L.789, No. 285) [40 P.S. § 310.1], known as The Insurance Department Act of 1921.

**“Insurer.”** An entity that offers, issues or renews an individual or group health, accident or sickness insurance policy, contract or plan, and that is governed under any of the following:

- (1) Chapter 61.
- (2) Chapter 63 (relating to professional health services plan corporations).
- (3) The Insurance Company Law of 1921, including section 630 and Article XXIV.

(4) The act of December 29, 1972 (P.L. 1701, No. 364) [40 P.S. § 1551 et seq.], known as the Health Maintenance Organization Act.

**“Medical assistance program.”** The Commonwealth's medical assistance program established under the Human Services Code.

**“Professional health services plan corporation.”** An entity organized and operating under Chapter 63.

**“Qualified enrollee.”** A qualified employee or qualified individual, as defined in section 1312(f) of the Affordable Care Act and regulations promulgated under that act.

**“Qualified plan.”** A plan as defined in section 1301(a) of the Affordable Care Act that provides health care or dental care coverage that has been certified by the department as meeting the criteria set forth in this part and any regulations issued pursuant to this part.

**“Reinsurance cap.”** The upper limit amount for claims costs incurred by an eligible insurer for an enrolled individual's covered benefits in a benefit year, over which the claims costs for benefits are no longer eligible for reinsurance payments under the reinsurance program.

**“Reinsurance-eligible enrollee.”** An enrollee who is insured in a reinsurance-eligible health care plan under this part.

**“Reinsurance-eligible health care plan.”** A health care plan that is not a grandfathered health care plan.

**“Reinsurance payment.”** An amount paid by the reinsurance program to an eligible insurer under the program.

**“Reinsurance program.”** The Commonwealth Health Insurance Reinsurance Program established under section 9502(b) (relating to implementation of waiver and establishment of reinsurance program).

**“Small group market.”** The market for health insurance for coverage offered through a group health insurance policy for a group of at least one employee and up to 50 employees, exclusive of dependents.

## **Chapter 93. State-Based Exchange**

### **§ 9301. Scope of chapter**

This chapter relates to the Pennsylvania Health Insurance Exchange Authority.

### **§ 9302. Pennsylvania Health Insurance Exchange Authority**

**(a) Establishment.**--The Pennsylvania Health Insurance Exchange Authority is established as a State-affiliated entity. The powers and duties of the exchange authority shall be vested in and exercised by a board, which shall have the sole power under section 9305 (relating to powers and duties of exchange authority) to employ staff, including an executive director. Individuals employed by the exchange authority shall be employees of the Commonwealth. The exchange authority may contract with persons or entities, including legal counsel, consultants or service providers, as deemed necessary in the exchange authority's discretion.

**(b) Purpose.**--The purpose of the exchange authority shall be to create, manage and maintain in this Commonwealth the Pennsylvania Health Insurance Exchange to do all of the following:

- (1) Benefit the Pennsylvania health insurance market and persons enrolling in health insurance policies.
- (2) Facilitate or assist in facilitating the purchase of on-exchange qualified plans by qualified enrollees in the individual market or the individual and small group markets.

**(c) Composition.**--The board shall consist of the following members:

(1) Three voting members who shall be the following heads of agencies or a designee who shall be an employee of the agency designated in writing by the head of the agency prior to service:

- (i) The commissioner, *ex-officio*.
- (ii) The Secretary of Human Services, *ex-officio*.
- (iii) The Secretary of Health, *ex-officio*.

(2) Four voting members appointed by the Governor:

(i) One member from among the insurers that offer health insurance policies through the exchange that are a hospital plan corporation, a professional health services plan corporation or a parent, affiliate, subsidiary or other associated entity or successor of a hospital plan corporation or a professional health services plan.

(ii) One member from among the insurers that offer health insurance policies through the exchange that are not a hospital plan corporation, a professional health services plan corporation

or a parent, affiliate, subsidiary or other associated entity or successor of a hospital plan corporation or a professional health services plan.

(iii) One member with experience in health care public education and consumer assistance activities who does not have a conflict of interest as described in subsection (k).

(iv) One member who is a consumer representative.

(3) Four voting members appointed by the General Assembly as follows:

(i) One individual appointed by the President pro tempore of the Senate.

(ii) One individual appointed by the Minority Leader of the Senate.

(iii) One individual appointed by the Speaker of the House of Representatives.

(iv) One individual appointed by the Minority Leader of the House of Representatives.

(4) The executive director shall attend meetings of the board but shall not be a member, may not vote and may not be counted for purposes of establishing a quorum.

**(d) Chairperson.**--The commissioner or a designee shall serve as chairperson.

**(e) Compensation.**--Board members shall not be entitled to any compensation for their services as members, except that, subject to the availability of funds, board members shall be entitled to reimbursement for actual and necessary travel expenses. The expenses shall be paid for by the exchange fund.

**(f) Terms.**--The terms of the board members shall be as follows:

(1) A board member appointed under subsection (c)(3) who:

(i) Is a member of the General Assembly shall serve a term concurrent with their holding of public office.

(ii) Is not a member of the General Assembly shall serve a term concurrent with their appointing official's holding of public office.

(2) A board member appointed under subsection (c)(2) shall serve a term of four years, not to exceed more than two full consecutive four-year terms, except that the following shall apply:

(i) Initial appointments shall be so staggered that less than 50% of the membership shall expire each year.

(ii) A member's term shall continue until the member's replacement is appointed.

**(g) Vacancies.**--Vacancies in appointed positions shall be filled in the same manner as the original appointment. Members shall serve until their successors are appointed and qualified.

**(h) Formation.**--The exchange authority shall be formed within 60 days of the effective date of this section. Prior to formation of the exchange authority, the commissioner may take action necessary to effect a timely transition from a federally administered exchange to the Pennsylvania Health Insurance Exchange.

**(i) Quorum.**--A majority of the appointed members of the board shall constitute a quorum. Action may be taken by the board at a meeting upon a vote of a quorum of its members present in person or through electronic means. If a tie vote occurs at any meeting, it shall be the duty of the chairperson of the board to cast a second and deciding vote.

**(j) Meetings.**--The board shall meet at the call of the chairperson or as may be provided in the bylaws of the board. The board shall hold meetings at least quarterly, which shall be subject to the requirements of 65 Pa.C.S. Ch. 7 (relating to open meetings).

**(k) Experience and interests.**--For purposes of this chapter, the board shall assure that it complies with section 1321 of the Affordable Care Act (42 U.S.C. §18041) and regulations promulgated under the Affordable Care Act regarding conflicts of interest and relevant experience.

**(l) Conflict of interest.**--The following apply:

- (1) Except as provided under paragraph (2), a non-State employee board member shall not be subject to 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure), including the requirements for filing statements of financial interests.
- (2) A non-State employee board member may not engage in conduct that, if that member were a State employee, would constitute a conflict of interest under 65 Pa.C.S. Ch. 11.
- (3) A majority of the voting members of the board may not have a conflict of interest as set forth in section 1321 of the Affordable Care Act and regulations promulgated under the Affordable Care Act.

### § 9303. Advisory council

**(a) Establishment.**--An advisory council is created to advise the exchange authority under section 9304(g) (relating to meetings and operation).

**(b) Composition.**--The advisory council shall consist of the following members, who may not be in the employ of the Commonwealth:

- (1) Four consumer representatives which include two representatives appointed by the Governor at least one of whom shall be a registered insurance exchange navigator or assister, one appointed by the President pro tempore of the Senate and one appointed by the Speaker of the House of Representatives.

- (2) One representative selected by the Hospital and Healthsystem Association of Pennsylvania.
- (3) One representative selected by the Pennsylvania Medical Society.
- (4) One representative selected by the Pennsylvania Chamber of Business and Industry from a small group employer.
- (5) One representative selected by the Pennsylvania Association of Health Underwriters.

#### **§ 9304. Meetings and operation**

**(a) Chairperson.**--The members of the advisory council shall annually elect a chairperson from among its membership.

**(b) Terms of members.**--Each member's term shall be four years, not to exceed more than two full consecutive four-year terms, except that:

- (1) Initial appointments shall be staggered to ensure less than 50% of the membership expire each year.
- (2) A member's term shall continue until the member's successor is appointed.

**(c) Meetings.**--All meetings of the advisory council shall be conducted in accordance with 65 Pa.C.S. Ch. 7 (relating to open meetings), except as provided in this section. Meetings must be held in accordance with the following:

- (1) The advisory council shall meet at least twice per year, with each meeting held prior to a meeting of the board. Additional meetings may be held upon reasonable notice at times and locations selected by the board. The council shall meet at the call of the chairperson or upon written request of three members of the council.
- (2) The executive director of the exchange authority, or a designee, shall attend each meeting of the advisory council.
- (3) Meeting dates shall be set by a majority vote of members of the advisory council or by call of the chairperson upon seven days' notice to all members.
- (4) The advisory council shall post notice of the council's meetings on the exchange authority's publicly accessible Internet website at least five days prior to each meeting. The notice must specify the date, time and place of the meeting and shall state that the council's meetings are open to the general public.
- (5) All action taken by the advisory council shall be taken in open public session and may not be taken except upon a majority vote of the members present at a meeting at which a quorum is present.



**(d) Compensation.**--The members of the advisory council shall not be entitled to any compensation for their services as members, except that, subject to the availability of money, the members of the advisory council shall be entitled to reimbursement for actual and necessary travel expenses. The expenses shall be paid for by the exchange fund.

**(e) Vacancies.**--Vacancies in appointed positions shall be filled in the same manner as the original appointment. Members shall serve until their successors are appointed and qualified.

**(f) Quorum.**--A majority of the advisory council members shall constitute a quorum and a quorum may act for the advisory council in all matters.

**(g) Duties.**--Upon request by the exchange authority, the advisory council shall advise the exchange authority on the following administrative and operational decisions:

- (1) Initial operational decisions.
- (2) Ongoing financing decisions.
- (3) Other decisions as the exchange authority may deem appropriate.

#### **§ 9305. Powers and duties of exchange authority**

**(a) Corporate operations.**--The exchange authority shall exercise all powers and duties necessary and appropriate to carry out its purpose, including the following:

- (1) Adopt bylaws.
- (2) Employ staff.
- (3) Make, execute and deliver contracts.
- (4) Apply for, solicit and receive money from any source consistent with the purpose of this chapter.
- (5) Establish priorities for, allocate and disburse money received.
- (6) Submit annually to the Appropriations Committee of the Senate and the Appropriations Committee of the House of Representatives, at the same time the exchange authority submits its budget to the Governor, a copy of its budget request and all subsequently revised budget requests for the ensuing fiscal year. The budget shall include the amounts to be appropriated out of the fund established under section 9312 (relating to exchange fund) necessary to administer the provisions of this chapter and the conveyance of money to the Reinsurance Fund established under section 9510 (relating to Reinsurance Fund).

- (7) Establish travel reimbursement policies for the exchange authority, its board, and its advisory council.
- (8) Coordinate with the appropriate Federal and State agencies to seek waivers from statutory or regulatory requirements as necessary to carry out the purposes of this chapter.
- (9) Enter into other arrangements, including without limitation, interagency agreements with Federal agencies and Commonwealth agencies or other states' agencies, as may be necessary or appropriate to carry out the duties of the exchange authority.
- (10) Give reasonable public notice of any policies and procedures the exchange authority may implement to accomplish the operation of the exchange authority.
- (11) Perform other operational activities necessary or appropriate to further the purposes of this chapter.
- (12) The board shall consider the advice of the advisory council provided under section 9304(g) (relating to meetings and operation).

**(b) Programmatic duties.**—The exchange authority shall perform all duties necessary or appropriate to advance its purpose, including the following:

- (1) Educate consumers, including through outreach, a navigator program and postenrollment support.
- (2) Assist individuals to access income-based assistance for which they may be eligible, including premium tax credits, cost-sharing reductions and government programs.
- (3) Take into consideration the need for consumer choice in rural, urban and suburban areas across the Commonwealth.
- (4) Assess and collect fees from on-exchange insurers to support the operation of the exchange under this chapter and the reinsurance program established under section 9502(b) (relating to implementation of waiver and establishment of reinsurance program), except that the exchange authority may not assess or collect any form of obligation other than an exchange user fee on total monthly premiums for on-exchange policies and unless approved by unanimous consent of the board, the fee may not exceed 3% of total monthly premiums for on-exchange policies. In no case may the fee exceed 3.5%.
- (5) Disburse receipted fees, including to benefit the reinsurance program established under section 9502(b).

