

**Section 1332  
Account-Based Subsidies (ABS)**

**Waiver Application Template**

*July 2019*



## **Section 1332 Account-Based Subsidies Waiver Application Template**

### **Instructions:**

This template is designed to assist states with the preparation and submission of a State Relief and Empowerment Waiver application under section 1332 of the Patient Protection and Affordable Care Act (PPACA), hereafter referred to as a section 1332 waiver. This template addresses the Account-Based Subsidies (ABS) waiver concept for a state that is applying for a section 1332 waiver to direct public subsidies into a defined-contribution, consumer-directed account that an individual may use to pay health insurance premiums and/or other healthcare expenses.

The implementation of an ABS waiver concept requires a state to implement a new state subsidy structure, which may be accomplished through the State-Specific Premium Assistance (SSPA) waiver concept. A SSPA waiver concept provides states with the ability to implement a new state subsidy structure that changes the distribution of subsidy funds compared to the current federal premium tax credit (PTC) structure. In addition, to maximize the benefits of the ABS and SSPA waiver concepts a state may wish to customize plan options available to its residents, which can be accomplished through an Adjusted Plan Option (APO) waiver concept. Through an APO waiver concept, a state could change the types of plans that are eligible for premium subsidies to make coverage more affordable for individuals and to increase consumer choice. The type of subsidy and types of plans would depend on the section 1332 waiver. Information and potential application language for both the SSPA and the APO waiver concepts is also included throughout the template.

This template includes sample section 1332 waiver application language. Use of this template is optional and does not guarantee waiver approval. The template is only intended to be a resource for states to use while crafting section 1332 waiver applications.

The Department of the Treasury and the Centers for Medicare & Medicaid Services (CMS) in the Department of Health and Human Services (collectively, the Departments) recognize that each state has a unique individual market profile and that a state may wish to tailor their waiver to better address local and regional consumer needs. The ABS waiver concept provides states with an option to better involve consumers in managing their healthcare budget and spending to better enable them to maintain health coverage regardless of changes in income or other life circumstances. The approach could also allow a consumer greater ability to select a plan based on the individual's or their family's needs, including a higher deductible plan with lower premiums. States can structure a section 1332 waiver application to expand choices of coverage and make coverage more affordable for their residents. The Departments also encourage states to consider waiver concepts in combination with other state-based solutions.

States should review the statute, implementing regulations, and recent guidance on section 1332 waivers, and specific sections related to an ABS waiver concept, including the following:

1. March 23, 2010, Section 1332 of the Patient Protection and Affordable Care Act (the Affordable Care Act) (Pub. L. 111–148).<sup>1</sup>
2. February 27, 2012, [Application, Review, and Reporting Process for Waivers for State Innovation Final Rule](#).<sup>2</sup>
3. October 24, 2018, [“CMS-9936-NC: State Relief and Empowerment Waivers,”](#) hereafter referred to as the 2018 Guidance.<sup>3</sup>
4. November 29, 2018, [“Section 1332 State Relief and Empowerment Waiver Concepts: Discussion Paper,”](#) hereafter referred to as the 2018 Discussion Paper.<sup>4</sup>
5. July 2019, [“Section 1332 State Relief and Empowerment Waiver Concepts: Account Based Subsidies.”](#)<sup>5</sup>
6. July 2019, [“Checklist for Section 1332 State Relief and Empowerment Waivers.”](#)<sup>6</sup>

Throughout this template, placeholders, within the sample template language, for state-specific information are in **[bold]** and contained within brackets. “*Note to states*” (*blue italics*) are included in each section and provide further clarification. The notes provide illustrative guidance of how sections should be completed and the requirements applicable to the section. Please note that states may provide responses that include other information or are otherwise different from the template language provided below.

### **Section 1332 Waiver Guardrails**

Under section 1332 of the PPACA, the Departments may approve a section 1332 waiver only if the Departments determine that the state’s section 1332 waiver application meets four statutory requirements. These are referred to as the statutory “guardrails.” The four required guardrails are set forth in PPACA section 1332(b)(1)(A)-(D).

To be approved, the state’s section 1332 waiver application must:

- (A) Provide coverage that is at least as comprehensive as the coverage defined in section 1302(b) as would be provided absent the waiver;
- (B) Provide coverage and cost-sharing protections against excessive out-of-pocket spending that are at least as affordable as coverage absent the waiver;

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<sup>1</sup> “Section 1332(a)(4)(B) of the Patient Protection and Affordable Care Act.” *Public Law 111–148*, 23 Mar. 2010.

<sup>2</sup> “Application, Review, and Reporting Process for Waivers for State Innovation Final Rule.” *GPO.gov*, 27 Feb. 2012, <http://www.gpo.gov/fdsys/pkg/FR-2012-02-27/pdf/2012-4395.pdf>.

<sup>3</sup> “State Relief and Empowerment Waivers.” *Federal Register*, 24 Oct. 2018, <https://www.federalregister.gov/documents/2018/10/24/2018-23182/state-relief-and-empowerment-waivers>

<sup>4</sup> Centers for Medicare & Medicaid Services. “Section 1332 State Relief and Empowerment Waiver Concepts: Discussion Paper.” *CMS.gov*, 29 Nov. 2018, <https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Downloads/Waiver-Concepts-Guidance.PDF>

<sup>5</sup> Centers for Medicare & Medicaid Services. “Section 1332 State Relief and Empowerment Waiver Concepts: Account-Based Subsidies.” *CMS.gov*, July 2019, [https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section\\_1332\\_State\\_Innovation\\_Waivers-.html#Application%20Tools%20and%20Resources](https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section_1332_State_Innovation_Waivers-.html#Application%20Tools%20and%20Resources)

<sup>6</sup> Centers for Medicare & Medicaid Services. “Checklist for Section 1332 State Relief and Empowerment Waivers.” *CMS.gov*, July 2019, [https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section\\_1332\\_State\\_Innovation\\_Waivers-.html#Application%20Tools%20and%20Resources](https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section_1332_State_Innovation_Waivers-.html#Application%20Tools%20and%20Resources)

- (C) Provide coverage to at least a comparable number of residents as would be provided absent the waiver; and
- (D) Not increase the federal deficit.

### **Federal Processing and Review of a State Relief and Empowerment Waiver Application**

States interested in pursuing a section 1332 waiver are encouraged to communicate with the Departments to request technical assistance, such as to conceptualize the waiver design and address implementation challenges (please write to [StateInnovationWaivers@cms.hhs.gov](mailto:StateInnovationWaivers@cms.hhs.gov)). After receiving a state's section 1332 waiver application, the Departments will work with the state to identify any additional information necessary to consider the applicant's requests.

Submission of the state's section 1332 waiver application should factor in both approval timelines and the state's intended implementation date. In general, states should plan to submit initial section 1332 waiver applications no later than the end of the first quarter of the year prior to the year the section 1332 waiver would take effect in order to allow for sufficient time for review.

The Departments will conduct a preliminary review to determine completeness within 45 days of receipt of the state's section 1332 waiver application. If the Departments determine that the application is not complete, they will send the state a written notice of the element(s) missing from the application. The Departments will issue a final decision no later than 180 days after the date that a complete application was received in accordance with 31 CFR 33.108 and 42 CFR 155.1308, per 31 CFR 33.116(c) and 45 CFR 155.1316(c).

States pursuing a section 1332 waiver should refer to the timelines for implementation in the 2018 Discussion Paper. While the Departments cannot guarantee a state's request for review or approval by a certain date earlier than the 180-day statutory deadline, the Departments may be able to review waiver concepts that are set forth in the 2018 Discussion Paper more quickly than more complex waiver applications.

