

New Hampshire's Proposal to Waive Certain Provisions of the Patient Protection and Affordable Care Act Under Section 1332 of the Act, Waivers for State Innovation

Executive Summary

Since passage of the federal Patient Protection and Affordable Care Act (ACA), New Hampshire has worked to promote cost-effective health coverage policies and insurance standards that best meet the needs of the State's residents and employers within the confines of federal rules and regulations.

Today, New Hampshire has a number of reasons to be concerned about its individual health insurance market for 2018 and beyond. In 2016, carriers writing in the individual market cumulatively lost ten cents on the dollar. Trends in health care spending are on the rise again, especially in pharmaceuticals. Issuers have expressed concerns about the lack of a clear federal commitment to fund Cost Sharing Reductions (CSRs), the weakening of the enforcement of the individual mandate, and lax enforcement of the restrictions on special enrollment.

At the same time, New Hampshire is experiencing a reduction in the number of issuers offering individual health insurance coverage. In 2016, five issuers participated in the Marketplace. In 2018, four issuers have submitted rate filings and have indicated their intention to participate. However, one of these Marketplace participants (Minuteman Health) is in the process of restructuring and their 2018 participation is uncertain. A second QHP Marketplace participant (Harvard Pilgrim Healthcare) plans to reduce its service area and will no longer be offered statewide. And a third issuer (Centene) almost exclusively serves the Medicaid Expansion (PAP) population and does not actively solicit commercial members. In addition, the State's largest issuer, Anthem, has recently withdrawn from the Individual Marketplace in other states and is reportedly evaluating its options with regard to continued participation in New Hampshire's individual market. Further, the New Hampshire Insurance Department (NHID) is aware that, in 2016, each individual issuer operated at a loss in the individual Marketplace.

All of this has combined to place tremendous upward pressure on health insurance rates in the individual market. It is likely that, absent some sort of market intervention, New Hampshire's individual market will likely face significant premium increases in 2018.

Increasing premiums are an obvious impediment to affordable coverage, which primarily impacts the roughly 25,000 individual market members that are not eligible for Advance Premium Tax Credits (APTC). Higher individual Marketplace premiums also increase federal outlays in the form of higher APTC payments. In addition, developments described above have created market instability and threaten the near-term viability of a competitive marketplace.

To address these challenges, last month the New Hampshire Legislature enacted **HB 469**,¹ a law that, effective July 10, 2017, gives the state's insurance commissioner the ability to establish market stabilization mechanisms, including applying for any federal waiver opportunities that may be available.

Consistent with authority granted in **HB 469**, New Hampshire plans to stabilize its individual market through a new state-based reinsurance program. The program will be administered by the New Hampshire Health Plan (NHHP), an existing entity under New Hampshire law (**NH RSA 404-G**) that administered the high risk pools and other market stabilization mechanisms that operated in the state before the ACA took effect. New Hampshire has engaged Gorman Actuarial to assist with the analytics. The State relied on their analysis and it will be incorporated as soon as Gorman has had an opportunity to finalize their work.

The new state-based reinsurance program will be funded by an assessment on the broader health insurance market using the same assessment base that funded the state's high risk pool.² The money raised (an estimated \$32 million per year) will be available for distribution through a reinsurance mechanism that reimburses carriers for claims within a set corridor, as with the 2014 federal temporary reinsurance mechanism. In keeping with the legislature's quick action, New Hampshire agencies are moving forward on an expedited basis to set up the state-based reinsurance program, so the assessments and payments will benefit consumers by bringing down 2018 individual market premiums.

In this application, New Hampshire seeks to use the flexibility granted to states through the Section 1332 process to waive Section 1312 (c)(1) of the ACA. Section 1312 (c)(1) requires a health insurance issuer to consider "all enrollees in all health plans....offered by such issuer in the individual market....to be members of a single risk pool." To maximize the rate-lowering impact of the reinsurance program, the state seeks to waive this single risk pool provision to the extent it would otherwise require excluding state reinsurance payments when determining the market wide index rate.

This application also seeks federal pass-through funding equal to the savings to the federal government in Exchange financial assistance provided to participants in the Exchange. This pass-through funding is essential to the success of the reinsurance program, which is intended to ensure the long-term stabilization and viability of New Hampshire's individual health insurance market. This request to receive pass-through funding to augment the state-based reinsurance program is based on savings that would be generated as a result of a reduction in financial assistance to participants in New Hampshire's Exchange in the form of APTC that would otherwise have been paid on behalf of New Hampshire residents.

¹ All highlighted New Hampshire statutes and other state-specific authorities are included in Attachment A.

² The assessment base is described in **NH RSA 404-G:5, III** and in the definition of "covered lives" contained in **NH RSA 404-G:2, V**.

New Hampshire intends to make all pass-through 1332 waiver funding immediately available for use by the reinsurance mechanism. This immediate reinvestment will bring premiums further down and thereby generate further savings for the federal government, which will be continuously reinvested in the reinsurance program until the maximum premium reduction effect is achieved.

New Hampshire's independent actuarial analysis estimates that the state-based reinsurance program laid out above will save the federal government at least \$12.8 million for 2018 and will likely increase enrollment in individual market coverage relative to what federal spending and plan enrollment would be absent the program.

The State Innovation Waiver would be effective January 1, 2018 for an initial period of one year, with an option to renew for an additional four years. Waiver years two through five would be contingent on further authorization from the New Hampshire legislature.