**(c) Enforcement and State sovereignty.**--The exchange authority shall ensure that the exchange complies with the Federal acts and rules and regulations that may be imposed by the Federal Government pursuant to the Federal acts in a manner that maintains State sovereignty over the health insurance market in this Commonwealth. Enforcement responsibilities shall be delegated to the appropriate State agency and shall be sufficient to prevent a determination by the United States Secretary of Health and Human Services that the Commonwealth has failed to substantially enforce any provision of the Federal acts.

#### **§ 9306. Limitations**

Except as expressly provided in this chapter, nothing in this chapter shall be construed to limit or supersede the authority vested in a Commonwealth agency, including:

- (1) The Insurance Department, including the department's authority to regulate the business of insurance within this Commonwealth, including health insurance policies whether offered on or off the exchange.
- (2) The Department of Human Services, including with respect to the medical assistance program or the Children's Health Insurance Program.
- (3) The Department of Health.
- (4) The Office of Attorney General.

#### **§ 9307. Confidentiality and disclosure**

**(a) General rule.**--Except as provided in this chapter, all working papers, recorded information, documents and copies of working papers, recorded information and documents produced by, obtained by or disclosed to the exchange authority or any other person in the course of the exercise of the exchange authority's powers and duties under this chapter:

- (1) shall be confidential;
- (2) shall not be subject to subpoena;
- (3) shall not be subject to the act of February 14, 2008 (P.L. 6, No. 3) [65 P.S. § 67.101 et seq.], known as the Right-to-Know Law;
- (4) shall not be subject to discovery or admissible in evidence in any private civil action; and

(5) may not be made public by the exchange authority or any other person.

**(b) Personal health and financial information.**--The exchange authority shall protect personally identifiable health and financial information in accordance with all applicable Federal and State laws and regulations, including the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191, 110 Stat. 1936), the Health Information Technology for Economic and Clinical Health Act (Public Law 111-5, 123 Stat. 226-279 and 467-496) and implementing regulations.

**(c) Information disclosure.**--Subject to the confidentiality provisions of this section:

(1) Information shall be shared, as appropriate, for the purpose of determining and coordinating the eligibility of individuals for the exchange or any government program, including the Children's Health Insurance Program and medical assistance program, or for compliance with Federal law:

(i) Among the exchange authority and departments, including:

- (A) The department.
- (B) The Department of Aging.
- (C) The Department of Drug and Alcohol Programs.
- (D) The Department of Health.
- (E) The Department of Human Services.
- (F) The Department of Labor and Industry.
- (G) The Department of Revenue.

(ii) Between the exchange authority and Federal agencies, including:

- (A) The Centers for Medicare and Medicaid Services.
- (B) The Treasury Department.

(2) Information may be disclosed:

(i) As necessary to comply with the audit requirements of section 9310 (relating to audits) and the reporting requirements of section 9311 (relating to reports), only in an aggregated and de-identified form.

- (ii) In any circumstance, other than those described in paragraph (1) or subparagraph (i), only if the prior written consent of the company or person to which the information pertains has been obtained.

**(d) Construction.**--Nothing in this section shall be construed to prohibit the exchange authority from accessing the information necessary to carry out its responsibilities in accordance with law.

#### **§ 9308. Not an entitlement**

Nothing in this chapter shall constitute an entitlement derived from the Commonwealth or a claim on any money of the Commonwealth.

#### **§ 9309. Nonliability**

**(a) General rule.**--Except as provided under subsection (b), there shall be no liability on the part of and no cause of action of any nature may arise against the exchange authority, board or advisory council or members thereof, the commissioner, the department, an insurer, insurance producer or an exchange assister or an authorized representative, agent or employee thereof, for the use of information furnished pertaining to:

- (1) An application for, inquiry concerning, or enrollment or disenrollment in a health insurance policy or government program, including an inquiry regarding eligibility for enrollment or eligibility for a government program, relevant to health insurance available through an exchange or health care coverage or other benefits through a government program.
- (2) A charge, assessment or fee imposed on or received from a person or entity relevant to the exchange.

**(b) Limitation.**--Subsection (a) shall apply only insofar as the person or entity is acting within the scope of the person's or entity's duties and responsibilities under this chapter.

#### **§ 9310. Audits**

**(a) Annual audit.**--The accounts and books of the exchange authority shall be examined and audited annually by an independent certified public accounting firm. The audit shall at a minimum:

- (1) Assess compliance with the requirements of this chapter.
- (2) Identify any material weaknesses or significant deficiencies and identify ways to correct the material weaknesses or deficiencies.

**(b) Sharing of audit.**--By December 31 of each year, the exchange authority shall electronically share the audit of the preceding fiscal year required under subsection (a) and related documents by:

- (1) Posting the following on the exchange authority's publicly accessible Internet website:
  - (i) The audit.
  - (ii) A summary of the audit, including any material weakness or significant deficiency identified and how the exchange authority intends to correct the material weakness or significant deficiency.
- (2) Providing an electronic link to the posted audit under paragraph (1)(i) to the Secretary of the Senate and the Chief Clerk of the House of Representatives.
- (3) Providing an electronic link to the posted audit under paragraph (1)(i) to the department.

**(c) Payment.**--The cost of the annual audit required under subsection (a) shall be paid for from money in the exchange fund.

### **§ 9311. Reports**

**(a) Report.**--The exchange authority shall prepare an annual report on the activities of the exchange authority for the year and:

- (1) Electronically transmit the report to:
  - (i) The Governor.
  - (ii) The President pro tempore of the Senate.
  - (iii) The Minority Leader of the Senate.
  - (iv) The Speaker of the House of Representatives.
  - (v) The Minority Leader of the House of Representatives.
  - (vi) The chair and minority chair of:
    - (A) The Appropriations Committee of the Senate.
    - (B) The Appropriations Committee of the House of Representatives.
    - (C) The Banking and Insurance Committee of the Senate.
    - (D) The Insurance Committee of the House of Representatives.
    - (E) The Health and Human Services Committee of the Senate.

(F) The Health Committee of the House of Representatives.

(2) Post the report on the exchange authority's publicly accessible Internet website.

**(b) Federal compliance.**--The exchange authority shall comply with applicable Federal reporting requirements.

**(c) Department notification.**--The exchange authority shall provide a copy of or electronic link to the report provided under subsection (a) or (b) to the department.

### **§ 9312. Exchange fund**

**(a) Establishment.**--The Pennsylvania Health Insurance Exchange Fund is established as a special fund within the State Treasury. The exchange fund shall be administered by the exchange authority for the purposes set forth in this chapter, including the deposit of money that may be received pursuant to and disbursements permitted by this chapter.

**(b) Deposit and use of money.**--The following apply:

- (1) Money deposited into the exchange fund shall be held for the purposes set forth in this chapter and may not be considered a part of the General Fund.
- (2) Money in the exchange fund may only be used to effectuate the purposes of this chapter as determined by the exchange authority.
- (3) All interest earned from the investment or deposit of money in the exchange fund shall be deposited into the exchange fund.
- (4) All accrued and future earnings from money invested by the exchange authority and other accrued and future earnings from nonappropriated money, including, but not limited to, money obtained from the Federal Government and fees, shall be available to the exchange authority and shall be deposited into the State Treasury and may be utilized at the discretion of the board for carrying out any of the corporate purposes of the exchange authority.
- (5) Placement of money by the State Treasurer in depositories or investments shall be consistent with guidelines approved by the board.
- (6) For the purpose of administration, the exchange authority shall be subject to sections 610, 613 and 614 of act of April 9, 1929 (P.L. 177, No. 175) [71 P.S. §§ 230, 233, 234], known as The Administrative Code of 1929.

**(c) Nonlapsing and revolving fund.**--The exchange fund shall be a nonlapsing fund. All money in the exchange fund and interest accrued are appropriated to the exchange authority for expenditure consistent with this chapter.

### **§ 9313. Federal guidance**

Until the exchange authority promulgates regulations, the exchange authority shall operate the exchange pursuant to:

- (1) any applicable Federal rules, regulations or guidance; or
- (2) interim State guidelines consistent with this chapter.

### **§ 9314. Expiration**

Upon publication of the notice under section 9703(b) (relating to action by commissioner), the exchange authority shall initiate steps to cease operations of the exchange authority and shall cease operations not later than 15 months after publication of the notice.

## **Chapter 95. Reinsurance Program**

### **§ 9501. Application**

**(a) Application.**--The department is authorized to apply to the United States Secretary of Health and Human Services under section 1332 of the Affordable Care Act [42 U.S.C. §18052] for a state innovation waiver to:

- (1) Waive any applicable provisions of the Affordable Care Act with respect to health insurance coverage in this Commonwealth.
- (2) Establish a reinsurance program in accordance with an approved waiver.
- (3) Maximize Federal funding for the reinsurance program for plan years beginning on or after implementation of the program.

**(b) Public review.**--On or before 180 days after the effective date of this section, the department shall make a draft application available for a 30-day public review and comment period. The department shall consider any comments in its final submitted application.

**(c) Amendment.**--The department may amend the waiver application as necessary to carry out the provisions of this chapter.

**(d) Notification.**--The department shall notify the chair and minority chair of the Appropriations Committee of the Senate, the chair and minority chair of the Appropriations Committee of the House of Representatives, the chair and minority chair of the Banking and Insurance Committee of the Senate and the chair and minority chair of the Insurance Committee of the House of



Representatives promptly of any amendment to the waiver application and of any Federal actions regarding the waiver application.

#### **§ 9502. Implementation of waiver and establishment of reinsurance program**

**(a) Implementation.**--Upon approval of the department's application for an innovation waiver by the United States Department of Health and Human Services, the department shall implement a reinsurance program.

**(b) Establishment.**--Contingent upon Federal approval, the Commonwealth Health Insurance Reinsurance Program is established in the department for the purposes of stabilizing the rates and premiums for health insurance policies in the individual market and providing greater financial certainty to consumers of health insurance in this Commonwealth. The reinsurance program shall be considered a reinsurance entity to carry out a reinsurance program under the Federal acts.

**(c) Operation.**--Operation of a reinsurance program shall be contingent on Federal approval of the waiver application submitted pursuant to section 9501 (relating to application).

#### **§ 9503. Administration and operation of reinsurance program**

**(a) General rule.**--The department shall take all actions necessary to administer the approved reinsurance program in a manner consistent with applicable Federal and State law.

**(b) Functions.**--The department shall perform all functions necessary and appropriate to carry out the operation of the reinsurance program and to effectuate the purposes for which the reinsurance program is organized, in accordance with the approved waiver. The functions include:

- (1) Establishing procedures for and performing administrative and accounting operations of the reinsurance program.
- (2) Seeking and receiving funding for the reinsurance program and to maximize Federal funding for the reinsurance program, including from:
  - (i) The exchange authority.
  - (ii) Federal funding that is or becomes available to states to support administration and implementation of state-based reinsurance programs.
  - (iii) Other available sources.
- (3) Collecting data submissions and reinsurance payment requests by eligible insurers.
- (4) Making reinsurance payments to eligible insurers.

- (5) Resolving disputes related to the amount of reinsurance payments.
- (6) Suing or being sued, including taking any legal action necessary or proper for the recovery of money for reinsurance payments.
- (7) Submitting invoices or other requests for money as may be necessary and appropriate under the innovation waiver.

**(c) Delegation.**--Except as prohibited by applicable Federal law and regulation, and as may be necessary or appropriate to carry out department duties, the department may administer the reinsurance program directly or through:

- (1) Other Federal agencies, Commonwealth agencies or other states' agencies.
- (2) Contracted persons or entities, including with legal, actuarial, economic, third-party administrator or other persons or entities, as the department deems appropriate, to provide consultation services and technical assistance in operating the reinsurance program. Contracted persons or entities shall submit regular reports to the department regarding the person's or entity's performance, the frequency, content and form of which shall be determined by the department.

**(d) Coordination with exchange authority.**--The department shall coordinate with the exchange authority as may be necessary to fund and operate the reinsurance program.

#### **§ 9504. Reinsurance parameters**

**(a) Adoption of reinsurance terms.**--The department shall, after consultation with all insurers then currently participating in the exchange, and not less than 60 days before final rates for health insurance policies are required to be submitted each year, determine and adopt the attachment point, reinsurance cap and coinsurance rate applicable to the reinsurance program for the following year.

**(b) Parameters.**--In determining the attachment point, reinsurance cap and coinsurance rate applicable to the reinsurance program for the following year, the department shall seek to:

- (1) Manage the program within the amount of total program funding available to the department.
- (2) With respect to the individual market:
  - (i) Mitigate the impact of high-cost claims on premium rates.
  - (ii) Stabilize or reduce premium rates.
  - (iii) Increase participation.