In instances when the Federally-facilitated Exchange (FFE) would not continue to operate fully in a state adopting an ABS waiver concept, the state may be able to continue to take advantage of certain functions of the FFE to carry out the waiver as described in Appendix A: State and Federal Responsibilities for Implementing New Plan Options Under an ABS Waiver Concept. In instances when there is not a FFE operating in the state, applications for state financial assistance would be made available to consumers by the state, and the state would assume all responsibilities associated with providing financial assistance. A state could consider other options for making eligibility determinations, such as building additional functionality into its Medicaid system (or other system) or having the FFE perform verification of certain eligibility factors like citizenship and immigration status, on behalf of the state.

States proposing to utilize the federal platform to implement its section 1332 waiver should recognize that additional time may be needed to complete required technical changes and should engage with CMS early in the planning phases. States should engage with CMS early in the section 1332 waiver application process to determine whether the federal platform can accommodate the technical changes that support the state's needs and requested flexibilities. Similarly, states considering a section 1332 waiver of any federal tax provision should engage

with the Departments early in the process to assess whether the section 1332 waiver application is feasible for the Internal Revenue Service (IRS) to implement, and to assess the administrative costs to the IRS of implementing the section 1332 waiver application. States should also consider if the ABS waiver concept has federal tax consequences for consumers and whether the changes resulting from the ABS waiver concept may lead to IRS reporting requirements for the states.

Additional information and examples of approved section 1332 waivers can be found [here](#).<sup>7</sup>

**When submitting a section 1332 waiver application using this template, please delete the instructions and notes to states.**

**Please submit applications electronically to [StateInnovationWaivers@cms.hhs.gov](mailto:StateInnovationWaivers@cms.hhs.gov).**

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<sup>7</sup> Centers for Medicare & Medicaid Services. “Section 1332: State Innovation Waivers.” *CMS.gov*, [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)

**[Insert state seal or customize this page to be state-specific]**

**[Insert state name] Section 1332 Waiver Application**

**[Insert date]**

**[Insert name and contact information of responsible agency]**

*Note to states: The Table of Contents can be updated by left clicking in the area below and selecting the Update Table option.*

## Table of Contents

|                                                                                                                          |    |
|--------------------------------------------------------------------------------------------------------------------------|----|
| Section I – Executive Summary.....                                                                                       | 1  |
| Section II – Authorizing Legislation.....                                                                                | 2  |
| Section III – Provision(s) of the Law that the State Seeks to Waive.....                                                 | 3  |
| Section IV – Compliance with Section 1332 Guardrails: Data, Analyses, and Certifications .....                           | 4  |
| A.        Comprehensiveness Requirement (Section 1332(b)(1)(A)).....                                                     | 5  |
| B.        Affordability Requirement (Section 1332(b)(1)(B)).....                                                         | 6  |
| C.        Scope of Coverage Requirement (Section 1332(b)(1)(C)).....                                                     | 7  |
| D.        Deficit Neutrality Requirement (Section 1332(b)(1)(D)) .....                                                   | 7  |
| Section V – Alignment with Section 1332 Principles .....                                                                 | 8  |
| Section VI – Reporting Targets .....                                                                                     | 9  |
| Section VII – Implementation Plan and Timeline .....                                                                     | 10 |
| Section VIII – Public Notice, Comment Process, and Communication Plan .....                                              | 18 |
| A.        Public Notice .....                                                                                            | 19 |
| B.        Public Comment Process.....                                                                                    | 19 |
| C.        Tribal Consultation.....                                                                                       | 20 |
| D.        Communication Plan .....                                                                                       | 20 |
| Section IX – Additional Information .....                                                                                | 20 |
| Section X – Administration .....                                                                                         | 21 |
| Appendix A:    State and Federal Responsibilities for Implementing New Plan Options Under an<br>ABS Waiver Concept ..... | 22 |
| Appendix B:    Authorizing Legislation.....                                                                              | 24 |
| Appendix C:    Actuarial and Economic Analyses .....                                                                     | 25 |
| Appendix D:    Notice for Public Comment Period .....                                                                    | 26 |
| Appendix E:    Records of Public Testimony .....                                                                         | 27 |
| Appendix F:    Presentations from the Public Comment and Information Sessions .....                                      | 28 |
| Appendix G:    Tribal Consultation Communications .....                                                                  | 29 |

## Section I – Executive Summary

*Note to states: The Executive Summary should provide a broad overview of the state’s section 1332 waiver application. It should describe the characteristics of the proposed section 1332 waiver plan and explain particularly how the state’s proposed ABS waiver concept will improve health insurance markets (e.g., individual, small group, Exchange) as a result of implementation of the section 1332 waiver. The Executive Summary should also describe the provision(s) that the state is seeking to waive and the ways in which a section 1332 waiver will help to address those challenges and provide coverage consistent with the guardrails.*

**[Insert state name]** submits this State Relief and Empowerment Waiver (section 1332 waiver) application to the Department of the Treasury and the Centers for Medicare & Medicaid Services (CMS) in the Department of Health and Human Services (collectively, “the Departments”) seeking approval of an Account-Based Subsidies (ABS) waiver concept that would direct subsidies towards a defined-contribution, consumer-directed account that an individual uses to pay health insurance premiums or other healthcare expenses.

The state is submitting this section 1332 waiver because **[insert state need for this waiver {e.g., give consumers more input on management its healthcare budget and spending to better enable them to maintain health coverage regardless of changes in income or other life circumstances, state flexibility to design a new state subsidy structure to target public assistance to better help the vulnerable and to expand the risk pool, make coverage more affordable for individuals and to increase consumer choice}]**. **[Insert a concise description of the current healthcare landscape in the state and other information that is useful in describing the goals of the section 1332 waiver and the current market]**.

The ABS waiver concept will **[insert high-level ABS waiver concept description {e.g., direct state subsidies into a defined-contribution, consumer-directed Health Expense Account (HEA); supplement state subsidy program with additional state contributions; determine if third-parties, such as employers or consumers, are allowed to contribute}]**.

**[Insert state name]** proposes a state subsidy that is **[insert description of proposed state subsidy structure]** and estimates that the ABS waiver **[insert if new state funding will be required and how the state will realize the necessary funding {e.g., premium tax credit (PTC) pass-through savings, state funding}]**. Further details of the proposed state subsidy structure and the actuarial and economic analysis findings are discussed in **[insert applicable section]**.

To accomplish these goals, **[insert state name]** requests a section 1332 waiver of 36B of the Internal Revenue Code (the Code) **[insert waivable provisions]** and is prepared to begin conducting state subsidy eligibility determinations using **[insert state method for determining eligibility, such as using existing Medicaid system connections to federal data sources or through requested modifications to the Federal Data Service Hub. If using Medicaid connections, a cost allocation process will be required to distinguish between Medicaid and the state-specific eligibility processing costs]**.

**[Insert applicable instances when the Federally-facilitated Exchange (FFE) would not continue to operate fully for a state adopting an ABS waiver concept].**

**[Insert state name]** also requests a waiver of **[insert waivable provisions]** of section 1311(d)(4) of the Patient Protection and Affordable Care Act (PPACA) to **[insert high-level required changes to the Exchange responsibilities for eligibility and enrollment]** as described in Appendix A: State and Federal Responsibilities for Implementing New Plan Options Under an ABS Waiver Concept. In this case, **[insert state name and method by which the state proposes to perform plan enrollments (e.g., outsource enrollment functionality)]**.

