

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



August 22, 2024

VIA ELECTRONIC MAIL: michele.eberle@maryland.gov

Michele Eberle
Executive Director
Maryland Health Benefit Exchange
750 E. Pratt St., 6th Floor
Baltimore, MD 21202

Dear Director Eberle:

Thank you for your submission on July 15, 2024, of Maryland's application for an amendment to its State Innovation Waiver under section 1332 of the Affordable Care Act (ACA). I am pleased to send this letter from the Center for Consumer Information and Insurance Oversight (CCIIO) within the Centers for Medicare & Medicaid Services (CMS) under the Department of Health and Human Services (HHS), as well as on behalf of the Department of the Treasury (collectively, the Departments).

Maryland's currently approved waiver extension of the single risk pool requirement contained in ACA section 1312(c)(1)¹ allows the state to operate a state-based reinsurance program for the individual health insurance market from January 1, 2024, through December 31, 2028.² Maryland's waiver amendment request seeks to amend its currently approved section 1332 waiver extension to also waive section 1312(f)(3) of the ACA to the extent it would otherwise prohibit enrollment of residents in Qualified Health Plans and Qualified Dental Plans through the Maryland Health Benefit Exchange (MHBE). This would allow all qualified Maryland residents to enroll in such plans on-Exchange, regardless of immigration status, from plan years 2026 through 2028.

Consistent with 31 C.F.R. § 33.130 and 45 C.F.R. § 155.1330, the processes and procedures for amendment requests,³ and the next steps outlined in the Departments' June 4, 2024, letter⁴ responding to Maryland's waiver amendment letter of intent, the Departments have conducted a preliminary review of the waiver amendment application similar to the review process for new waiver applications outlined in 31 C.F.R. § 33.108(c) and 45 C.F.R. § 155.1308(c). The Departments have made a preliminary determination that Maryland's waiver amendment application is complete.

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

² <https://www.cms.gov/files/document/md-1332-extension-approval-letter-final-signed.pdf>

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

⁴ <https://www.cms.gov/files/document/1332-md-amendment-loi-response-letters.pdf>

As provided in the June 4, 2024, letter, and similar to the federal public notice and approval process for new section 1332 waiver applications outlined in 31 C.F.R. § 33.116 and 45 C.F.R. § 155.1316, the date of this letter marks the beginning of the 30-day federal public notice and comment process and 180-day federal decision-making process. Public comments on Maryland's waiver amendment application will be accepted by the Departments from August 22, 2024, through September 20, 2024. More information about the federal public notice and comment process and section 1332 waivers generally can be found on the CCIIO website.⁵ The decision of the Departments regarding approval or denial of Maryland's waiver amendment application will be issued within 180 days of this preliminary determination of completeness.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Ellen Montz". The signature is fluid and cursive, with the first name "Ellen" and the last name "Montz" clearly distinguishable.

Ellen Montz, Ph.D.
Director, Center for Consumer Information & Insurance Oversight
Deputy Administrator, Centers for Medicare & Medicaid Services

CC: Aviva Aron-Dine, Acting Assistant Secretary, Tax Policy, U.S. Department of the Treasury
The Honorable Wes Moore, Governor, State of Maryland
Kathleen A. Birrane, Commissioner, Maryland Insurance Administration
Johanna Fabian-Marks, Director, Policy and Plan Management, MHBE
Tony Armiger, Chief Financial Officer, MHBE

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