**(c) Publication and notice.**--The department shall transmit notice of the adopted attachment point, reinsurance cap and coinsurance rate to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin and shall:

- (1) Post notice on the department's publicly accessible Internet website.
- (2) Electronically send notice to the chair and minority chair of the Banking and Insurance Committee of the Senate and the chair and minority chair of the Insurance Committee of the House of Representatives.
- (3) Electronically send notice to each participating insurer via a contact person or electronic mailing address, as identified by the insurer.

**(d) Limitation.**--After the department adopts the attachment point, reinsurance cap and coinsurance rate for the next year, the department may not, before or during that benefit year, change the attachment point, reinsurance cap or coinsurance rate in a manner less favorable to the insurers participating in the exchange at the time of adoption.

#### **§ 9505. Insurer eligibility and duties**

**(a) Eligibility for payment.**--An insurer shall be eligible for a reinsurance payment if:

- (1) The claims costs for a reinsurance-eligible enrollee's covered benefits in a benefit year exceed the attachment point.
- (2) The eligible insurer has implemented and documented reasonable care management practices for enrollees who are the subject of reinsurance claims through the reinsurance program.
- (3) The eligible insurer makes its requests for reinsurance payments in accordance with any requirements established by the department including requirements related to the format, structure and timing for submission of claims for reinsurance payments.
- (4) The eligible insurer participated in the exchange, or is affiliated with an entity that participated in the exchange, in the benefit year in which the claims costs for which a reinsurance payment is sought were incurred.

**(b) Reporting requirement.**--An insurer that seeks reinsurance payments under this chapter must report to the department, in the form and manner prescribed by the department, information about reinsurance-eligible enrollees insured by the insurer as necessary for the department to calculate reinsurance payments.

**(c) Confidentiality.**--Reinsurance claims submitted under this section are confidential and are not subject to public disclosure, except as provided under section 9514 (relating to immunity).

**(d) Consideration for rate filings.**--In a rate filing for a health insurance policy to be offered through the exchange, the impact of reinsurance payments under this chapter shall be identified.

**(e) Limitation.**--The calculation of reinsurance payments due to an eligible insurer shall be net of all other available insurance payments applicable to a claim, including insurance accessible through subrogation or coordination of benefits.

#### **§ 9506. Payment of coverage and administrative costs**

**(a) General rule.**--Consistent with Federal requirements, the department shall pay the following from the Reinsurance Fund:

- (1) Administrative expenses of the reinsurance program, including the annual audit required under section 9508 (relating to annual audit).
- (2) Reinsurance payments for coverage of reinsurance-eligible enrollees.

**(b) Operations.**--The department may promulgate regulations necessary and appropriate to establish processes for the settlement of reinsurance coverage claims and disbursement of reinsurance money.

**(c) Request for review.**--An insurer that is aggrieved by a determination of the department relating to the amount of reinsurance payments due to the insurer may file a request for administrative review of the decision. The procedures and requirements of 2 Pa.C.S. Ch. 5 Subch. A [2 Pa. C.S. §501 et seq.] (relating to practice and procedure of Commonwealth agencies) shall apply to requests for review filed under this section. Notwithstanding otherwise applicable time limitations, in order to permit timely finalization of rates for the open enrollment period for the exchange, a challenge to the department's determination of the attachment point, reinsurance cap and coinsurance rate published in the Pennsylvania Bulletin under section 9504(c) (relating to reinsurance parameters) must be made within 10 business days of the date of publication.

#### **§ 9507. Not an entitlement**

**(a) No entitlement.**--The provision of reinsurance program money or benefits accrued through the Reinsurance Fund may not constitute an entitlement derived from the Commonwealth or a claim on any other money of the Commonwealth.

**(b) Contingency with respect to Federal money.**--Notwithstanding any provision of this chapter, the department shall have no responsibility to pay reinsurance amounts that would be payable out of Federal money if the Federal Government does not transmit sufficient money for the Reinsurance Fund to fully recompense those actions.

**§ 9508. Annual audit**

**(a) Annual audit.**--The reinsurance program shall be examined and audited annually by an independent certified public accounting firm. The audit shall, at a minimum:

- (1) Assess compliance with the requirements of this chapter.
- (2) Identify any material weaknesses or significant deficiencies and identify and implement solutions to correct the material weaknesses or deficiencies.

**(b) Sharing of audit.**--By December 31 of each year, the department shall electronically share the audit of the preceding fiscal year required under subsection (a) and related documents by:

- (1) Posting the following on the department's publicly accessible Internet website:
  - (i) The audit.
  - (ii) A summary of the audit, including any material weakness or significant deficiency identified and how the department intends to correct the material weakness or significant deficiency.
- (2) Providing an electronic link to the posted audit under paragraph (1)(i) to the Secretary of the Senate and the Chief Clerk of the House of Representatives.

**(c) Payment.**--The cost of the annual audit required under subsection (a) shall be paid for from money in the Reinsurance Fund.

**§ 9509. Annual report of operations**

**(a) Report.**--No later than November 1 of the year following the applicable benefit year or 60 calendar days following the final disbursement of reinsurance payments for the applicable benefit year, whichever is later, the department shall prepare a financial report for the applicable benefit year. The report must include, at a minimum, the following information for the benefit year that is the subject of the report:

- (1) Money deposited into the Reinsurance Fund.
- (2) Requests for reinsurance payments received from eligible insurers.
- (3) Reinsurance payments made to eligible insurers.
- (4) Administrative and operational expenses incurred for the reinsurance program.

**(b) Comparative report.**--No later than 60 days after individual market health insurance rates are final, the department shall prepare a report summarizing the quantifiable impact of the reinsurance program on individual market health insurance rates for the following plan year.

**(c) Distribution of reports.**--The department shall:

- (1) Electronically transmit the reports under this section to:
  - (i) The President pro tempore of the Senate.
  - (ii) The Minority Leader of the Senate.
  - (iii) The Speaker of the House of Representatives.
  - (iv) The Minority Leader of the House of Representatives.
  - (v) The chair and minority chair of the Appropriations Committee of the Senate and the chair and minority chair of the Appropriations Committee of the House of Representatives.
  - (vi) The chair and minority chair of the Banking and Insurance Committee of the Senate and the chair and minority chair of the Insurance Committee of the House of Representatives.
- (2) Post the reports under this section on the department's publicly accessible Internet website.

#### **§ 9510. Reinsurance Fund**

**(a) Establishment and administration of Reinsurance Fund.**--The Reinsurance Fund is established as a special fund within the State Treasury. The Reinsurance Fund shall be administered by the department for the purposes set forth in this chapter, including the deposit of Federal money and all other money received pursuant to and disbursements permitted by this chapter.

**(b) Exclusive purpose.**--The Reinsurance Fund shall be dedicated exclusively for the reinsurance program established under section 9502(b) (relating to implementation of waiver and establishment of reinsurance program).

**(c) Use.**--The following apply:

- (1) Expenditures from the Reinsurance Fund shall be used to:
  - (i) Implement and operate the reinsurance program.
  - (ii) Make reinsurance payments to eligible insurers under the reinsurance program. Payments to insurers shall be calculated and made on a pro rata basis.

- (2) In making expenditures from the Reinsurance Fund, available Federal money must be expended first.
- (3) Pending disbursement, money in the Reinsurance Fund shall be invested or reinvested in the same manner as money in the custody of the State Treasurer. All earnings received from the investment or reinvestment of money shall be credited to the Reinsurance Fund.

**(d) Expenses.**--All costs and expenses of the reinsurance program shall be paid from the Reinsurance Fund, including compensation of employees and any independent contractors or consultants hired by the department.

**(e) Nonlapsing and revolving fund.**--The following apply:

- (1) The Reinsurance Fund shall be a nonlapsing fund. All money placed in the Reinsurance Fund and interest accrued are appropriated to the department for expenditure consistent with the provisions of this chapter.
- (2) Nothing in this section shall prevent money in the Reinsurance Fund from being used as a revolving fund to cover necessary expenditures if Federal money is requested and committed but not yet received or if other money is committed but not yet received.

**(f) Limitations.**--The following limitations apply:

- (1) In each fiscal year, the total amount of annual expenditures from the Reinsurance Fund, including administrative and consulting expenses, may not exceed the amount of expected Federal and other money budgeted for deposit in the Reinsurance Fund in that fiscal year.
- (2) Notwithstanding any general or specific powers granted to the department under this chapter, whether express or implied, the department may not pledge, in favor of the reinsurance program, the credit or taxing power of the Commonwealth or any political subdivision.

#### **§ 9511. Procurements within one year**

Notwithstanding any other provision of law and for the limited purpose of fulfilling the requirements under this chapter, procurement of contracts and agreements for the implementation and operation of the reinsurance program initiated within one year of the effective date of this section shall not be subject to the provisions of 62 Pa.C.S. (relating to procurement). No contract or agreement entered into under this section may exceed a term of five years.

**§ 9512. Access to information and records**

**(a) Reports and access.**--An insurer shall, without charge, report information and provide access to and furnish records as the department requests in order for the department to:

- (1) Prepare the State innovation waiver application submitted under section 9501(a) (relating to application).
- (2) Determine reinsurance parameters under section 9504 (relating to reinsurance parameters).
- (3) Determine the reinsurance payments due to each insurer.
- (4) Monitor costs and revenues associated with the reinsurance program.
- (5) Administer the reinsurance program.
- (6) Assure compliance with applicable Federal and State law.

**(b) Time period.**--The information and records requested under subsection (a) shall be provided to the department within 30 days of receipt by an insurer of the written request, unless required at an earlier date for department compliance with a request from a Federal or other State agency.

**(c) Use.**--Information and records provided to the department under subsection (a) may only be used for the purposes specified in subsection (a).

**(d) Exemptions.**--Any instructions, forms or reports issued by the department and required to be completed by an insurer under this section shall not be subject to:

- (1) The act of July 31, 1968 (P.L. 769, No. 240) [45 P.S. § 1102 et seq.], referred to as the Commonwealth Documents Law.
- (2) The act of October 15, 1980 (P.L. 950, No. 164) [71 P.S. § 732-101 et seq.], known as the Commonwealth Attorneys Act.
- (3) The act of June 25, 1982 (P.L. 633, No. 181) [71 P.S. § 745.1 et seq.], known as the Regulatory Review Act.

**§ 9513. Confidentiality and information disclosure**

**(a) General rule.**--Except as provided for in this section, all working papers, recorded information, documents and copies of working papers, recorded information and documents produced by, obtained by or disclosed to the department or any other person in the course of exercising the department's powers and duties under this chapter:

- (1) shall be confidential;



- (2) shall not be subject to subpoena;
- (3) shall not be subject to the act of February 14, 2008 (P.L. 6, No. 3) [65 P.S. §67.101 et seq.], known as the Right-to-Know Law;
- (4) shall not be subject to discovery or admissible in evidence in any private civil action; and
- (5) may not be made public by the department or any other person.

**(b) Personal health and financial information.**--The department shall protect personally identifiable health and financial information in accordance with Federal and State laws and regulations, including the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191, 110 Stat. 1936), the Health Information Technology for Economic and Clinical Health Act (Public Law 111-5, 123 Stat. 226-279 and 467-496) and implementing regulations.

**(c) Information disclosure.**--Subject to the confidentiality provisions of this section:

- (1) Information shall be shared as follows:
  - (i) Between the department and the Centers for Medicare and Medicaid Services for purposes of compliance with the Federal acts.
  - (ii) Between the department and each insurer participating in the reinsurance program.
  - (iii) Between the department and the exchange authority.
- (2) Information may be disclosed as follows:
  - (i) As necessary to comply with the audit requirements of section 9508 (relating to annual audit) and the reporting requirements of section 9509 (relating to annual report of operations), only in an aggregated and de-identified form.
  - (ii) In any circumstance other than as described in paragraph (1) or subparagraph (i), only if the prior written consent of the company or person to which the information pertains is obtained.

**(d) Construction.**--Nothing in this section shall be construed to prohibit the department from accessing the information reasonably required to carry out its responsibilities in accordance with law.

#### **§ 9514. Immunity**

**(a) General rule.**--Except as provided in subsection (b), the department, a Commonwealth agency or person or entity under contract with the department for the reinsurance program, or an authorized representative, agent or employee of any of them may not be subject to civil or criminal liability and no cause of action of any nature shall arise for any action taken or not

taken, including any discretionary decision or failure to make a discretionary decision, when the action or inaction is done in good faith and in the performance of the powers and duties under this chapter, or for the reasonable and good faith use of any information pertaining to the reinsurance program.

**(b) Exception.**--This section shall not prohibit legal actions against the reinsurance program to enforce the reinsurance program's statutory or contractual duties or obligations.