**[Insert state name]** has enacted **[insert name of legislation, or if applicable, the state regulation or executive order, along with the existing state law authorizing enforcement of the PPACA]** that authorizes the state to apply for and implement a section 1332 waiver. Under this authority, **[insert state name]** plans to establish an ABS waiver concept that features **[insert description of the proposed account-based subsidies, state specific subsidy structure, and if applicable, any adjusted plan options]**.

**[Insert closing statement, summarizing proposed section 1332 waiver implementation activities].**

## **Section II – Authorizing Legislation**

*Note to states: Prior to submitting a section 1332 waiver application, a state’s legislature must have enacted a law that authorizes the state to pursue a section 1332 waiver. In certain circumstances, existing state legislation that provides statutory authority to enforce PPACA provisions and/or the section 1332 waiver, combined with a duly-enacted state regulation or executive order, may satisfy the requirement that the state enact a law under section 1332(b)(2). In this section, states should include a description of the authorizing legislation and, if applicable, the duly-enacted state regulation and/or executive order. The state should also include a copy of the legislation, and the enacted state regulation, or executive order, as applicable. If applicable, the description may include the entity implementing the section 1332 waiver, waiver targets or parameters, and any details included in the legislation.*

On **[insert date of authorization]** **[insert state name]** enacted **[insert name of legislation, or if applicable, the state regulation or executive order, along with the existing state law authorizing enforcement of the PPACA]** effective on **[insert date]** until **[insert date]**. This legislation **[insert allows/requires]** the state to develop a section 1332 waiver application to submit to the Departments. Under this authority, **[insert state name]** is submitting a section 1332 waiver application to create an ABS waiver concept.

The legislation includes the following provisions:

- **[Insert key provisions of the law, including administering agency, account-based subsidy, etc.].**

A copy of the **[insert name of legislation, or if applicable, the state regulation or executive order, along with the existing state law authorizing enforcement of the PPACA]** can be found at this link **[insert link]** and included in Appendix B: Authorizing Legislation **[insert Appendix B: Authorizing Legislation]**.

### Section III – Provision(s) of the Law that the State Seeks to Waive

*Note to states: The state should include a description of the provision(s) for which the state seeks a section 1332 waiver. Additionally, the state should explain how the waiver of each requested provision is necessary to facilitate a section 1332 state plan. If a state is seeking federal pass-through funding, then the application should include an explanation of how the waiver will generate federal pass-through savings under section 1332(a)(2) and how the state intends to use federal pass-through funding to implement the section 1332 waiver. Federal pass-through funding may only be used to implement the approved section 1332 waiver.*

**[Insert state name]** requests a waiver of PPACA section **[insert provision(s) that the state is seeking to waive and how the waived provision(s) is necessary to facilitate the section 1332 waiver]**.

The state is seeking federal pass-through funding to offer account-based subsidies and develop a state subsidy structure that **[insert high-level description of the account-based subsidies, proposed state subsidy structure, and adjusted plan options, if applicable]**. These federal pass-through funds will be generated by **[insert description of how federal pass-through funding will be realized]**.

*Note to states: If applicable, please describe a state's request to waive 36B of the Code.*

**[Insert state name]** requests a waiver of section 36B of the Code **[insert provision(s) that the state is seeking to waive and how the waived provision(s) is necessary to facilitate the section 1332 waiver]**.

The state is seeking federal pass-through funding to develop a state subsidy structure that **[insert high-level description of proposed state subsidy structure]**. These federal pass-through funds will be generated by **[insert description of how federal pass-through funding will be realized]**.

*Note to states: If applicable, please describe a state's request to waive section 1311(d)(4).*

**[Insert state name]** also requests a waiver of section 1311(d)(4) **[insert waivable provisions]** of the PPACA to modify functions of the Exchange. The state requests a waiver of this provision(s) because **[insert reason]**. In this case, **[insert state name and method by which the state proposes to perform plan enrollments (e.g., third-party contractor portals, use of state Medicaid agency portal, etc.)]**.

*Note to states: If applicable, please describe a state's request to waive additional provisions.*

**[Insert state name]** also requests a waiver of section **[insert section]** of **[PPACA or the Code]** **[insert other waivable provisions the state wishes to seek a waiver of and how the waived provision(s) is necessary to facilitate the section 1332 waiver]**.

## **Section IV – Compliance with Section 1332 Guardrails: Data, Analyses, and Certifications**

*Note to states: An application for initial approval will not be considered complete unless the application meets all of the conditions in 31 CFR 33.108(f) and 45 CFR 155.1308(f).*

*States should complete and include all analyses, actuarial certifications, and other information as required under 31 CFR 33.108(f)(3)(iv)(A)-(D) and 45 CFR 155.1308(f)(3)(iv)(A)-(D) to show that the proposed waiver will comply with the four section 1332 waiver guardrails set forth in PPACA section 1332(b)(1)(A)-(D), 31 CFR 33.108(f)(3)(iv)(A)-(D), 45 CFR 155.1308(f)(3)(iv)(A)-(D), and listed below.*

- *Comprehensive coverage requirement – The waiver must provide coverage that is at least as comprehensive as the coverage defined in section 1302(b) of the PPACA and offered through Exchanges.*
- *Affordability requirement – The waiver must provide coverage and cost sharing protections against excessive out-of-pocket spending that are at least as affordable as would be provided by the provisions of Title I of the PPACA.*
- *Scope of coverage requirement – The waiver must provide coverage to at least a comparable number of its residents as would be provided by the provisions of Title I of the PPACA.*
- *Deficit neutrality – The waiver must not increase the federal deficit.*

*31 CFR 33.108(f)(4)(i) and 45 CFR 155.1308(f)(4)(i) requires the state to submit actuarial analyses and actuarial certifications to support the State's estimates that the proposed waiver will comply with the comprehensive coverage requirement, the affordability requirement, and the scope of coverage requirement. The state must also include an economic analysis as required by 31 CFR 33.108(f)(4)(ii) and 45 CFR 155.1308(f)(4)(ii) to support the state's estimates that the proposed waiver will comply with the comprehensive coverage requirement, the affordability requirement, the scope of coverage requirement, and the federal deficit requirement, namely will not increase the federal deficit:*

- *The economic analysis must show that, when the section 1332 waiver is implemented, there will be no increase in the federal deficit (revenues less spending). It should include a description of all costs associated with the section 1332 waiver, including federal administrative costs, foregone tax collections, and any other costs that the federal government might incur.*
- *The economic analysis must include a detailed 10-year budget plan as required by 31 CFR 33.108(f)(4)(ii)(A) and 45 CFR 155.1308(f)(4)(ii)(A) that is deficit neutral to the federal government (including administrative costs).*

*These analyses must be substantiated by:*

- *A detailed analysis regarding the estimated impact on health insurance and other coverage in the state as required under 31 CFR 33.108(f)(4)(ii)(B) and 45 CFR 155.1308(f)(4)(ii)(B).*
- *Documentation on the assumptions and methodology used in the state's estimates and projections as specified under 31 CFR 33.108(f)(4)(iii)(A) and (B) and 45 CFR 155.1308(f)(4)(iii)(A) and (B).*

*The actuarial and economic analyses must compare comprehensiveness, affordability, coverage, and net federal spending and revenues under the section 1332 waiver, to those measures absent the waiver, for each year the waiver is active.*

*If applicable, the analysis could include how the section 1332 waiver application aligns with the five principles specified in the 2018 Guidance:*

- 1. Provide increased access to affordable private market coverage;*
- 2. Encourage sustainable spending growth;*
- 3. Foster state innovation;*
- 4. Support and empower those in need; and*
- 5. Promote consumer-driven healthcare.*

The state of **[insert state name]** utilized **[insert name of actuary or actuarial firm]** to perform actuarial and economic analyses related to the changes that will occur after this section 1332 waiver application is approved and implemented beginning in **[insert year section 1332 waiver will be implemented]**. The actuarial and economic analyses and certifications that support the state's findings that all four of the section 1332 guardrails will be met, are included in Appendix C: Actuarial and Economic Analyses **[insert applicable attachment under Appendix C: Actuarial and Economic Analyses]**.

