

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



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Michael Conway
Commissioner of Insurance
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Richard Whitley
Director
Nevada Department of Health and Human Services
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Dear Commissioner Conway and Director Whitley,

I want to thank you for the strong partnership between the U.S. Department of Health and Human Services (HHS) and the U.S. Department of the Treasury (collectively, “the Departments”) and your states, and share an update on the Departments’ expectations for pass-through reporting (as described in Specific Term and Condition (STC) 15¹) for your respective approved State Innovation Waivers under section 1332 of the Affordable Care Act (also referred to as section 1332 waivers).² I am pleased to send this letter on behalf of the Departments.

The STCs governing your respective section 1332 waivers define each state’s responsibilities with respect to implementation of the waiver and use of pass-through funding during the waiver period as well as the nature, character, and extent of anticipated federal oversight of the waiver. Colorado and Nevada are the first states to use section 1332 waivers to implement premium-reduction targets for qualified health plans to increase the affordability of individual market health insurance for their state residents. As part of complying with STC 15, it is the Departments’ expectation that Colorado and Nevada will require all issuers³ to annually submit without-waiver (i.e., without-reinsurance and without-Colorado Option/Battle-Born State Plan (BBSP)) rates to their respective state, and that Colorado and Nevada will include these without-waiver rates as part of each state’s pass-through funding premium submission. Specifically, issuers should provide without-waiver rates to the state separately for their non-Colorado

¹ The STCs governing each state’s approved section 1332 waiver can be found at: <https://www.cms.gov/marketplace/states/section-1332-state-innovation-waivers>.

² Colorado’s currently approved waiver amendment was approved on June 23, 2022, and Nevada’s currently approved waiver was approved on January 10, 2025.

³ In Nevada, issuers that do not offer BBSPs should provide without-waiver rates or explicitly state that they are equal to their without-reinsurance, with-BBSP rates.

Option plans/non-BBSPs and for their Colorado Option plans/BBSPs. The Departments encourage Colorado and Nevada to work with issuers in their respective states to ensure that issuers provide sufficient detail in their without-waiver rate analysis to explain which aspects of each waiver affect premiums and by how much so that this information can be included in the states' pass-through funding reports.⁴

In the event that an issuer does not provide without-waiver rates, the Departments may, as appropriate, zero out any impact(s) of the Colorado Option (for a Colorado issuer) or the BBSP (for a Nevada issuer) identified by the relevant state. In the event that an issuer does not provide the state the requested without-waiver rates, but the state does estimate a premium impact due to Colorado Option/BBSP-specific policies implemented under the waiver (e.g., a cap on Colorado Option plan/BBSP administrative costs or profits), then the Departments anticipate that they would estimate the premium impact associated with a given policy to be equal to the difference between the issuer's relevant unified rate review template (URRT) factor for Colorado Option plans/BBSPs and for non-Colorado Option plans/non-BBSPs in the pass-through funding year.

While the Departments recognize that submitting additional sets of rates may increase obligations for states and issuers, we believe not only that this approach will result in a more efficient and timely process for determining pass-through funding, but also that this approach is consistent with that generally used by other states with approved section 1332 waivers.

Through section 1332 waivers, the Departments aim to assist states with developing health insurance markets that expand coverage, lower costs, and ensure that affordable health coverage is available for their residents.

The Departments remain committed to working with you and other state partners to advance health coverage policies and implement section 1332 waivers that improve affordability and coverage. Please do not hesitate to contact us if you have any questions.

Sincerely,



Ellen Montz

CC: Aviva Aron-Dine, Deputy Assistant Secretary, Tax Policy, U.S. Department of the Treasury
The Honorable Jared Polis, Governor, State of Colorado
The Honorable Joe Lombardo, Governor, State of Nevada
Stacie Weeks, Administrator, Division of Health Care Financing Policy, Nevada Department of Health and Human Services
Kate Harris, Chief Deputy Commissioner, Colorado Division of Insurance
Kyla Hoskins, Deputy Commissioner, Colorado Division of Insurance
Laura Mortimer, Reinsurance and Health Insurance Affordability Enterprise Director, Colorado Division of Insurance

⁴ Note: If an issuer refuses to submit without-waiver rates, this will not be considered a breach of the STCs by the state.