### **§ 9515. Regulation of insurers**

Nothing in this chapter shall be construed to limit or supersede the regulatory authority vested with the department to regulate the business of insurance within this Commonwealth, including health insurance policies offered on or off the exchange.

### **§ 9516. Expiration**

Upon publication of the notice under section 9703(b) (relating to action by commissioner), the department shall initiate steps to cease operation of the reinsurance program and shall cease operation of the reinsurance program no later than 15 months after publication of the notice.

## **Chapter 97. Miscellaneous Provisions**

### **§ 9701. Regulations**

**(a) Authority to promulgate.**--The department and the exchange authority may promulgate regulations as may be necessary and appropriate to carry out the provisions of this part.

**(b) Omission of proposed rulemaking.**--The General Assembly finds and declares as follows:

- (1) This part is essential to:
  - (i) the provision of health care for the citizens of this Commonwealth; and
  - (ii) the financial viability of the health care system in this Commonwealth.
- (2) The finding and declaration under paragraph (1) constitutes good cause for the omission of notice of proposed rulemaking under section 204(3) of the act of July 31, 1968 (P.L. 769, No. 240) [45 P.S. § 1204], referred to as the Commonwealth Documents Law.

### **§ 9702. Enforcement**

**(a) General rule.**--Upon satisfactory evidence of a violation of this part by an insurer or other person, one or more of the following penalties may be imposed at the commissioner's discretion:

- (1) Suspension or revocation of the license of the insurer or other person.
- (2) Refusal, for a period not to exceed one year, to issue a new license to the insurer or other person.
- (3) A fine of not more than \$5,000 for each violation.
- (4) A fine of not more than \$10,000 for each willful violation.

**(b) Limitation.**--

- (1) Fines imposed against an individual insurer under this part may not exceed \$500,000 in the aggregate during a single calendar year.
- (2) Fines imposed against any other person under this part may not exceed \$100,000 in the aggregate during a single calendar year.

**(c) Additional remedies.**--The enforcement remedies imposed under this subsection are in addition to any other remedies or penalties that may be imposed under any other applicable law of this Commonwealth, including:

- (1) The act of July 22, 1974 (P.L. 589, No. 205) [40 P.S. § 1171.1 et seq.], known as the Unfair Insurance Practices Act. Violations of this part shall be deemed to be an unfair method of competition and an unfair or deceptive act or practice under the Unfair Insurance Practices Act.
- (2) The act of June 25, 1997 (P.L. 295, No. 29) [40 P.S. § 1302.1 et seq.], known as the Pennsylvania Health Care Insurance Portability Act.

**(d) Administrative procedure.**--The administrative provisions of this section shall be subject to 2 Pa.C.S. Ch. 5 Subch. A [2 Pa. C.S. § 501 et seq.] (relating to practice and procedure of Commonwealth agencies). A party against whom penalties are assessed in an administrative action may appeal to Commonwealth Court as provided in 2 Pa.C.S. Ch. 7 Subch. A [2 Pa. C.S. § 701 et seq.] (relating to judicial review of Commonwealth agency action).

### **§ 9703. Action by commissioner**

**(a) Sunset.**--This part shall sunset immediately if any of the following occur:

- (1) The Congress of the United States repeals or defunds those provisions of the Affordable Care Act integral to the exchange authority established under Chapter 93 (relating to

State-based Exchange) or the reinsurance program established under Chapter 95 (relating to reinsurance program).

- (2) A court of the United States with competent jurisdiction invalidates the provisions of the Affordable Care Act integral to the duties of the exchange authority established under Chapter 93 or the reinsurance program established under Chapter 95.
- (3) The Executive Branch of the United States repeals or defunds the provisions of the Affordable Care Act and its subsequent regulations integral to the duties of the exchange authority established under Chapter 93 or the reinsurance program established under Chapter 95.

**(b) Notice.**—If this part sunsets pursuant to subsection (a), the commissioner shall transmit notice of that action to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

Attachment Three:

Documentation of the Commonwealth's Public Comment Period

DRAFT

Press Release:



**FOR IMMEDIATE RELEASE**  
**November 12, 2019**

**PUBLIC NOTICE**  
**Pennsylvania Insurance Department Seeks Public Comment**  
**on Section 1332 Innovation Waiver Application**  
*Public Comment Period: November 15 – December 14, 2019*

**Harrisburg, PA** – The Pennsylvania Insurance Department will be accepting public comments on its Section 1332 waiver application beginning Friday, November 15, 2019 through Saturday, December 14, 2019.

On July 2nd, 2019, Governor Wolf signed Act 42, which created an opportunity for Pennsylvania to create a State reinsurance program to help moderate premium increases in the Commonwealth's individual health insurance market and maintain and protect coverage gains in the Commonwealth. The program would use reinsurance funds to partially reimburse insurers for certain claims for higher-cost members in the individual market. This would allow the insurers to lower premiums for all members than they otherwise would have without such reimbursement. Pennsylvania's reinsurance program will be "invisible" to consumers, who will continue to enroll in coverage and seek care under their policies in the same manner as always.

Section 1332 waivers empower states to pursue innovative programs and modify certain rules outlined in the Affordable Care Act (ACA) to tailor health care coverage options to meet the unique needs of their markets and their residents. State programs must meet four guardrails to take advantage of this waiver. A waiver program must:

- provide coverage that is at least as comprehensive as ACA coverage;
- provide coverage that is at least as affordable as ACA coverage;
- provide coverage to a comparable number of state residents;
- not increase the federal deficit.

Public comments can be e-mailed to the Pennsylvania Insurance Department at RA-IN-PA1332Waiver@pa.gov or by mail:

Pennsylvania Insurance Department  
1332 Innovation Waiver  
Attn: David Buono  
1326 Strawberry Square  
Harrisburg, PA 17120

Section 1332 general information, frequently asked questions, and a comprehensive description are available for review at [www.insurance.pa.gov/PA1332Waiver](http://www.insurance.pa.gov/PA1332Waiver).

## Email to Stakeholders:



IN, PA 1332 Waiver

MartinoG@aetna.com; todd.shamash@capbluecross.com; douglas.furness@capbluecross.com; natalie.bernardi@cigna.com; kjwrobel@thehealthplan.com; djwreder@thehealthplan.com; Jean.Rush@highmark.com; mark.nare@highmark.com; Hilton Phillips, Tija R.

11/15/2019

PA 1332 Waiver Public Comment Period

Good afternoon,

We will be sending the following press release in 30 minutes.



**FOR IMMEDIATE RELEASE**  
November 15, 2019

**PUBLIC NOTICE**  
**Pennsylvania Insurance Department Seeks Public Comment**  
**on Section 1332 Innovation Waiver Application**  
*Public Comment Period: November 15 – December 14, 2019*

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Pennsylvania Insurance Department  
1332 Innovation Waiver  
Attn: David Buono  
1326 Strawberry Square  
Harrisburg, PA 17120

Section 1332 general information, frequently asked questions, and a comprehensive description are available for review at [www.insurance.pa.gov/PA1332Waiver](http://www.insurance.pa.gov/PA1332Waiver).

The department will host two public hearings that will provide an opportunity to Pennsylvanians to learn more and submit comments on the 1332 waiver application. The hearings will be held:

December 3, 2019 11:00 a.m. - 2:00 p.m. The Nittany Lion Inn 200 W. Park Ave. State College, PA 16803	December 5, 2019 11:00 a.m. - 2:00 p.m. Keystone Building – Hearing Room 3 400 North St. Harrisburg, PA 17120
---	---

All questions should be directed to the email and mailing address noted above.



This information will be published in the November 23, 2019 Pennsylvania Bulletin.

**David J. Buono Jr.**  
Senior Advisor to the Commissioner/Consumer Liaison  
Pennsylvania Insurance Department  
1326 Strawberry Square | Harrisburg, PA 17120  
Phone: 717.772.4335 | Cell: 717.571.2300  
[dbuono@pa.gov](mailto:dbuono@pa.gov)  
[www.insurance.pa.gov](http://www.insurance.pa.gov)

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Volume 49 Number 50  
Saturday, December 14, 2019

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### NOTICES

#### INSURANCE DEPARTMENT

##### 1332 State Innovation Waiver Application; Public Comment Period; Notice 2019-08

[49 Pa.B. 7058]  
[Saturday, November 23, 2019]

The Commonwealth is accepting public comment on its 1332 State Innovation Waiver application beginning on Friday, November 15, 2019, and ending on Saturday, December 14, 2019. Comments may be directed to the Insurance Department by e-mail to RA-IN-PA1332Waiver@pa.gov or by mail to:

Insurance Department 1332 Innovation Waiver  
Attn: David Buono  
1326 Strawberry Square  
Harrisburg, PA 17120

Information is available for review at [www.insurance.pa.gov/PA1332Waiver](http://www.insurance.pa.gov/PA1332Waiver), including frequently asked questions and a summary document titled Comprehensive Description: State Waiver Application.

Two public hearings will provide additional opportunities to learn about and comment on the 1332 State Innovation Waiver application. They will be held as follows:

December 3, 2019  
11 a.m.—2 p.m.  
The Nittany Lion Inn  
200 West Park Avenue  
State College, PA 16803

December 5, 2019  
11 a.m.—2 p.m.  
Keystone Building—Hearing Room 3  
400 North Street  
Harrisburg, PA 17120

Questions regarding this notice may be directed to the previously-noted e-mail and mail addresses.

JESSICA K. ALTMAN,  
Insurance Commissioner

[Pa.B. Doc. No. 19-1755. Filed for public inspection November 22, 2019, 9:00 a.m.]

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Bottom



## Pennsylvania's Proposed 1332 Waiver Application

Public Hearing - December 3, 2019

The Nittany Lion Inn



## Pennsylvania's Proposed 1332 Waiver Application

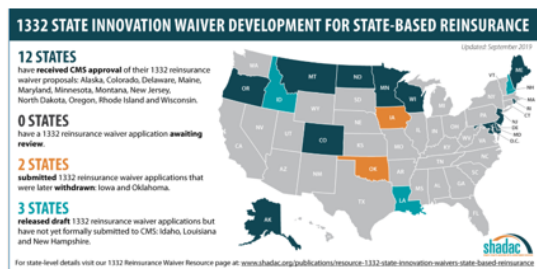
Public Hearing - December 5, 2019

Keystone Building -hearing room 3



## What is PA proposing?

- ▶ Pennsylvania is seeking to implement a state-based reinsurance program to strengthen the individual market. We will do this by using a Section 1332 through the Affordable Care Act (ACA) which permits a state to apply for a State Innovation Waiver
- ▶ The waiver application submitted by Pennsylvania, if approved and implemented, will take effect for the 2021 plan year, and will remain in effect for five years



## Authority for this proposal: Act 42

- ▶ Act 42 was signed into law by Governor Wolf on July 2, 2019
- ▶ Act 42 authorizes PID to
  - ▶ submit a 1332 waiver application specific to a reinsurance program
  - ▶ establish a state-based reinsurance program
  - ▶ secure funding for that reinsurance program



## What is a Section 1332 waiver?

- ▶ Named for section 1332 of the ACA
- ▶ Allows a state to pursue innovative programs and modify the rules outlined in the ACA to tailor health care coverage options to meet the unique needs of their markets and their residents
- ▶ A 1332 waiver allows states to take the federal dollars currently being expended for their residents through the ACA's financial assistance programs (premium tax credits and cost sharing reductions (CSRs) and reallocate those funds to state-specific initiatives so long as certain guardrails are met



## What are the guardrails?

- ▶ Coverage at least as comprehensive as ACA coverage
- ▶ Coverage that is at least as affordable as ACA coverage
- ▶ Providing coverage to a comparable number of state residents
- ▶ Not increasing the federal deficit



## PA 1332 Waiver

- ▶ Pennsylvania 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 allow PID to establish a reinsurance program in the Commonwealth's individual health insurance market
- ▶ The proposed waiver does not affect or make changes to Medicaid, CHIP, the Veteran's Administration (VA) health insurance plan or plans through your employer
- ▶ This concerns the private individual health insurance market only



## Recent History

Table 1 - Individual Market Underwriting Gain/Loss (in thousands)

	2014	2015	2016	2017	2018
Premium	\$2,099,691	\$2,576,875	\$2,637,044	\$3,077,400	\$3,605,637
Gain/(Loss)	(\$180,850)	(\$441,406)	(\$288,114)	\$314,168	594,948
G/L% of Prem	-8.6%	-17.1%	-10.9%	10.2%	16.5%

Sources: CMS MLR Reported Data (2014 through 2018)

- ▶ Pennsylvania's individual health insurance market experienced significant changes since the ACA was implemented
- ▶ In the first 3 years insurers experienced large underwriting losses. The most significant losses were in 2015 and 2016
- ▶ Following 2016's underwriting losses some insurers left the PA market
- ▶ Since 2017, PA has seen positive trends and stabilization with recent decreases in rates and the addition of two new insurers
- ▶ The number of consumers living in counties with just one health insurer will fall from just under 180,000 people in 2018 to approximately 9,000 for the 2020 coverage year
- ▶ We have recorded the lowest uninsured rate in PA history
- ▶ Competition is good!