#### A. Comprehensiveness Requirement (Section 1332(b)(1)(A))

*Note to states: The first guardrail, comprehensiveness, refers to the scope of benefits provided by the state plan as measured by the extent to which coverage meets essential health benefit (EHB) requirements as defined in section 1302(b) of the PPACA and 45 CFR 156.110. The section 1332 waiver must provide access to coverage for all categories of EHBs set forth in 45 CFR 156.110. As noted in the 2018 Guidance, this guardrail will be evaluated together with the affordability guardrail.*

Comprehensiveness refers to the scope of benefits provided by the state plan as measured by the extent to which coverage meets essential health benefit (EHB) requirements as defined in section 1302(b) of the PPACA and 45 CFR 156.110. The state's EHB benchmark with and without the section 1332 waiver can be found here **[insert information or link]**. The 2018 Guidance focuses on comprehensiveness and affordability of coverage available to consumers rather than the coverage actually purchased. Under **[insert state name]** proposed section 1332 waiver, consumers will continue to have access to an affordable EHB-compliant plan.

*Note to states: To the extent applicable to your section 1332 state plan, and evidenced by the state's actuarial analysis, the following language may be used. Please include information from the analysis that shows that you have met the guardrails:*

**[The state]** has determined that the proposed section 1332 waiver will **[describe impact or if no impact]** on access to the covered benefits or actuarial value of plans offered on the Exchange. **[Insert information pertaining to the analysis and the state's determination that they have met the guardrail, including any impact on the scope of benefits in other health insurance markets in the state].**

## B. Affordability Requirement (Section 1332(b)(1)(B))

*Note to states: The second guardrail, affordability, specifies that the state plan will provide health coverage and cost sharing protections against excessive out of pocket spending to ensure that the coverage is at least as affordable as it would have been without the waiver. Consistent with the 2018 Guidance, the Departments will evaluate this guardrail with the comprehensiveness guardrail.*

Affordability refers to the state residents' ability to pay out-of-pocket for their healthcare expenses relative to their income. Overall, state residents will have access to coverage that is as comprehensive and at least as affordable without the waiver. The proposed section 1332 waiver will impact out-of-pocket costs by an estimated **[insert state's estimate of out-of-pocket costs impact as a result of the waiver (out-of-pocket costs include health care premiums (or equivalent costs for enrolling in coverage) and spending such as deductibles, co-pays, and co-insurance associated with the coverage, or direct payments for healthcare)]** in **[insert first year of the state's section 1332 waiver]**. Out-of-pocket costs will be less than or equal to what it otherwise would have been in each of the subsequent years of the section 1332 waiver.

*Note to states: To the extent applicable to your section 1332 state plan, and evidenced by the state's actuarial analysis, the following language may be used. Please include information from the analysis that shows that you have met the guardrails:*

The ABS waiver concept will **[describe impact or if no impact]** on cost sharing. Cost sharing protections against excessive out-of-pocket spending will **[describe impact or if no impact]** under the ABS waiver concept. The proposed section 1332 waiver will **[describe impact or if no impact]** on affordability from a standpoint of cost sharing for coverage obtained through the Exchange. **[Insert information pertaining to the analysis and the state's determination that they have met the guardrail, including impact on cost sharing and affordability]**.

The ABS waiver concept **[further describe the anticipated impacts on affordability of minimum essential coverage (MEC), obtained through any other coverage, including Medicaid, the Children's Health Insurance Program (CHIP), and small or large group market insurance]**.

Actuarial modeling performed by **[insert actuary or actuarial firm]** indicates that employer contributions and employee wages will **[describe impact or if no impact]** by the section 1332 waiver.

The ABS waiver concept will **[describe impact or if no impact]** on the calculation of small business tax credits (SBTC) offered under the Small Business Health Options Program (SHOP).

*Note to states: The analysis should identify any types of individuals (including, but not limited to, those individuals who are low income or have high expected health care costs) for whom affordability of coverage would be reduced by the waiver and also identify any types of individuals for whom affordability of coverage would be improved by the waiver.*

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

*Note to states: The third guardrail, scope of coverage, specifies that the section 1332 waiver must provide meaningful healthcare coverage to a comparable number of its residents as provided in Title I of the PPACA.*

- The section 1332 waiver will be considered compliant with this guardrail if, for each year of the waiver, the state can demonstrate that a comparable number of state residents eligible for coverage under Title 1 of the PPACA will have health coverage under the section 1332 waiver as would have had coverage without the waiver.*
- Both private and public coverage will be considered. For purposes of meeting this guardrail, the Departments will consider all forms of private coverage in addition to public coverage, including employer-based coverage, individual market coverage, and other forms of private health coverage (including association health plans (AHPs) and short-term limited-duration insurance (STLDI)).*
- 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.*
- The Departments may approve the state's waiver if the state can forecast to meet the coverage guardrail within a reasonable amount of time, and any coverage reductions are offset by coverage gains.*

The third guardrail specifies that meaningful healthcare coverage must be provided to a comparable number of state residents as Title I of the PPACA would provide. For each year the section 1332 waiver will be in effect, **[insert state name]** forecasts **[insert the number of]** individuals will have healthcare coverage under the section 1332 waiver, and **[insert the number of]** individuals would have had healthcare coverage absent the waiver.

**[Insert state name]** projects that for each year the section 1332 waiver will be in effect, the number of individuals that will have healthcare coverage under the section 1332 waiver is comparable to the number of individuals that would have had healthcare coverage absent the ABS waiver concept. **[Insert state name]** has examined the short and long term effects of the section 1332 waiver, and projects a **["reduction" or "increase"]** in the number of covered individuals for **[insert population group such as by FPL, low-income, high-health care costs and waiver year(s)]** but **[insert state name]** can demonstrate the long term impact of the section 1332 waiver in the aggregate over the course of the waiver term will ensure that the coverage guardrail requirements are compliant with guidance set forth by the Departments. Those residents that obtain coverage through other means, such as Medicaid, the Children's Health Insurance Program (CHIP), small or large group market insurance, or other types of coverage, will have the same access to coverage.

### D. Deficit Neutrality Requirement (Section 1332(b)(1)(D))

*Note to states: The fourth guardrail, deficit neutrality, specifies that the section 1332 waiver must show the projected federal spending net of the federal revenue under the waiver must be equal to or below the projected federal spending net federal revenue in absence of the section 1332 waiver.*

This proposed section 1332 waiver **[insert "is expected to decrease" or "will not increase"]** federal spending. **[Insert if higher enrollment or higher premiums are expected in the state's]**

waiver plan, and if so, also insert the alternative funding source to cover state expenditures resulting from higher enrollment or higher premiums].

