

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



---

July 24, 2024

**VIA ELECTRONIC MAIL:** [James.McDonald@health.ny.gov](mailto:James.McDonald@health.ny.gov)

James V. McDonald  
Commissioner  
New York State Department of Health  
Empire State Plaza  
Corning Tower  
Albany, NY 12237

Dear Commissioner McDonald:

Thank you for your submission on June 28, 2024, of New York'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 and 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).

New York's currently approved waiver of section 36B of the Internal Revenue Code (IRC) and sections 1402 and 1312(c)(1) of the ACA allows the state to operate a new coverage program, the Essential Plan (EP) Expansion, from April 1, 2024, through December 31, 2028.<sup>1</sup> New York's waiver amendment request seeks to expand the affordability programs under its waiver plan to provide new, state-based cost-sharing subsidies for certain enrollees on the state-based health insurance exchange for plan years 2025 through 2028.

Consistent with 31 C.F.R. § 33.130 and 45 C.F.R. § 155.1330, the processes and procedures for amendment requests,<sup>2</sup> and the next steps outlined in the Departments' May 24, 2024, letter<sup>3</sup> responding to New York'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), and have made a preliminary determination that New York's waiver amendment application is complete.

As provided in the May 24, 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 New York's waiver amendment application will be accepted by the Departments from July 24, 2024, through

---

<sup>1</sup> <https://www.cms.gov/files/document/ny-1332-waiver-approval-stcs.pdf>

<sup>2</sup> 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).

<sup>3</sup> <https://www.cms.gov/files/document/ny-1332-amendment-loi-response-final.pdf>

August 23, 2024. More information about the Federal public notice and comment process and section 1332 waivers generally can be found on the CCIIO website.<sup>4</sup> The decision of the Departments regarding approval or denial of New York'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 Kathy Hochul, Governor, State of New York  
Danielle Holahan, Executive Director, NY State of Health  
Sonia Sekhar, Deputy Director, NY State of Health

---

<sup>4</sup> [https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section\\_1332\\_state\\_Innovation\\_Waivers-.html](https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section_1332_state_Innovation_Waivers-.html)