## The Current Status

- ▶ There are concerns for the lack of affordability for all Pennsylvanians, particularly those who do not receive subsidies
- ▶ Through the reinsurance program, we expect to see moderated rates and increased enrollment in the coming years

The goal: More people covered at more affordable rates

**Table 2 - Individual Market Member Months and Average Premium PMPM**

	2013	2014	2015	2016	2017	2018
Member Months	456,000	606,000	642,000	598,000	511,000	469,000
Premium PMPM	\$243	\$289	\$334	\$368	\$502	\$641

Sources: CMS MLR Reported Data (2013 through 2018)

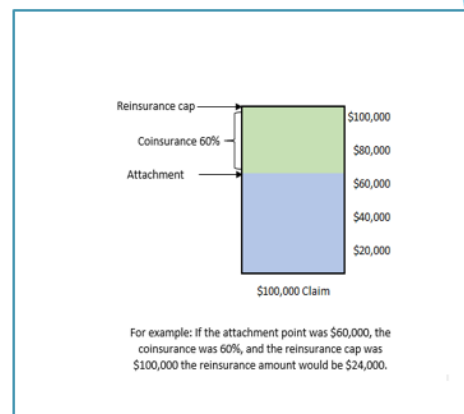


## How would a reinsurance program work?

**Reinsurance cap**  
Issuer is responsible for costs above the cap

**Coinsurance rate**  
Issuer is paid a portion of claims costs, based on the coinsurance rate

**Attachment point**  
Issuer is responsible for costs up to the attachment point

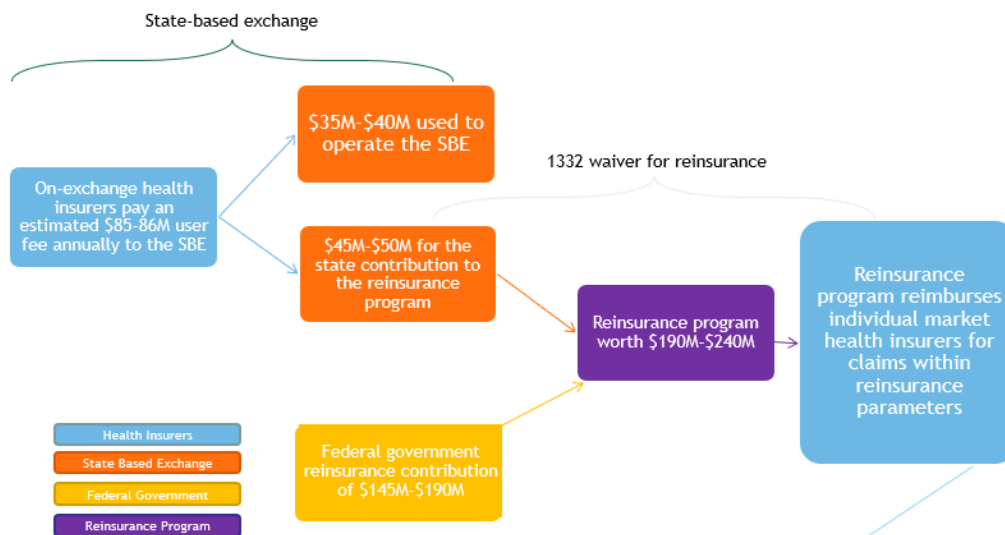


## How will the reinsurance program affect Pennsylvanians?

- ▶ Offset costs associated with high-cost claims
- ▶ Provide premium relief to families and individuals who don't receive financial assistance



## How will the reinsurance program be funded?



## Waiver Application Timeline

Date	
11/15/2019	Public Comment Period Begins (30 days)
12/03/2019	First Public Hearing held
12/05/2019	Second Public Hearing held
12/14/2019	Public Comment Period Ends
01/13/2020	Pennsylvania's 1332 waiver application is submitted to the Federal government
2 month review	CMS requires approximately two months for review and final approval of a waiver, including a federal 30-day comment period
Fall 2020	If approved by CMS, the rate filings inclusive of reinsurance will be approved in the fall and effective in time for Open Enrollment for the 2021 plan year
01/01/2021	2021 rates are in effect. Reinsurance programs begins



## 30- Day Public Comment Period and Hearings


- ▶ PID is hosting 2 public hearings to gather public input
  - ▶ December 3, 2019 at the Nittany Lion Inn
  - ▶ December 5, 2019 at the Keystone Building -Hearing Room 3
- ▶ We are accepting public comments on the 1332 Waiver Application beginning November 15, 2019 and ending Saturday, December 14, 2019
  - ▶ Comments may be sent via electronic mail to: [RA-IN-PA1332WAIVER@pa.gov](mailto:RA-IN-PA1332WAIVER@pa.gov)  
Or by postal mail to:  
Pennsylvania Insurance Department 1332 Innovation Waiver  
Attn: David Buono  
1326 Strawberry Square  
Harrisburg, PA 17120

For additional information and updates, go to [www.insurance.pa.gov/PA1332waiver](http://www.insurance.pa.gov/PA1332waiver)






## Contact Us

 (877)-881-6388

 [insurance.pa.gov/PA1332waiver](https://insurance.pa.gov/PA1332waiver)

 [RA-IN-PA1332WAIVER@pa.gov](mailto:RA-IN-PA1332WAIVER@pa.gov)

 [Facebook.com/PAInsurance Department](https://www.facebook.com/PAInsuranceDepartment)

 @PAInsuranceDept



## Any Questions/Feedback?

- ▶ Dave Buono
- ▶ [dbuono@pa.gov](mailto:dbuono@pa.gov)
- ▶ (717)772-4335



# Public Comment



DRAFT



## Hearing Comments:

### Comments/Questions from the Public Informational Hearing

Question: Are you going to require insurers to quantify the impact of the reinsurance program?

Answer: Yes, we annually must submit the results to CIISO what rates would be with and without insurance. That analysis quantifies the program.

Question: Will the reinsurance program bring more insurers into the market?

Answer: We are hopeful it will bring more insurers into the market

Question: Have any other states done anything similar.

Answer: Currently, seven states have already received 1332 waivers (Alaska, Maine, Maryland, Minnesota, New Jersey, Oregon and Wisconsin) to implement reinsurance programs that are already measurably lowering premiums for their residents.

# memo

**Company name**

To: David Buono  
From: David Anderson MSPPM, Dr. Coleman Drake, [Ph.D.](#)  
Date: December 1, 2019  
Re: Comments on Pennsylvania 1332 Reinsurance Application

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This is a public comment for Pennsylvania's proposed reinsurance waiver through the Affordable Care Act's Section 1332. Mr. Anderson is a research associate at the Duke University Margolis Center for Health Policy. Dr. Drake is an assistant professor of Health Policy and Management at the University of Pittsburgh, Graduate School of Public Health. We have written extensively about the Affordable Care Act's individual market with publications in leading peer-reviewed journals such as *JAMA Internal Medicine*, *Health Affairs*, *Health Services Research*, *The Journal of Rural Health*, and *Journal of Health Economics*. We also have written about the Affordable Care Act other publications, such as *The New York Times*, *Health Affairs Blog*, *Stat*, and *Morning Consult*.

We have two concerns with the proposed waiver that the Commonwealth of Pennsylvania has drafted. First, we believe that the Commonwealth should consider a state-specific risk-adjustment system once the waiver has been adopted. Not doing so will cause some insurers to effectively be paid twice for the risk they assume for some of their enrollees. Secondly, the projection that this reinsurance waiver will have no effect on the enrollment levels of the subsidized Marketplace population is wrong because reinsurance will alter net premiums.

Risk adjustment is designed to lead insurers to be risk agnostic. The current risk adjustment system used by the Center for Medicare and Medicaid Services is similar in some [aspects](#) to the CDPS risk adjustment system used by the Pennsylvania Department of Health and Human Services for Medical Assistance. In both cases, risk scores are associated with demographic and clinical diagnosis codes of covered individuals. The risk scores are summed and then averaged for each insurer before being normalized across the risk pool's average risk. Funds are then transferred from insurers that assume below-average risk to insurers that assume above-average risk.

Pennsylvania is proposing a "caliper" approach to reinsurance with an attachment point below which claims are not eligible for reinsurance, as well as a reinsurance cap, above which claims are not eligible for further reinsurance. Pennsylvania will pay a proportion of the |

claims cost that lie between the attachment point and the reinsurance cap. A significant proportion of the individuals whose claims costs will qualify their insurers for reinsurance payments will also have higher than average risk scores.

Three different insurers could have the same average risk score under the current risk adjustment system administered by CMS. The first insurer could cover a population with many low-cost chronic conditions, none of which will ever qualify an individual for reinsurance. The second insurer could cover enrollees that are mostly healthy with no chronic conditions and a modest number of enrollees with conditions that score moderately highly for risk adjustment. The latter group will all qualify for at least some reinsurance, and all of their conditions will not reach the reinsurance cap. The final insurer could cover a population that is overwhelmingly healthy but has a miniscule number of enrollees with extremely expensive conditions, such as history of core organ transplants or hemophilia. A significant proportion of these claims will be above the reinsurance cap.

These three insurers all have the same average risk score. However the three insurers will have very different net of risk adjustment and net of reinsurance claims expenses. The first insurer with many beneficiaries with modest risk scores will bear the entire cost of care with no reinsurance assistance. The second insurer with enrollees who have moderate claim expenses will receive some reinsurance funds. The third insurer which has a small number of enrollees with very high expenses will maximize their reinsurance receipts for a given risk score. The insurers are no longer agnostic to the health status of their enrollees. If the Commonwealth uses the federal risk adjustment system, insurers will have an incentive to attempt to market their plans to certain populations while minimizing plan attractiveness to other populations.

The Commonwealth should consider a new risk adjustment system that carves out reinsurance payments so that the risk adjustment system, in conjunction with reinsurance, transfers sufficient funds to pay for care to make insurers risk agnostic instead of risk aware. Risk-aware insurers either become risk seekers or risk avoiders, which is not a behavior the Commonwealth should encourage in the ACA-regulated markets.

Our second concern is that we believe the estimate of no enrollment loss among the subsidized population of the initial actuarial analysis is incorrect. The report states:

*Table 4... demonstrates how enrollment in Pennsylvania's individual market would be expected to change assuming a reinsurance program resulting in a total average reduction to premium rates equal to between 4.9% and 7.5% (i.e., relative to the premium rates that would otherwise be charged under the baseline) were to be implemented starting in 2021. As shown, the impact of the reinsurance program on the volume of enrollees receiving APTCs in 2021 is expected to be minimal as the net premium rates paid by those enrollees (i.e., net of APTCs) are, on average, mostly insulated from changes in gross premium rates.*

Subsidized buyers are fundamentally insulated from changes to gross premiums *only for the silver benchmark plan*. Lower gross premium levels where the reduction is a uniform percentage tends to reduce the difference between the benchmark premium and plans priced below the benchmark plan<sup>1</sup>. These differences are known as *premium spreads*. Smaller

premium spreads increase net premiums for individuals who purchase plans priced below the benchmark. This will lower enrollment<sup>1,2</sup> Furthermore, the smaller premium spread will decrease the availability of plans priced at zero dollars net of subsidy. Our forthcoming research in *Health Affairs* shows that zero-dollar net-of-subsidy premiums being available is associated with double-digit increases in enrollment for lower-income enrollees.<sup>2</sup>

Pennsylvania can learn from Colorado's experience with reinsurance and its proposed public option. Colorado has adopted a reinsurance proposal that will produce a larger savings in gross premium percentage than the Pennsylvania proposal. However, the change in premium spreads affected by the public option will increase net premiums for many subsidized buyers even if they actively shop.<sup>3</sup>

Furthermore, Colorado, in an attempt to lower gross premiums, will be instituting a multi-carrier public option that will lower premiums and decrease the premium spread of the least expensive plan relative to the benchmark plan. An analysis by Mr. Anderson and Mr. Billy Wynne of Wynne Health Group found that the net premium of the least expensive plan would increase if the gross premium of the benchmark plan dropped<sup>4</sup>

*Our analysis suggests that introduction of a single public option plan in each rating area of Colorado would reduce the contribution a sample subsidized consumer would need to make to the premium of the lowest-cost plan in each metallic tier by 40.0 percent to 73.4 percent. Introduction of multiple public option plans in each rating area would, by contrast, decrease net premium contributions by 6.5 percent for the lowest-cost gold plan while increasing the contribution required for bronze and silver plans by 15.7 and 0.7 percent, respectively.*