The administrative costs to facilitate the section 1332 waiver will be paid **[insert funding source(s) (e.g., federal pass-through or state funded)]**. Because the section 1332 waiver is expected to **[insert “increase” or “decrease”]** overall individual market Exchange enrollment, premiums, or subsidies **[insert source of funding, if needed]** will be allocated to support the incremental enrollment growth, increased premiums and the extension of premium subsidies to additional consumers.

**[Insert state name’s]** estimates show the amount of federal spending will be less than or equal to what the federal government would have paid during each year of the required 10-year budget period. **[Insert state name]** estimates that federal savings will be: **[insert years and estimated federal savings for each year]**. **[Insert how the section 1332 waiver will impact the federal deficit in other ways. Any federal deficit increases must be described and quantified over the period of the waiver, which may not exceed 5 years unless renewed, or in total over the 10-year budget plan]**.

## Section V – Alignment with Section 1332 Principles

*Note to states: As discussed in the 2018 Guidance, the Departments will consider favorably section 1332 waiver applications that advance some – or all – of previously noted five key principles:*

- 1. Provide increased access to affordable private market coverage;*
- 2. Encourage sustainable spending growth;*
- 3. Foster state innovation;*
- 4. Support and empower those in need; and*
- 5. Promote consumer-driven healthcare.*

*Please describe (to the extent applicable) how the section 1332 waiver advances these principles, including the direct impacts of the waiver on the health insurance market and other changes that may result from the waiver’s implementation.*

**[Insert state name]**’s section 1332 waiver will advance **[insert number]** of the five principles discussed in the 2018 Guidance as described below:

- **Provide increased access to affordable private market coverage:** The section 1332 waiver will promote more accessible and affordable health coverage through competitive private coverage, over public programs. **[Describe in more detail as applicable]**.
- **Encourage sustainable spending growth:** The section 1332 waiver promotes more cost-effective health coverage and restrains growth in federal spending. **[Describe any measures which have helped control health spending]**.
- **Foster state innovation:** The section 1332 waiver is a state-crafted approach to make coverage more affordable for **[insert state name]**. The specific provisions of the section 1332 waiver are responsive to specific state marketplace needs. **[Describe how the**

section 1332 waiver promotes innovation and addresses specific state marketplace needs].

- **Support and empower those in need:** The section 1332 waiver would create consumer-directed accounts whereby consumers are empowered to purchase coverage and care that meet their unique needs. **[Insert the impact of the waiver on those with low income and high healthcare costs in terms of the four guardrails].**
- **Promote consumer-driven healthcare:** The state will promote consumer choice and competition through the creation of a defined-contribution, consumer-directed account that an individual uses to pay health insurance premiums and other healthcare expenses. **[Insert how the waiver specifically promotes consumer choice and competition].**

## Section VI – Reporting Targets

*Note to states: The state is required to submit quarterly, annual, and cumulative targets for the comprehensive coverage requirement, the affordability requirement, the scope of coverage requirement, and the federal deficit requirement set forth in 31 CFR 33.108(f)(4)(vi) and 45 CFR 155.1308(f)(4)(vi). Please include proposed ongoing reporting targets and a proposed plan for quarterly and/or annual reporting of data to demonstrate compliance with the guardrails:*

- *Comprehensive coverage requirement – The waiver must provide coverage that is at least as comprehensive as the coverage defined in section 1302(b) of the PPACA and offered through Exchanges.*
- *Affordability requirement – The waiver must provide coverage and cost sharing protections against excessive out-of-pocket spending that are at least as affordable as would be provided by the provisions of Title I of the PPACA.*
- *Scope of coverage requirement – The waiver must provide coverage to at least a comparable number of its residents as would be provided by the provisions of Title I of the PPACA.*
- *Deficit neutrality – The waiver must not increase the federal deficit.*

**[Insert name of state agency responsible for reporting requirements]** will submit all required quarterly, annual, and cumulative targets for the guardrail requirements in accordance with 31 CFR 33.108(f)(4)(vi) and 45 CFR 155.1308(f)(4)(vi).

**[Insert name of state agency responsible for reporting requirements]** will assume responsibility for the reporting requirements, including the following:

- Quarterly reports (31 CFR 33.124(a) and 45 CFR 155.1324 (a)): To the extent required by the Departments, **[insert name of state agency responsible for reporting requirements]** will submit quarterly reports, including reports of ongoing operational challenges, if any, and plans for, and results of, associated corrective actions.
- Annual reports (31 CFR 33.124(b) and 45 CFR 155.1324(b)): **[Insert name of state agency responsible for reporting requirements]** will submit annual reports documenting the following:
  - (1) The current state and the progress of the section 1332 waiver to date.

- (2) Data on the state's compliance with the guardrails in PPACA section 1332(b)(1)(A)-(D), 31 CFR 33.108(f)(3)(iv)(A)-(D), and 45 CFR 155.1308(f)(3)(iv)(A)-(D).
- (3) Premiums for the second lowest-cost silver plan under the section 1332 waiver and an estimate of the premium as it would have been without the waiver for a representative consumer in each rating area.
- (4) A summary of the annual public forum required by 31 CFR 33.120(c) and 45 CFR 155.1320(c) and a summary of actions taken in response to public input.
- (5) **[Insert any additional information required by the terms of this section 1332 waiver].**

## **Section VII – Implementation Plan and Timeline**

*Note to states: Please describe the activities to implement the section 1332 waiver. The implementation timeline should include milestones and operational steps; testing activities; development of the new state subsidy structure (if applicable); creation and processing of applications; eligibility determinations; payment of subsidies to issuers; consumer support and education; adjudication of appeals of eligibility determinations; and mitigation of waste, fraud, and abuse.*

**[Insert state name] will [describe the activities to implement the section 1332 waiver].**

**[Insert state name] will establish an ABS waiver concept to be administered by [insert name of administering agency and if it is a new or existing entity].**

*Note to states: States could continue using the current Exchange enrollment platform and plan certification, create a new platform, or waive the PPACA's Exchange and Qualified Health Plan (QHP) provisions and rely on the private market. If a state chooses to waive the PPACA's provisions related to Exchanges (section 1311) and QHPs (section 1301), the implementation could be similar to the implementation approach for the APO waiver concept, which allows state-specific financial assistance to be applied to non-QHPs. This provides the opportunity for consumers to use the account to purchase a wider variety of plans.*

*Another approach is for a state to leverage the existing FFE in the state. States would need to work with the FFE and effectively "turn off" the financial assistance component of the FFE for the state. In this option, states would cover costs incurred for the technical build to adjust the HealthCare.gov website and backend system and to make changes to consumer support channels (including the call center, messaging, etc.). This option can be done in conjunction with the State-Specific Premium Assistance (SSPA) waiver concept implementation approach.*

**[Insert state name] will [describe the technology systems the state intends to utilize to administer the ABS waiver concept in terms of development of the new state subsidy structure, creation and processing of applications, eligibility determinations, payment of subsidies to issuers, providing consumer support and education, and adjudicating appeals of eligibility determinations. Also indicate if the state is requesting any services or potential changes that would be necessary for the FFE, using as a reference Appendix A: State and Federal Responsibilities for Implementing New Plan Options Under an ABS Waiver Concept].**

**[Insert state name]** will **[describe how the state will take on responsibilities for certification of plans]**.

*Note to states: States may use the following language to describe how state premium assistance amounts are reconciled, if applicable.*

**[Insert state name]** is pairing an ABS waiver concept with a SSPA waiver concept. As consumer income information may change following eligibility, **[insert state name]** will reconcile state premium assistance amounts provided as part of the annual state income tax filing process. **[Describe methodology for reconciling income changes that may impact eligibility]**.

