



THE SECRETARY OF HEALTH AND HUMAN SERVICES

WASHINGTON, D.C. 20201

MAR 13 2017

Dear Governor:

The Administration's top priorities include improving patients' access to and affordability of care, slowing the rate of premium growth to improve the risk pool, bringing stability to the individual and small group health insurance markets, and increasing consumer choice. To achieve these ends, we are seeking to empower states with new opportunities that will strengthen their health insurance markets. In accordance with President Donald J. Trump's January 20, 2017, Executive Order<sup>1</sup> directing agencies to alleviate the burdens of the Affordable Care Act (ACA), we are seeking to provide more flexibility and opportunities for innovation on the state level.

Under Section 1332 of the ACA, states can apply for State Innovation Waivers and pursue innovative strategies to adapt many of the law's requirements to suit the state's specific needs.<sup>2</sup> To receive approval, the state must demonstrate that a proposed waiver will provide access to quality health care that is at least as comprehensive and affordable as would be provided without the waiver, will provide coverage to at least a comparable number of residents of the state as would be provided coverage without a waiver, and will not increase the federal deficit. Before submitting its Section 1332 waiver application the state must also provide a public notice and comment period, including public hearings, sufficient to ensure a meaningful level of public input, and enact a law providing for its implementation of the waiver. Under a Section 1332 waiver, a state may receive pass-through funding associated with the resulting reductions in federal spending on Marketplace financial assistance consistent with the statute.

State Innovation Waivers that implement high-risk pool/state-operated reinsurance programs may be an opportunity for states to lower premiums for consumers, improve market stability, and increase consumer choice. For example, in response to initial rate information for plan year 2017 in Alaska indicating that premiums were projected to increase by 42% in the individual market, Alaska implemented a state-operated reinsurance program for 2017 that mitigated the projected rate increase significantly. Based on that success, Alaska has applied for a Section 1332 waiver, part of which would implement a high-risk pool/state-operated reinsurance program, the Alaska Reinsurance Program, for 2018 and future years. We are reviewing the

<sup>1</sup> <https://www.whitehouse.gov/the-press-office/2017/01/20/executive-order-minimizing-economic-burden-patient-protection-and>

<sup>2</sup> Provisions that may be waived include the following: Part I of Subtitle D of Title I of the Affordable Care Act (relating to establishing qualified health plans (QHPs)); Part II of Subtitle D of Title I of the ACA (relating to consumer choices and insurance competition through health insurance marketplaces); Sections 36B of the Internal Revenue Code and 1402 of the ACA (relating to premium tax credits and cost-sharing reductions for plans offered within the marketplaces); Section 4980H of the Internal Revenue Code (relating to employer shared responsibility); and Section 5000A of the Internal Revenue Code (relating to individual shared responsibility).

application and will work with the State on any updates or adjustments necessary for receipt of pass-through funding consistent with the statute.

We welcome the opportunity to work with states on Section 1332 State Innovation Waivers, and in particular, invite states to pursue approval of waiver proposals that include high-risk pool/state-operated reinsurance programs. If a state's plan under its waiver proposal is approved, a state may be able to receive pass-through funding to help offset a portion of the costs for the high-risk pool/state-operated reinsurance program. The amount of funding available will depend on state-specific circumstances.

We encourage states interested in applying for Section 1332 waivers to reach out to the Departments promptly for assistance in formulating an approach that meets the requirements of Section 1332. As a reminder, consistent with the statute, states must enact or revise state laws to apply for and implement Section 1332 waivers.

The Departments will work with states to review all applications within the timeframe provided under Section 1332's implementing regulations and do our best to work with states to review their applications on an expedited basis. In the coming weeks, we will be providing a checklist with further information intended to assist states in moving forward with waiver applications.

If your team would like to discuss Section 1332 waivers in more detail, please email [stateinnovationwaivers@cms.hhs.gov](mailto:stateinnovationwaivers@cms.hhs.gov). You may also find general information about State Innovation Waivers at the CMS website.<sup>3</sup> We look forward to working with you.

Yours truly,

A handwritten signature in blue ink, appearing to read "Thomas E. Price, M.D.", with a large, sweeping flourish underneath.

Thomas E. Price, M.D.

cc: Steven Mnuchin, Department of the Treasury

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<sup>3</sup> [https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section\\_1332\\_state\\_Innovation\\_Waivers.html](https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section_1332_state_Innovation_Waivers.html)