Plans that are priced below the benchmark plan's premium become less affordable for subsidized buyers when there is a uniform percentage decrease in premium levels. This is particularly concerning because individuals on the margin of enrolling in the Marketplaces are concerned about the net premiums of the lowest cost plans—that is, those below the benchmark plan's premium<sup>5</sup>. Any policy change that increases the net premiums of the lowest cost plans is therefore likely to reduce overall Marketplace enrollment, particularly among lower-income populations that are most sensitive to premium changes and healthier individuals that have lower demand for health insurance.<sup>5</sup> A decrease in enrollment among

<sup>1</sup> Drake C, Abraham JM. Individual market health plan affordability after cost-sharing reduction subsidy cuts. *Health Services Research* [Internet]. 2019 [cited 2019 Nov 18];54(4):730–8. Available from: <https://onlinelibrary.wiley.com/doi/abs/10.1111/1475-6773.13190>

<sup>2</sup> Drake C, Anderson D. Terminating The Cost-Sharing Reduction Subsidy: The Impact On Marketplace Zero-Dollar Premium Plans And Enrollment. *Health Affairs* 2020 Forthcoming [cited 2019 Nov 18]

<sup>3</sup> Colorado's reinsurance program has been lauded as a way to reduce health care costs. Here's the fine print. – The Colorado Sun [Internet]. [cited 2019 Nov 18]. Available from: <https://coloradosun.com/2019/11/01/colorado-reinsurance-health-premium-increases/>

<sup>4</sup> A Single Public Plan Option Versus a Multiplan Approach: A Colorado Case Study | *Health Affairs* [Internet]. [cited 2019 Nov 18]. Available from: <https://www.healthaffairs.org/doi/10.1377/hblog20190828.810494/full/>

<sup>5</sup> Tebaldi, Pietro, Estimating Equilibrium in Health Insurance Exchanges: Price Competition and Subsidy Design under the ACA (August 11, 2017). Becker Friedman Institute for Research in Economics Working Paper No. 2017-05. Available at SSRN: <https://ssrn.com/abstract=3020103> or <http://dx.doi.org/10.2139/ssrn.3020103>

healthier individuals is especially concerning given the implications for the overall individual market risk pool of lower-risk enrollees leaving the market.

We urge the Commonwealth to conduct a more thorough actuarial analysis that considers the distribution of plan enrollment among subsidized buyers. We anticipate that tens of thousands of enrollees will face higher net premiums in a “with waiver” world, and that some of these enrollees will elect to go uninsured in response to higher net premiums.





via electronic submission

December 13, 2019

Jessica Altman  
Insurance Commissioner  
Pennsylvania Insurance Department  
1326 Strawberry Square  
Harrisburg, PA 17120

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

Dear Commissioner Altman:

The American Cancer Society Cancer Action Network (ACS CAN) appreciates the opportunity to comment on the Pennsylvania Insurance Department's Section 1332 waiver application. ACS CAN is making cancer a top priority for public officials and candidates at the federal, state and local levels. ACS CAN empowers advocates across the country to make their voices heard and influence evidence-based public policy change as well as legislative and regulatory solutions that will reduce the cancer burden. As the American Cancer Society's nonprofit, nonpartisan advocacy affiliate, ACS CAN is critical to the fight for a world without cancer.

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 79,890 in Pennsylvania.<sup>2</sup> An additional 15.5 million Americans are living with a history of cancer – 771,120 in Pennsylvania.<sup>3</sup> For these Americans access to affordable health insurance is a matter of life or death.

ACS CAN supports Pennsylvania's proposed reinsurance program. A well-designed reinsurance program can help to lower premiums and mitigate plan risk associated with high-cost enrollees. The Department's application states that the reinsurance program is expected to reduce

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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> American Cancer Society. *Cancer Treatment & Survivorship Facts & Figures 2019-2021*. Atlanta: American Cancer Society, 2019.

premiums, on average, between 4.9 percent and 7.5 percent for the 2021 plan year.<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 Department notes that issuer participation in Pennsylvania's marketplace has fluctuated since implementation of the Affordable Care Act.<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 Department expects that enrollment in the individual market could increase by 0.5 to 1 percent because of the reinsurance program.<sup>6</sup>

We are pleased that the application states that "Pennsylvania's 1332 waiver proposal does not seek to alter or affect the comprehensiveness of coverage in Pennsylvania's market for health insurance."<sup>7</sup> ACS CAN believes that patient protections in current law – including those mentioned here – 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 717.707.0385.

Sincerely,



Emma Watson  
Pennsylvania Government Relations Director  
American Cancer Society Cancer Action Network

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<sup>4</sup> Pennsylvania Insurance Department. State Innovation Waiver Application.  
[https://www.insurance.pa.gov/Coverage/Documents/State%20Based%20Exchange/1332/PA%201332%20Waiver%20Application%20Summary%20for%20Public%20Comment%20\(2\).pdf](https://www.insurance.pa.gov/Coverage/Documents/State%20Based%20Exchange/1332/PA%201332%20Waiver%20Application%20Summary%20for%20Public%20Comment%20(2).pdf).

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.



December 10, 2019

The PA Insurance Department  
1332 Innovation Waiver  
1326 Strawberry Square  
Harrisburg, PA 17120

Re: Pennsylvania Section 1332 State Innovation Waiver

Dear Commissioner Jessica Altman:

The National Multiple Sclerosis Society (Society) appreciates the opportunity to submit comments on Pennsylvania's Section 1332 State Innovation Waiver.

Nearly one million people are living with multiple sclerosis (MS) in the United States, more than twice the original estimate. MS is an unpredictable, often disabling disease of the central nervous system that disrupts the flow of information within the brain, and between the brain and body. Symptoms vary from person to person and range from numbness and tingling, to walking difficulties, fatigue, dizziness, pain, depression, blindness and paralysis. The progress, severity and specific symptoms of MS in any one person cannot yet be predicted but advances in research and treatment are leading to better understanding and moving us closer to a world free of MS.

The Society believes everyone should have quality and affordable healthcare coverage. A strong, robust marketplace is essential for people with MS to access the coverage that they need. The Society supports Pennsylvania'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>1</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>2</sup>

Pennsylvania's proposal will create a reinsurance program starting for the 2021 plan year and continuing for 5 years. This program is projected to reduce premiums by 4.9 and 7.5 percent and increase the number of individuals obtaining health insurance through the individual market by .5 and 1 percent. This would help patients with pre-existing conditions, including patients with MS, obtain affordable, comprehensive coverage.



The Society believes the 1332 State Innovation Waiver will help stabilize the individual market in Pennsylvania and protect patients and consumers. Thank you for the opportunity to provide comments.

Sincerely,

Mara Brough  
Senior Advocacy Manager, Pennsylvania and New Jersey  
National MS Society

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<sup>1</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>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>.



December 12, 2019

Via Email and Regular Mail

Commissioner Jessica Altman  
Pennsylvania Insurance Department  
ATTN: David Buono  
1326 Strawberry Square  
Harrisburg, PA 17120

**Re: Support for Proposed 1332 Innovation Waiver Application**

Dear Commissioner Altman:

Independence Blue Cross (Independence) appreciates the opportunity to offer our support for the Pennsylvania Insurance Department's (Department) proposed 1332 Innovation Waiver. As the leading health insurance organization in southeastern Pennsylvania for more than 80 years, Independence delivers to our members and the communities we serve the innovative and competitively-priced health care products and services they need. As an active participant in the federally-facilitated marketplace since its inception, we are committed to protecting, enhancing, and improving the individual market within the Commonwealth. Valuing the health and well-being of our members and our community, our focus is on getting health care right while protecting the physical and fiscal health of our members.

Pennsylvania is embarking on a year of change, having made the decision to transition to a state-based marketplace while pursuing a 1332 Innovation Waiver that will establish a state reinsurance program. We appreciate and applaud the Department's engagement with all stakeholders and look forward to the continued collaboration as we implement these complex programs.

Independence strongly believes in the value of a fiscally-sound reinsurance program. It can provide financial stability to the market while offering consumers and insurers alike the benefit of a risk mitigation tool that has proven to be an asset in those states that have already pursued and established a similar reinsurance program.

While we strongly believe in the concept of reinsurance, Independence would be remiss if we did not note two ongoing concerns:

- The continuing litigation challenging the constitutionality of the Affordable Care Act reflects a persistent threat to the stability of the individual market. The outcome of that case will also have direct impact on the proposed Innovation Waiver, given how closely it is tied to the existing federal framework.



- We are also troubled by the lack of a financial backstop for the reinsurance program. While other innovation waiver applications provided alternative funding sources, should the amount of reinsurance payments exceed the projected income, Pennsylvania has no such fail-safe. In such a scenario, the Commonwealth would be unable to make insurers whole, a situation that could negatively impact both insurers and consumers.

Independence believes that all Pennsylvanians deserve access to a strong, stable health care system that delivers affordable coverage and quality care. The proposed 1332 Innovation Waiver, establishing a reinsurance program, is both complex and encouraging. While the cost of health care remains a top concern, Pennsylvanians can be best served by a competitive, private health insurance market that offers the quality and choices they want at a price they can afford. A reinsurance program can be part of the solution when it's incorporated into the broader effort of stabilizing the individual marketplace, balancing the costs of caring for those who need more medical services, and acknowledging the imperative to keep premiums from rising even further.

At Independence, we are working on solutions that lower costs for everyone. We look forward to the continued collaboration with the Department to improve the existing Marketplace and to increase the availability of affordable health plans for individual consumers and small employer groups. Working together, we are better positioned to ensure greater access while supporting better outcomes for patients and encouraging greater efficiency in our health care system. With the approval of the proposed reinsurance program for Pennsylvania, we hope to see continued growth and improvement for our members, our neighbors, and our communities.

If you have questions regarding these comments, please contact me directly (215-241-3805, [richard.levins@ibx.com](mailto:richard.levins@ibx.com)).

Sincerely,

Richard F. Levins,  
Vice President, Deputy General Counsel, General Counsel-PA Markets



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December 11, 2019

Honorable Teresa Miller, Insurance Commissioner  
Pennsylvania Insurance Department  
13th Floor Strawberry Square  
Harrisburg, PA 17120

**Re: The PA Insurance Department 1332 Innovation Waiver**

Dear Commissioner Miller,

The American Heart Association (AHA) appreciates the opportunity to submit comments on Pennsylvania’s Section 1332 Waiver Application for a reinsurance program.

The AHA believes everyone, including Medicaid enrollees, should have access to quality and affordable health coverage. As the nation’s oldest and largest organization dedicated to fighting heart disease and stroke, the AHA represents over 100 million patients with cardiovascular disease (CVD) including many who rely on Medicaid as their primary source of care.

Nationally, twenty-eight percent of adults with Medicaid coverage have a history of cardiovascular disease. Medicaid provides critical access to prevention, treatment, disease management, and care coordination services for these individuals. Because low-income populations are disproportionately affected by CVD – with these adults reporting higher rates of heart disease, hypertension, and stroke – Medicaid serves as the coverage backbone for the healthcare services these individuals need.

The American Heart Association supports the use of reinsurance programs to strengthen state marketplaces. Reinsurance is an important tool to help stabilize health insurance markets and 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> 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>

Pennsylvania’s proposal to create a reinsurance program will reduce premiums and increase the number of individuals obtaining health insurance through the individual market. This would help patients with pre-existing conditions, including patients with CVD, obtain affordable, comprehensive coverage.

The American Heart Association believes the 1332 State Innovation Waiver will help stabilize the individual market in Pennsylvania and protect patients and consumers. Thank you for the opportunity to share our thoughts with you as you work to address this issue. If you have any questions or would like to discuss these comments further, please contact Tina Zuk, Regional Government Relations Lead for the AHA at [Tina.Zuk@heart.org](mailto:Tina.Zuk@heart.org) or (802) 578-3466.

Sincerely,



Tina Zuk  
Regional Government Relations Lead

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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>.



December 14, 2019

The PA Insurance Department 1332 Innovation Waiver  
Attn: David Buono  
1326 Strawberry Square  
Harrisburg, PA 17120

Re: Pennsylvania 1332 Waiver Application

Dear Dr. Buono:

The American Lung Association in Pennsylvania appreciates the opportunity to submit comments on Pennsylvania's draft 1332 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 1,725,000 Pennsylvania 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 Pennsylvania believes everyone should have quality and affordable healthcare coverage. A strong, robust marketplace is essential for people with lung disease to access the coverage that they need. The Lung Association supports Pennsylvania's efforts to strengthen its marketplace by submitting this 1332 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>1</sup> A recent analysis by Avalere of 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>2</sup>

Pennsylvania's proposal will create a reinsurance program starting for the 2021 plan year and would last for five years. Based on the initial analysis commissioned by the state, this program is projected to reduce premiums by up to 7.5 percent in 2021 and increase the number of individuals obtaining health insurance through the individual market by up to one percent. This would help patients with pre-existing conditions, including patients with lung disease, obtain affordable, comprehensive coverage.