*Note to states: If applicable, describe enrollment changes (e.g., implementation of a new state portal, issuance of vouchers to purchase through private insurer portals), or changes to payments (e.g., pay issuers or consumers directly). Since each section 1332 waiver is unique, only include answers to those questions that are applicable.*

**[Insert state name]** has reviewed the list of implementation questions posed by the Departments in the 2018 Discussion Paper. In order to comprehensively address implementation challenges, **[insert state name]** provides responses to the applicable questions below.

- 1) How will the state implement a new state subsidy structure?

**[Insert state response]**.

- a. Which entity will administer the section 1332 waiver?

**[Insert state response]**.

- b. Is it a new or existing entity?

**[Insert state response]**.

- c. To what extent will the entity be subject to state insurance laws?

**[Insert state response]**.

- d. To what extent will the entity coordinate activities with other public programs (e.g., Medicaid and CHIP)?

**[Insert state response]**.

- e. How much funding is necessary for the state subsidy structure?

**[Insert state response]**.

- f. What populations or eligibility requirements will the state have for the section 1332 waiver (e.g., age, income, etc.)?

**[Insert state response]**.

- g. What plan options will be available?

**[Insert state response]**.

- h. If state funding is required, how much funding does the state anticipate will be necessary to implement the section 1332 waiver and how will the state generate the required state funding?

**[Insert state response].**

- 2) When and how will consumers be notified of their state subsidy amount?

**[Insert state response].**

- 3) Will there be a process for consumers to report changes to eligibility criteria (i.e., income, age, address, etc.)?

**[Insert state response].**

- 4) What process will be used for consumers to appeal their eligibility determination and state subsidy amount under the state program?

**[Insert state response].**

- 5) What sources is the state using to verify eligibility for coverage and/or the state subsidy (if applicable)? Will the state be using its Medicaid/CHIP Agency or the FFE to do eligibility verifications and determinations? Is the state using any state sources for verification?

**[Insert state response].**

- 6) How will issuers receive payments for the state subsidy (i.e., is the individual responsible for paying the issuer directly with contributions from their HEA)? What is the timing and mechanism for pay-out?

**[Insert state response].**

- 7) Will the state reconcile state subsidy amounts based on actual or earned income? If so, how will that be operationalized? Will the state reconcile state subsidy amounts based on current or prior year household income or some other income definition? If so, how will that be operationalized?

**[Insert state response].**

- 8) Will the new state subsidy structure include incentives for providers, consumers, and plan issuers to continue managing healthcare costs and utilization and lower overall healthcare spending (if any)?

**[Insert state response, including a description of any incentives for providers, consumers, and plan issuers].**

- 9) Does the state have the authority/ability to adjust the requirements on a yearly or other basis to account for market changes? If so, what is the schedule and process for this?

**[Insert state response].**

- 10) Will the state require issuers to include the impact of the section 1332 waiver in initial and/or final rates?

**[Insert state response].**

- 11) Are there any existing legislation and/or regulations related to the state section 1332 waiver, or is new state legislation and/or regulation needed?

**[Insert state response].**

- 12) If the state is leveraging the FFE's system, does the state anticipate requesting any changes to the FFE? If the state is leveraging its State-based Exchange (SBE), does the state anticipate requesting any changes to its SBE? Related to question #2 above, does the state envision that consumers will be able to see their state subsidy amount during the plan selection process?

**[Insert state response].**

- 13) If implementing a state subsidy, what (if any) federal tax consequences will there be for the individuals enrolled and/or reporting requirements for the state as a result?

**[Insert state response].**

- 14) Will an individual be allowed to withdraw any portion of his or her account contributions at the end of the year?

**[Insert state response].**

- 15) What entity owns the account and/or administers the account as part of the section 1332 waiver?

**[Insert state response].**

- 16) What expenses can the account be used for?

**[Insert state response].**

- 17) What protections will be in place to protect the section 1332 waiver's integrity and reduce improper payments?

**[Insert state response].**

- 18) What entities can contribute to the account?

**[Insert state response].**

- 19) How will the state treat any savings remaining in the account at the end of the year? Will the savings be rolled over to the next year and how can the consumer use them?

**[Insert state response].**

- 20) What are the eligibility requirements for an individual to access the account?

**[Insert state response].**

- a. Are there eligibility requirements for certain types of plans?

**[Insert state response].**

- b. Would a person be required to enroll in coverage in order to receive the contribution? If so, what would be the requirements on the coverage?

**[Insert state response].**

- c. What happens if the individual or a family member becomes eligible for Medicaid or CHIP during the year? Could he or she use the savings in the account to pay for any cost sharing that Medicaid/CHIP require?

**[Insert state response].**

- 21) Does the section 1332 waiver have a single account for a family or individual account for each family member?

**[Insert state response].**

- 22) What is the structure for the contribution amount? Is there a match and/or other requirements?

**[Insert state response].**

- 23) Can employers contribute to the account?

**[Insert state response].**

*Note to states: If also implementing adjusted plan options, please answer the following questions.*

- 24) How will a state monitor affordability and coverage for new plans offered that may have different cost sharing, annual and lifetime limits, and may not have reporting requirements equal to comprehensive coverage?

**[Insert state response].**

- 25) Which non-QHPs will be newly available on or off-Exchange?

**[Insert state response].**

- a. What is the eligibility criteria for these plans and how does it differ from QHPs?

**[Insert state response].**

- b. What is the duration of these plans and how does it differ from QHPs?

**[Insert state response].**

- c. Will the plans be available only during an open enrollment period, or will plans also offer special enrollment periods?

**[Insert state response].**

- d. What additional information will need to be collected from consumers in order to determine their eligibility for these plans?

**[Insert state response].**

- e. Do these new plans meet state licensing requirements?

**[Insert state response].**

26) How will consumers be able to identify the non-QHP plans?

**[Insert state response].**

- a. Will non-QHP plans need to be displayed differently?

**[Insert state response].**

- b. Is there new or additional information about these plans that will need to be available? How will consumers learn how these plans differ from QHPs?

**[Insert state response].**

27) Will the state provide supplemental information about these plans?

**[Insert state response].**

28) If expanding eligibility for catastrophic plans, what new population will be newly eligible for these plans?

**[Insert state response].**

*Note to states: If the state is doing plan certification for a state administered section 1332 waiver please also address the questions below.*

29) What certification standards will the state establish for plans included in the section 1332 waiver?

**[Insert state response].**

30) What timeline will the state follow to publish plan standards and issuer submission requirements?

**[Insert state response].**

31) What is the state process for plan review and approval?

**[Insert state response].**

32) Will the state develop its own plan certification tools and checklists?

**[Insert state response].**

33) What technology will the state use to facilitate issuers uploading plans for review, approval, and migration to the enrollment portal?

**[Insert state response].**

**[Insert state name]** submits the proposed waiver implementation timeline, which is detailed in Table **[insert table name]** below. **[Insert proposed implementation timeline that meets specific section 1332 waiver goals, below is a sample list of milestones for consideration where applicable].**

**Table 1. Sample Implementation Timeline**

| <b>End Date</b>                                | <b>Milestone</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Section 1332 Waiver Application Process</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>[Insert Date]</b>                           | Publish draft section 1332 waiver application on state website and notify the public.                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>[Insert Date]</b>                           | Begin public comment period.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>[Insert Date]</b>                           | Conduct public hearings facilitated in <b>[insert number]</b> major cities/counties/regions across the state complete.                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>[Insert Date]</b>                           | Conduct tribal consultation.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>[Insert Date]</b>                           | End public comment period.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>[Insert Date]</b>                           | Submit final section 1332 waiver application to the Departments.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>[Insert Date]</b>                           | Target to receive approval from the Departments for the section 1332 waiver.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>[Insert Date]</b>                           | <b>[Insert additional milestones as needed].</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Legal Authority and Governance</b>          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>[Insert Date]</b>                           | Establish appropriate state legal authority.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>[Insert Date]</b>                           | Establish governance structure to support implementation.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>[Insert Date]</b>                           | File proposed rules with state authority.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>[Insert Date]</b>                           | <b>[Insert additional milestones as needed].</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Design</b>                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>[Insert Date]</b>                           | Finalize policies, including: <ul style="list-style-type: none"> <li>• Eligibility requirements, methods of verification and redetermination.</li> <li>• Options to appeal initial determination and redeterminations.</li> <li>• Enrollment needs and special enrollment availability.</li> <li>• Requirements for consumer services (e.g., call center and other technical assistance).</li> <li>• Information security standards.</li> <li>• Consumer outreach and communication needs.</li> <li>• Available state resources and vendor requirements.</li> </ul> |
| <b>[Insert Date]</b>                           | <b>[Insert additional milestones as needed].</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Plan Management</b>                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>[Insert Date]</b>                           | Establish plan certification standards.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>[Insert Date]</b>                           | Publish standards and issuer methods of submission.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

| End Date                           | Milestone                                                                                                                                               |
|------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|
| [Insert Date]                      | Establish plan review and approval timeline.                                                                                                            |
| [Insert Date]                      | Establish plan certification tools and checklists.                                                                                                      |
| [Insert Date]                      | Certify plans.                                                                                                                                          |
| [Insert Date]                      | Upload plans to Exchange or state portal.                                                                                                               |
| [Insert Date]                      | [Insert additional milestones as needed].                                                                                                               |
| <b>Information Technology (IT)</b> |                                                                                                                                                         |
| [Insert Date]                      | Develop initial IT roadmap for implementation.                                                                                                          |
| [Insert Date]                      | Complete system mapping to define current environment and identify gaps.                                                                                |
| [Insert Date]                      | Complete business requirements for eligibility and enrollment system/changes, including eligibility appeals and special enrollment processes.           |
| [Insert Date]                      | Create user stories for front and back end applications.                                                                                                |
| [Insert Date]                      | Define technical requirements.                                                                                                                          |
| [Insert Date]                      | Complete system development and user testing.                                                                                                           |
| [Insert Date]                      | [Insert additional milestones as needed].                                                                                                               |
| <b>Staffing and Operations</b>     |                                                                                                                                                         |
| [Insert Date]                      | Develop standard operating procedures based on design documents and user stories.                                                                       |
| [Insert Date]                      | Define vendor requirements and complete procurement/contract revisions.                                                                                 |
| [Insert Date]                      | Define with issuers, operational coordination needs and staff communication policies.                                                                   |
| [Insert Date]                      | Identify staffing needs by functional area. Develop job descriptions and recruitment plan.                                                              |
| [Insert Date]                      | Define training requirements and develop training collateral.                                                                                           |
| [Insert Date]                      | Complete recruitment and training.                                                                                                                      |
| [Insert Date]                      | [Insert additional milestones as needed].                                                                                                               |
| <b>Funding</b>                     |                                                                                                                                                         |
| [Insert Date]                      | Finalize initial implementation and operating budget, based on CMS approved waiver parameters; define available funding sources and initial commitment. |

| End Date                          | Milestone                                                                                                   |
|-----------------------------------|-------------------------------------------------------------------------------------------------------------|
| [Insert Date]                     | Finalize operating budget, federal pass-through funding, and state funding needs.                           |
| [Insert Date]                     | Develop payment schedule based on parameters provided by CMS with issuers and advisory council.             |
| [Insert Date]                     | [Insert additional milestones as needed].                                                                   |
| <b>Communication and Outreach</b> |                                                                                                             |
| [Insert Date]                     | Develop multi-channel awareness campaign for consumers with advisory council and state marketing resources. |
| [Insert Date]                     | Develop cross-promotional communication standards with issuers.                                             |
| [Insert Date]                     | Draft communications material for web and print distribution.                                               |
| [Insert Date]                     | Implement coordinated communications campaign.                                                              |
| [Insert Date]                     | [Insert additional milestones as needed].                                                                   |
| <b>Year One Implementation</b>    |                                                                                                             |
| [Insert Date]                     | Begin open enrollment.                                                                                      |
| [Insert Date]                     | Begin health coverage and premium assistance payments for eligible consumers in newly added plans.          |
| [Insert Date]                     | [Insert additional milestones as needed].                                                                   |

## Section VIII – Public Notice, Comment Process, and Communication Plan

*Note to states: Please include information on how the state solicited public comments during the development of the application in accordance with the requirements under 31 CFR 33.108(f)(2), 45 CFR 155.1308(f)(2), 31 CFR 33.112, and 45 CFR 155.1312.*

*The state must make available at the beginning of the public notice and comment period, through its website or other effective means of communication (and update as appropriate), a public notice that includes all of the following:*

- *A comprehensive description of the application;*
- *Where the public can review the application;*
- *How the public may submit written comments;*
- *The timeframe for submitting comments (The comment period should in no case be less than 30 days); and*
- *Location, date, and time of public hearings.*

*The state must hold at least two public hearings. These hearings should be conducted on separate dates and locations. These hearings shall:*

- *Provide an opportunity to learn about and comment on the content of the section 1332 waiver application.*

*The state must include a description of the key issues raised during the State public notice and comment period in its application.*

## A. Public Notice

On **[insert date]** the state of **[insert state name]** opened the public comment period for this section 1332 waiver application and posted the notice of the opportunity to comment on the state website **[insert link to website where state notice was posted]**. On **[insert date]**, **[insert state agency name]** sent notice via **[insert delivery method]** to a list of **[insert number]** interested parties and stakeholders. The notice is included in Appendix D: Notice for Public Comment Period **[insert applicable attachment under Appendix D: Notice for Public Comment Period]**.

## B. Public Comment Process

*Note to states: A state is required to hold at least two public hearings.*

On **[insert date]** the state of **[insert state name]** held a public hearing at **[insert location]**. At the public hearing, **[insert number]** member(s) of the public attended, including **[insert a list of organizations and individuals in attendance]**. In addition **[insert number]** members(s) of the public testified. This testimony was also submitted in writing and is included in Appendix E: Records of Public Testimony **[insert applicable attachment under Appendix E: Records of Public Testimony]**.

Additionally, on **[insert date]** the state of **[insert state name]** held a public hearing at **[insert location]**. At the public hearing, **[insert number]** member(s) of the public attended, including **[insert a list of organizations and individuals in attendance]**. In addition **[insert number]** members(s) of the public testified. This testimony was also submitted in writing and is included in Appendix E: Records of Public Testimony **[insert applicable attachment under Appendix E: Records of Public Testimony]**.

Major points of discussion included: **[List any major points of discussion raised by any attendee and how the state is addressing those comments or concerns]**.

*Note to states: A state may hold additional public hearings or information sessions. If applicable, a state may include the following:*

On **[insert dates and agency name]** held additional public comment and information sessions in **[insert locations]**. Attendees included representatives of: **[insert organizational names associated with attendees]**. Presentation(s) were utilized to inform the attendees of major components of the section 1332 waiver and to facilitate discussion during each meeting. The presentation(s) are included in Appendix F: Presentations from the Public Comment and Information Session **[insert applicable attachment under Appendix F: Presentations from the Public Comment and Information Session]**.