The American Lung Association believes this 1332 Waiver will help stabilize the individual market in Pennsylvania and protect patients and consumers. Thank you for the opportunity to provide comments.

Sincerely,



Sarah Lawver  
Advocacy Director  
American Lung Association in Pennsylvania

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<sup>1</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>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>.



December 13, 2019

The PA Insurance Department 1332 Innovation Waiver  
Attn: David Buono  
1326 Strawberry Square  
Harrisburg, PA 17120

Re: Pennsylvania Section 1332 State Innovation Waiver

Dear Mr. Buono:

The National Organization for Rare Disorders (NORD) appreciates the opportunity to submit comments on Pennsylvania's Section 1332 State Innovation Waiver.

NORD is a unique federation of voluntary health organizations dedicated to helping people with Rare "orphan" diseases and assisting the organizations that serve them. We are 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 people with rare diseases to access the coverage that they need. NORD supports Pennsylvania'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>

Pennsylvania's proposal will create a reinsurance program starting for the 2021 plan year and continuing for 5 years. This program is projected to reduce premiums by between 4.9% and 7.5% and increase the number of individuals obtaining health insurance through the individual market by between .5% and 1.0%. This 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 Pennsylvania and protect patients and consumers. Thank you for the opportunity to provide comments.

Sincerely,

Rachel Sher,  
Vice President of Policy and Regulatory Affairs

Kristin Smedly,  
Pennsylvania Rare Action Network Volunteer State Ambassador

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<sup>1</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>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>.



December 13, 2019

Pennsylvania Insurance Department 1332 Innovation Waiver  
Attn: David Buono  
1326 Strawberry Square  
Harrisburg, PA 17120

Dear Mr. Buono:

The organizations listed at left are Pennsylvania partners in the *Advancing Strategies to Align Programs* (ASAP) multi-state advocacy effort to increase enrollment and retention in work support programs, including Medicaid and SNAP. We write in support of the Pennsylvania’s proposed 1332 innovation waiver for a reinsurance program to strengthen the individual health insurance market in Pennsylvania.

Our primary goal with respect to the individual insurance market is to ensure that all Pennsylvanians have health insurance. We supported the bipartisan proposal to create a state-based health insurance exchange, as we believe that a state-based marketplace will be more responsive to Pennsylvania’s needs. A Pennsylvania-based marketplace should also do a better job of integrating marketplace applications with Medicaid, CHIP, and other state-administered benefits programs. We hope to see a true “no wrong door” approach, whereby health care applications submitted through either the Department of Human Services or the new state-based exchange are processed smoothly and result in appropriate coverage, without duplicative effort and regardless of the initial door.

We support the reinsurance proposal, both because it will reduce premiums (although mostly for higher-income Pennsylvanians who are not our primary clientele), and because the reinsurance proposal is part of the overall plan to create a state-based exchange. Given the single pool of funding for operations of the state-based exchange and the reinsurance fund (from the 3% user fee imposed on products offered through the state-based exchange), our top funding priority is for exchange operations, including adequate computer systems, high quality customer service, and robust marketing and navigator support. Once those needs are met, we support use of the remaining available funding for reinsurance to reduce premiums.

Thank you for the opportunity to submit these comments.

Sincerely,  
*Louise Hayes*  
Louise Hayes  
Pennsylvania ASAP Project Director  
Supervising Attorney, Community Legal  
Services of Philadelphia



December 12, 2019

Attn: David Buono  
1326 Strawberry Square  
Harrisburg, PA 17120

Re: Pennsylvania Section 1332 State Innovation Waiver

Dear Mr. Buono:

The Eastern Pennsylvania Hemophilia Foundation (EPHF), Western Pennsylvania Chapter of the National Hemophilia Foundation (WPCNHF), Hemophilia Federation of America (HFA), and The National Hemophilia Foundation (NHF) appreciate the opportunity to submit comments on Pennsylvania's Section 1332 State Innovation Waiver.

EPHF is a non-profit organization that is located in Springfield and WPCNHF is a non-profit located in Cranberry Township. Both are dedicated to enriching the lives of those living with bleeding disorders in the state of Pennsylvania. HFA and NHF are national non-profit organizations that represent individuals affected by bleeding disorders across the United States. Our missions are to ensure that individuals affected by hemophilia and other inherited bleeding disorders have timely access to quality medical care, therapies, and services, regardless of financial circumstances or place of residence.

#### **About Bleeding Disorders**

Hemophilia is a rare, genetic bleeding disorder that impairs the ability of blood to clot properly. It affects about 20,000 Americans, including more than 1000 males in Pennsylvania.<sup>1</sup> Without treatment, people with hemophilia bleed internally, sometimes due to trauma, but other times simply as a result of everyday activities. This bleeding can lead to severe joint damage and permanent disability, or even – with respect to bleeds in the head, throat, or abdomen – death. Related conditions include von Willebrand disease (VWD), another inherited bleeding disorder, which is estimated to affect more than three million Americans.

Patients with bleeding disorders have complex, lifelong medical needs. They depend on prescription medications (clotting factor or other new therapies) to treat or avoid painful bleeding episodes that can lead to advanced medical issues. Current treatment and care are highly effective and allow individuals to lead healthy and productive lives. However, treatment is also extremely expensive, costing anywhere from \$250,000 to \$1 million or more annually, depending on the severity of the disorder and whether complications such as an inhibitor are present. Access to treatment, care, and coverage are all critical needs for people living with bleeding disorders. For low income individuals, Medicaid is a critical path to obtaining necessary coverage.

EPHF, WPCNHF, HFA, and NHF believe everyone should have quality and affordable healthcare coverage. A strong, robust marketplace is essential for people with bleeding disorders to access the coverage that they need. EPHF, WPCNHF, HFA, and NHF support Pennsylvania'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 several 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>ii</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>iii</sup>

Pennsylvania's proposal will create a reinsurance program starting for the 2021 plan year and continuing for 5 years. This program is projected to reduce premiums on average, between 4.9% and 7.5%, for the 2021 plan year and increase the number of individuals obtaining health insurance through the individual market between 0.5% and 1.0%. This would help patients with pre-existing conditions, including patients with bleeding disorders, obtain affordable, comprehensive coverage.

EPHF, WPCNHF, HFA, and NHF believe the 1332 State Innovation Waiver will help stabilize the individual market in Pennsylvania and protect patients and consumers. Thank you for the opportunity to provide comments. Should you have any questions or comments please do not hesitate to reach out to either Miriam Goldstein, HFA Director of Policy ([m.goldstein@hemophiliafed.org](mailto:m.goldstein@hemophiliafed.org)), or Nathan Schaefer, NHF Vice President of Public Policy ([nschaefer@hemophilia.org](mailto:nschaefer@hemophilia.org)).

Sincerely,

Sonji Wilkes  
Senior Director, Policy, Advocacy & Government Education  
Hemophilia Federation of America  
999 North Capitol Street, NE  
Suite 201  
Washington, DC 20002

Nathan Schaefer  
Vice President, Public Policy  
National Hemophilia Foundation  
7 Penn Plaza, Suite 1204  
New York, NY 10001



*Curt Krouse*

Curt Krouse  
Executive Director  
Eastern Pennsylvania Hemophilia Foundation  
Victoria Business Center  
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*Kara Dornish*

Kara Dornish  
Executive Director  
Western Pennsylvania Chapter of the National Hemophilia Foundation  
20411 Rt.19, Unit 14  
Cranberry Township, PA 16066

<sup>1</sup> U.S. Centers for Disease Control and Prevention, Geographic Distribution of males with hemophilia A or B attending federally funded integrated-care Hemophilia Treatment Centers by state of residence 1/2012 – 9/2018. Available at: <https://www.cdc.gov/ncbddd/hemophilia/communitycounts/data-reports/2018-9/hemo-map.html>.

<sup>2</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>3</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>.





300 Corporate Center Drive  
Suite 600  
Camp Hill, PA 17011

December 13, 2019

**VIA ELECTRONIC MAIL**

David Buono  
Pennsylvania Insurance Department  
1326 Strawberry Square  
Harrisburg, PA 17120

**Re: 1332 State Innovation Waiver Application**

Dear Mr. Buono:

Thank you for the opportunity to comment on Pennsylvania's 1332 waiver proposal. Ambetter from PA Health & Wellness (PHW) supports the Commonwealth of Pennsylvania's efforts to address health care affordability and individual market stability. We recognize that consumers face barriers to purchasing health insurance coverage due to premium costs and some of these individuals may even choose to remain uninsured due to the cost of premiums.

Pennsylvania's 1332 reinsurance waiver takes steps to address premium affordability and we applaud the Commonwealth for its collaborative efforts with stakeholders to develop a program that best serves the Commonwealth and its residents. We would like to work with the Commonwealth in future years on other reinsurance approaches that could effectively address premium affordability at a lower cost.

Premium costs are not the only affordability issue consumers are facing. Rising out-of-pocket costs (i.e., cost-sharing, deductibles) make obtaining health care services unattainable for many consumers who cannot afford the cost of care, regardless of their coverage status. Recent surveys of our nationwide Marketplace membership have shown that consumers view health care affordability as not only being able to pay premiums, but also being able to afford the out-of-pocket costs required to obtain quality health care services. We encourage the Commonwealth to continue to build upon this effort by considering additional policies and programs to achieve affordability beyond premiums. These issues are complex, multi-faceted, and should take into account local market needs and dynamics. PHW is a willing partner to work with the Commonwealth and other stakeholders to develop strategies to address premiums and out-of-pocket costs that also achieve state policy goals in the most cost-effective manner and generate savings that may be used for other priorities.

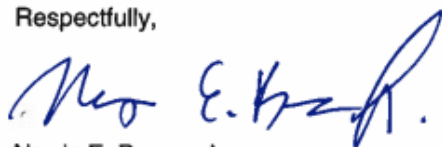
We believe this 1332 waiver proposal will increase Pennsylvanians' access to comprehensive and affordable health insurance coverage. This is one additional way that we can transform the health of the community one person at a time.

PAHealthWellness.com

---

If you have any questions or concerns regarding the contents of this letter of this matter in general, please feel free to contact me at the above address or telephone me at (717) 551-8005.

Respectfully,

A handwritten signature in blue ink, appearing to read "Norris E. Bennis, Jr.", with a stylized flourish at the end.

Norris E. Bennis, Jr.  
Vice President, Government Affairs



Oscar Health Plan of Pennsylvania, Inc.  
75 Varick St, 5th Floor  
New York, NY 10013

December 13, 2019

Mr. David Buono  
Senior Advisor to Commissioner/Consumer Liaison  
Pennsylvania Insurance Department  
1326 Strawberry Square  
Harrisburg, PA 17120

Re: Pennsylvania's 1332 Waiver Application — Request for Public Comment

Dear Mr. Buono:

Thank you for providing Oscar the opportunity to offer input on Pennsylvania's 1332 Waiver Application. As a new market entrant for plan year 2020, we are eager to provide Oscar's patient-focused model to consumers in the Philadelphia region. In meeting the needs of state marketplaces, Oscar is an advocate of 1332 Waivers that focus on reinsurance as the primary mechanism for market stabilization. Reinsurance has been a contributing factor in the majority of the state markets that have successfully implemented 1332 Waivers in recent plan years, including Minnesota, New Jersey, Wisconsin, and Oregon, to name a few. In Oscar's view, reinsurance, as opposed to a condition-based mechanism, has a number of distinct advantages to aid in managing high cost enrollees, including:

- Operational and administrative simplicity.
- Predictability in forecasting the program's impact to market cost and premium.
- Less administrative burden — whereas, condition-based waivers are ultimately susceptible to federal modification of the risk adjustment mechanism itself.
- Track record of marketplace buy-in as seen in recent state waiver activity.

Consistent with Pennsylvania's application, high-cost reinsurance programs are traditionally defined to include an attachment point, coinsurance, and reinsurance cap. From an actuarial perspective, Oscar's recommendation pertaining to reinsurance parameter structure encompasses the following components:

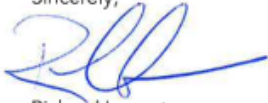
- Attachment point: Oscar views attachment points as the main parameter to target the overall materiality of the program. Higher attachment points reduce the likelihood of double-counting between 1332 waiver-based reinsurance and the federal risk adjustment mechanism.
- Coinsurance: Coinsurance percentages at or near 100% theoretically remove the incentive for the carrier community to manage high-cost activity by heavily mitigating risk exposure.