## C. Tribal Consultation

*Note to states: As required by 31 CFR 33.112(a)(2) and 45 CFR 155.1312(a)(2), if the state has one or more federally-recognized tribe(s), the state must conduct tribal consultation and provide evidence of meaningful consultation in the section 1332 waiver application. The state should include*

- *Evidence of meaningful consultation between the state and Tribal representatives. (e.g., official meetings, dear Tribal leaders letter, forums, etc.); and*
- *A report on the issues raised.*

*If the state has no known federally-recognized tribe(s), please indicate that in the space below. Otherwise, the state should provide the following information on tribal consultation:*

**[Insert state name]** has **[insert number]** federally-recognized tribes. Representatives of each of these tribes were contacted and provided information about the section 1332 waiver.

Consultation with, or comments from, the tribes were solicited. **[Indicate if comments were received, the subject of the comments and the state's response to the comments].**

Communications with each tribe are included in Appendix G: Tribal Consultation

Communications **[insert applicable attachment under Appendix G: Tribal Consultation Communications].**

## D. Communication Plan

*Note to states: States are responsible for communicating to issuers and individuals, information on changes resulting from an ABS waiver concept. Part of a state's implementation plan should include how it will inform the public of the upcoming changes to plan options (e.g., the Exchange call center may not be available for consumers to enroll in or select a plan). Describe how consumers will be educated about their new coverage options and how they will purchase this coverage. Describe differences between prior coverage options and coverage options under the proposed section 1332 waiver.*

To educate the public about the section 1332 waiver, the state will **[insert communication methods and channels to promote stakeholder awareness {e.g., meetings and events with advocates, businesses, issuers, or other stakeholders; direct or interactive promotional marketing}]**. If consumers have questions about the section 1332 waiver or how to enroll, they may contact **[insert]**. Consumers will have the opportunity for assistance via **[insert phone, email, and website]**.

## Section IX – Additional Information

*Note to states: Please include additional information that will be helpful to the Departments in evaluating a section 1332 waiver application as required by 31 CFR 33.108(f)(4)(v) and 45 CFR 155.1308(f)(4)(v).*

*Specifically, additional or supplemental information must include:*

- *An explanation of whether the waiver increases or decreases the administrative burden on individuals, issuers, or employers;*

- *An explanation of whether the waiver will affect the implementation of the PPACA provisions which are not being waived;*
- *An explanation of how the waiver will affect residents who need to obtain healthcare services out of the state;*
- *An explanation of how the state will provide the federal government with all information necessary to administer the waiver at the federal level; and*
- *An explanation of how the waiver will address potential compliance, waste, fraud and abuse.*

*Additional information that may be useful may include:*

- *Information about the effect on federal operations;*
- *Additional information about the goals, rationale for the waiver, and benefits of the waiver;*
- *Information about the current state (healthcare system / market, key populations) and the impact if the waiver is not granted;*
- *Assurances regarding waiver guardrails;*
- *Description of the state (healthcare system / market, key populations) post-waiver;*
- *Description of state responsibilities;*
- *Information from any group convened to help develop the waiver application;*
- *Information about state mandated benefits, as applicable; and*
- *Letters of support or opposition from various stakeholders.*

## **Section X – Administration**

*Note to states: Please provide the state's point of contact for the section 1332 waiver application. This individual will be responsible for ensuring compliance with all section 1332 waiver provisions, submitting required reports, and serving as the primary contact for all section 1332 waiver related issues and concerns.*

**Name:** [insert name of primary contact]

**Title:** [insert title of primary contact]

**Telephone Number:** [insert telephone number of primary contact]

**Email address:** [insert email for primary contact]

## Appendix A: State and Federal Responsibilities for Implementing New Plan Options Under an ABS Waiver Concept

*Note to states: Please use the following table as a reference to assist in determining proposed technology changes with a section 1332 waiver. There may be other functionality necessary to support the section 1332 waiver not described below. Items listed as optional are waivable provisions under section 1332 of the PPACA.*

|                                           | Without Waiver<br>(FFE platform<br>state status quo) |         | Option for FFE support of ABS waiver<br>concept |                 |          |
|-------------------------------------------|------------------------------------------------------|---------|-------------------------------------------------|-----------------|----------|
|                                           | State                                                | Federal | State                                           | State or Vendor | Federal  |
| Consumer call center                      |                                                      | X       |                                                 | X               |          |
| Consumer website                          |                                                      | X       |                                                 | X               |          |
| Consumer marketing                        |                                                      | X       | X                                               |                 |          |
| Consumer noticing                         |                                                      | X       |                                                 | X               | DMI only |
| Agent/broker support                      | X                                                    | X       | X                                               | X               |          |
| Assister support                          |                                                      | X       | Optional                                        |                 |          |
| Plan certification                        | X                                                    | X       | Optional                                        |                 |          |
| Anonymous shopping                        |                                                      | X       |                                                 | Optional        |          |
| ID proofing                               |                                                      | X       |                                                 | X               |          |
| Application                               |                                                      | X       |                                                 | X               |          |
| Verifications:<br>citizenship/immigration |                                                      | X       |                                                 |                 | X        |
| Verifications: income                     |                                                      | X       | Optional                                        |                 | Optional |
| Verifications: non-ESI coverage<br>check  |                                                      | X       |                                                 |                 | Optional |
| Verifications: SEP                        |                                                      | X       |                                                 |                 |          |
| DMI follow up                             |                                                      | X       |                                                 | Optional        | X        |
| Eligibility determination                 |                                                      | X       |                                                 | X               |          |
| Benefit calculation                       |                                                      | X       |                                                 | X               |          |
| Appeals                                   |                                                      | X       | X                                               |                 |          |
| Casework                                  | X                                                    | X       |                                                 | X               |          |

|                                     | Without Waiver<br>(FFE platform<br>state status quo) |         | Option for FFE support of ABS waiver<br>concept |                                                           |         |
|-------------------------------------|------------------------------------------------------|---------|-------------------------------------------------|-----------------------------------------------------------|---------|
|                                     | State                                                | Federal | State                                           | State or Vendor                                           | Federal |
| Account transfer –<br>Medicaid/CHIP | X                                                    | X       |                                                 | Optional                                                  |         |
| Plan shopping and selection         |                                                      | X       |                                                 | Optional                                                  |         |
| Enrollment transactions             |                                                      | X       |                                                 | Optional                                                  |         |
| Enrollment reconciliation           |                                                      | X       |                                                 | Optional                                                  |         |
| 1095A generation                    |                                                      | X       |                                                 | Not a part of<br>Implementation for<br>this waiver option |         |
| Issuer payment                      |                                                      | X       | X                                               |                                                           |         |

## Appendix B: **Authorizing Legislation**

**[Please insert copy of authorizing legislation]**

## Appendix C: **Actuarial and Economic Analyses**

**[Please insert the actuarial and economic analyses]**

## **Appendix D: Notice for Public Comment Period**

**[Insert a copy of the notice for public comment period]**

## Appendix E: **Records of Public Testimony**

**[Insert record of public testimony]**

## **Appendix F: Presentations from the Public Comment and Information Sessions**

**[Insert presentations from the public comment and information sessions]**

## **Appendix G: Tribal Consultation Communications**

**[Insert copies of tribal consultation communications]**