- Reinsurance cap: While Oscar is generally an advocate of higher reinsurance caps, we do recommend that caps remain in sync and avoid duplicative coverage with the reinsurance parameters embedded in the federal risk adjustment mechanism. This translates to a parameter structure that maximizes coinsurance at 40% for claimants beyond \$1M annually.

Oscar recommends that the Department consider the above criteria when establishing the reinsurance parameter structure in an effort to maintain proper coordination between federal and state policy and program implementation and to maintain efficient use of federal pass-through funding.

Oscar appreciates the opportunity to comment on Pennsylvania's 1332 Waiver program and supports the Department's efforts to make health insurance more affordable for consumers. We look forward to continued engagement with the Department.

Sincerely,



Richard Loconte  
Vice President  
Government Affairs  
Oscar Health Plan of Pennsylvania, Inc.

## Responses to Written Public Comments:

The Pennsylvania Insurance Department received a total of 11 written comments, and had a total of 2 attendees at the requisite two public hearings.

The written comments were submitted by (in date order): Mr. Anderson and Dr. Drake; National Multiple Sclerosis Society; American Heart Association; Independence Blue Cross; Eastern Pennsylvania Hemophilia Foundation and Western Pennsylvania Chapter of the National Hemophilia Foundation; American Cancer Society Cancer Action Network; Pa. Health & Wellness; Oscar Health Plan of Pennsylvania, Inc.; Advancing Strategies to Align Programs partners; National Organization for Rare Disorders; American Lung Association in Pennsylvania.

Most of the comments support Pennsylvania's efforts to implement a reinsurance program through its proposed 1332 Innovation Waiver. Several commented favorably on the possibility of increased market stability and affordable coverage as a result.

One comment suggested that Pennsylvania consider a state-specific risk adjustment system. In response, Pennsylvania notes that Act 42 of 2019 specifies that Pennsylvania may seek a waiver for a state reinsurance program, not a risk adjustment system. By way of further response, while theoretically it is correct that in a vacuum a risk adjustment program in connection with a reinsurance program may make insurers risk agnostic, the comment does not account for the dynamics of the Pennsylvania market. The combination of carrier feedback and claim distribution, and the target magnitude of rate impact, means that layering risk adjustment onto a reinsurance program would have very little impact on any carrier.

One comment criticized the estimate of "no enrollment loss" as "incorrect." Again, while the comment may be theoretically correct, it is exaggerated. In the draft application circulated for comment (and quoted in the comment), the actual verbiage is that "the impact of the reinsurance program on the volume of enrollees receiving APTCs in 2021 is *expected to be minimal*". (Italics added.) Looking particularly at the Pennsylvania market, including the distribution of enrollees among metal levels and service areas, it is estimated that perhaps fewer than 200 persons, of 260,000 subsidized enrollees, may choose to not enroll, which is a minimal impact. At the same time, it is anticipated to increase the number of enrollees receiving coverage through the exchange.

The insurance carriers that commented also commented favorably on the reinsurance program. One noted a concern regarding possible funding limitations, and one noted a desire to work on additional approaches to reduce out-of-pocket costs for consumers. One carrier also offered thoughts on the setting of reinsurance parameters; the Department will consider those comments as it engages in the consultative process required by its law in the setting of the parameters.

Attachment Four:

Updated Section 1332 Waiver Page

DRAFT

PA 1332 Waiver Page ways to find – Main Home Page (orange bar):

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# Health Insurance

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## HEALTH INSURANCE

Choosing health insurance is one of the most important choices you can make to help protect the health and well-being of you and your family.

There are various types of health insurance and different markets. Pennsylvania's health insurance market can be broken down into Medicaid and CHIP, Medicare, and Commercial fully-insured and self-insured. Depending on the market and type of insurance, there are different ways to obtain coverage, and there are many factors that you need to consider when deciding which path is best for you. The Pennsylvania Insurance Department is here to help with information so you can make the best decision for your situation.

Individual 5% Small Group 5% Pennsylvania Insurance Department Uninsured 6%

### RESOURCES

- [PA Section 1332 Waiver](#)
- [Special Enrollment Period Resources](#)
- [Healthcare.gov](#)
- [How to Shop for Health Insurance \(Video\)](#)
- [Cómo Comprar un Seguro de Salud \(Video\)](#)
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## SECTION 1332 WAIVER

On July 2<sup>nd</sup>, 2019, Governor Wolf signed [Act 42](#), which created an opportunity for Pennsylvania to create a State reinsurance program to help moderate premiums in the Commonwealth's individual health insurance market and maintain and protect coverage gains in the Commonwealth. Today, our uninsured rate of 5.5% is historically low. Pennsylvania's reinsurance program will be created under a Federal Section 1332 State Relief and Empowerment Waiver.

### RESOURCES

- [Act 42](#)
- [Reinsurance Funding Illustration](#)
- [Section 1332 Waiver FAQs](#)





Section 1332 waiver empower states to pursue innovative programs and modify certain rules outlined in the Affordable Care Act (ACA) to tailor health care coverage options to meet the unique needs of their markets and their residents. State programs must meet four guardrails to take advantage of this waiver. A waiver program must:

- provide coverage that is at least as comprehensive as ACA coverage;
- provide coverage that is at least as affordable as ACA coverage;
- provide coverage to a comparable number of state residents; and
- not increase the federal deficit.

The goal of Pennsylvania's proposed reinsurance program is to favorably impact premium rates in the year 2021 and beyond for Pennsylvanians purchasing health insurance coverage in the individual market. This is particularly important for those who do not qualify for federal tax credits. The program would work by using reinsurance funds to partially reimburse insurers for certain claims for higher-cost members in the individual market. This would allow the insurers to set lower premiums for all members than they otherwise would have without such reimbursement. Pennsylvania's reinsurance program will be "invisible" to consumers, who will continue to enroll in coverage and seek care under their policies in the same manner as always. A consumer's experience and benefits will not be impacted.



To meet Federal requirements for a 1332 waiver to take effect in 2021, the Commonwealth of Pennsylvania is seeking public comment on a summary document of its draft Section 1332 State Relief and Empowerment Waiver Application. The application seeks to waive certain requirements of the ACA with the goal of expanding state's flexibility to implement the reinsurance program. A public comment period is required before the application is submitted to the Centers for Medicare and Medicaid Services (CMS), a division of the United States Department of Health and Human Services (HHS), and the Department of the Treasury.

Download the [waiver application summary](#) document to review.

The Insurance Department held meetings for public comment at 200 W. Park Ave. in State College on Tuesday, December 3, 2019 and at 400 North St. Harrisburg on Thursday, December 5, 2019. The written public comment period ended at 11:59pm Saturday, December 14, 2019.

- [December 3, 2019 presentation from comment meeting](#)
- [December 5, 2019 presentation from comment meeting](#)
- [Summary of attendees for public comment meetings on December 3 and December 5, 2019](#)
- [Comments/Questions from the Public Information Hearings](#)

The following written comments were submitted electronically to the Insurance Department:

- [David Anderson MSPPM, Dr. Coleman Drake, Ph.D.](#)
- [Emma Watson, Pennsylvania Government Relations Director, American Cancer Society Action Network](#)
- [Mara Brough, Senior Advocacy Manager, Pennsylvania and New Jersey, National MS Society](#)
- [Richard F. Levins, Vice President, Deputy General Counsel, Independence Blue Cross](#)
- [Tina Zuk, Regional Government Relations Lead, American Heart Association](#)
- [Sarah Lawler, Advocacy Director, American Lung Association in Pennsylvania](#)
- [Rachel Sher, Vice President of Policy and Regulatory Affairs, Kristen Smedly, Pennsylvania Rare Action Network Volunteer, State Ambassador, National Organization for Rare Disorders](#)
- [Louise Hayes, Pennsylvania ASAP Project Director Supervising Attorney, Community Legal Services of Philadelphia](#)
- [Nathan Schaefer, National Hemophilia Foundation, Curt Krouse, Eastern Pennsylvania Hemophilia Foundation, Kara Dornish, Western Pennsylvania Chapter of the National Hemophilia Foundation](#)
- [Norris E. Bennis, Jr. Vice President, Government Affairs, PA Health & Wellness](#)
- [Richard Loconte, Vice President, Government Affairs, Oscar Health Plan of Pennsylvania Inc.](#)

DRAFT



# Governor's Goals



## GOVERNMENT THAT WORKS

Increase access to health care



## GOVERNMENT THAT WORKS

Stem the tide of the opioid epidemic



## GOVERNMENT THAT WORKS

Provide high-quality supports and protections to vulnerable Pennsylvanians

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TOM WOLF, GOVERNOR  
JESSICA K. ALTMAN, COMMISSIONER

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## PA 1332 Waiver Frequently Asked Questions

Pennsylvania 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 in the Commonwealth's individual health insurance market. Through the combination of transitioning to a state-based exchange (SBE) and securing a 1332 State Innovation Waiver for reinsurance, Pennsylvania anticipates health insurance premiums for consumers may be 5-10 percent lower than they would otherwise have been, without investing additional state dollars.

If approved and implemented, the waiver application will take effect for the 2021 plan year and reimbursements will be made in 2022.

### **What is reinsurance and how does it work?**

When a company provides health insurance, they provide insurance coverage for many people. There are times when claims costs are extremely high due to the nature of an illness or injury of an individual. Insurance companies need to collect enough premium from all their insureds to pay all of their claims, including potential claims with high medical costs.

Under this program, reinsurance will reimburse health insurers for claims costs above a certain threshold (attachment point) and up to a set cap (reinsurance cap). By removing some of the high medical cost claims from their calculation of premium rates, insurers can reduce the amount of premium you pay because some of those high medical costs are paid by reinsurance.

### **How will the state pay for the reinsurance program?**

The federal government currently collects an exchange user fee from Pennsylvania health insurers.

In 2021, the Commonwealth will be transitioning to an SBE. By charging the same exchange user fee, but operating its own exchange, the Commonwealth will be able to use the money saved towards the reinsurance program.

If the 1332 waiver is approved, Pennsylvania expects to receive additional "pass through" dollars from the federal government to supplement the program. When premiums are lowered by the reinsurance program, the federal government will realize a savings because it will not need to pay as much in premium tax credits. The federal government will then share these savings with the state to use as additional funding for the reinsurance program.

### **What impact will this have on insurance rates for Pennsylvanians?**

Pennsylvania expects this program to help with continued stabilization of the individual market because rates for monthly premiums will be less volatile from year to year. Premium rates will also be moderated due to the high cost claims being covered by reinsurance. This will positively impact all consumers, but will most directly impact those who do not receive federal premium tax credits (PTCs).

**What additional steps must be taken before Pennsylvania's 1332 waiver application is approved?**

To meet Federal requirements for a 1332 waiver for 2021, the Commonwealth is seeking public comment on a summary document of its draft Section 1332 State Waiver Application. The Insurance Department will be accepting public comments beginning Wednesday, November 13, 2019 through Saturday, December 14, 2019.

Also, two public hearings must be held prior to submission of the application. These public hearings are currently scheduled to take place:

December 3, 2019 11:00 a.m. - 2:00 p.m. The Nittany Lion Inn 200 W. Park Ave. State College, PA 16803	December 5, 2019 11:00 a.m. - 2:00 p.m. Keystone Building – Hearing Room 3 400 North St. Harrisburg, PA 17120
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After the two public hearings have been held, Pennsylvania intends to submit its 1332 waiver application to the Departments for approval.

**How long will this program last?**

Pennsylvania intends to request this waiver for the maximum period allowed by the federal government: five years. However, at that time, Pennsylvania will have the opportunity to seek additional waiver(s) to continue the reinsurance program.

**Who will administer the reinsurance program?**

The reinsurance program will be administered by the Insurance Department. The Insurance Department is reviewing options used by other states, as well as the possibility of contracting with appropriate experts, to determine the most efficient way to administer the program.

**What is the timeframe for the program in Pennsylvania?**

The Federal government has up to 45 days following receipt of the application to determine its completeness and, once it is complete, another 180 days to make a final decision regarding approval.

The goal is to have the waiver approved in time to impact the 2021 premium rates.

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

If the application is not approved, it is expected that the Commonwealth would no longer proceed with the implementation of a reinsurance program for plan year 2021.

**Where can I learn more?**

Please visit [www.insurance.pa.gov/PA1332Waiver](http://www.insurance.pa.gov/PA1332Waiver) to learn more.