Assurances

New Hampshire's proposal seeks to waive ACA section 1312(c)(1) for the individual market single risk pool in connection with a Section 1332 waiver to implement a state-operated reinsurance program for 2018 and subsequent years. The state would use the interest income from assessments on carriers under **NH RSA 404-G** to fund the operations of the reinsurance program. The state-based reinsurance program would mitigate rate increases in the New Hampshire individual health insurance market and, as a result, would limit the amount of premium tax credits the federal government is responsible for providing to New Hampshire residents. The benefits of the state-based reinsurance program would be shared by the entire individual health insurance market regardless of income, age, race and ethnic group, or any other demographic characteristic. New Hampshire does not seek to waive any aspect of the ACA that would reduce access to meaningful, affordable insurance for any resident and does not contemplate changes to the Medicaid program, FFM, FF-SHOP, or direct purchase with this proposal.

The State of New Hampshire provides the following assurances:

A. Scope of Coverage.

The proposed waiver meets the comparability guardrail because there will be a small increase in the number of New Hampshire residents covered by an individual health insurance plan. There will not be any decreases in coverage for vulnerable populations by coverage category, health status, age, geographic location, or any other demographic characteristic due to the waiver.

The results of Gorman Actuarial (GA)'s migration modeling, which uses various assumptions on whether members would exit the market or remain based on the member's rate increase, which insurance carrier the individual is currently enrolled with, and metallic level, show that individual market coverage will decrease from 102,000 to 95,000 if a reinsurance program is not put in place. After implementation of a reinsurance program, GA projects the membership decline will be less.

B. Affordability.

In order to meet the affordability requirement, health care coverage must be as affordable for NH residents after the waiver as it would have been without the waiver. The proposed waiver meets the affordability guardrail in that it will not decrease the coverage and cost sharing protections against excessive out-of-pocket spending.

The waiver will not result in any decrease in affordability for individuals with large health care costs, for vulnerable groups, or at-risk populations. There will be no post-waiver increases in net out-of-pocket expenses, deductibles, co-pays, co-insurance, or premium contributions.

Since the proposed reinsurance program will only materially impact individual market premiums, GA has assumed that there will be no change in affordability to the other market segments due to the waiver. GA estimates that the premiums in the individual market will decrease 7.2% to 7.4% as a result of the initiatives included in the waiver. Individuals who are currently receiving APTC will experience minimal premium changes. The majority of APTC members will experience minimal impact from the reinsurance program as their share of the premium is tied to their income. APTC members in Bronze plans may see a very modest increase in premiums.

Individuals paying the full premium will experience a 7.2% to 7.4% reduction in their premiums in 2018 compared to what their premiums would have been without the reinsurance program. Given that one insurer is planning to exit the market in New Hampshire and one insurer is limiting its product portfolio, many current 2017 members will be forced to choose new plans and new insurers. Without a reinsurance program, many of these individuals would experience significant rate increases. Implementing a reinsurance program will reduce these increases by 7.2% to 7.4%.

C. Comprehensiveness.

To meet the comprehensiveness of coverage requirement, health care coverage under the waiver must be at least as comprehensive for residents of the State as coverage absent the waiver.

Comprehensiveness refers to coverage requirements associated with the ACA's Essential Health Benefit (EHB) requirements and, as appropriate, Medicaid and CHIP benefits and coverage standards.

The 1332 waiver being sought by New Hampshire does not impact EHBs for the commercial markets, and the waiver will not impact the scope of services covered by Medicaid or CHIP. The proposed waiver will retain the scope of benefits for the affected program and population, including requiring the provision of the ten EHBs, identified in the benchmark plan. It will not result in a decrease in the number of individuals with coverage that meets the EHB requirements, or in any way diminish benefits currently provided by Medicaid or employers. Therefore, the comprehensiveness of coverage requirement is unchanged across all market segments, as well as the Medicaid and CHIP programs.

D. Deficit Neutrality.

For CY 2018, GA has estimated that for every \$1 invested in the individual market, 68 cents to 75 cents is distributed back to the federal government, with a portion of these savings attributable to the state's PAP.³ Assuming the mid-range estimate of 71 cents for every \$1 invested, if NHID invests a total of \$44.9 million into a reinsurance program, the federal government will receive \$31.8 million. By funding the reinsurance program with an upfront investment provided by the federal government (\$12.8 million) and the NHRP assessment (\$32.1 million), less the individual market's share of the assessment (\$5.0 million), the federal government will receive back its initial investment of \$12.8 million through reduced APTC and lower FMAP payments associated with PAP enrollees.

The waiver may marginally impact the federal budget as individual market revenue decreases. As individual market premiums decrease, there may be reduced tax revenues collected from the insurer tax. However, this may be offset by more individuals purchasing individual insurance. Similarly, revenue collected through the federal Marketplace user fee may decrease as individual Marketplace premiums decrease. Again, this may be offset by more individuals purchasing insurance. GA believes these impacts to be immaterial, but will be doing more work on these parts in a future analysis.

E. Pass-Through Funding.

The state proposes that funds which the federal government would have paid as individual

³ The PAP program, created by **NH RSA 126-A:5, XXV** and authorized by the **PAP 1115 Waiver**, pays for the purchase of Qualified Health Plans (QHPs) to cover low-income adults who are newly eligible under the ACA's Medicaid expansion. PAP members are part of the state's individual market single risk pool, and make up approximately half of New Hampshire's QHP enrollment.

premium tax credits, including additional savings realized as a result of premium reductions, be passed through to the state to supplement the state-based reinsurance program.

F. Effect on Federal Operational Considerations.

The proposed waiver requests no changes to New Hampshire's Partnership Exchange. The waiver requires federal premium tax credit savings be passed through to the state.

G. Public Input.

The proposed waiver will be publicly posted, public hearings will be held, and public comments will be solicited in compliance with 31 CFR 33.112 and 45 CFR 155.1312.

Postings on-line will meet national standards to assure access to individuals with disabilities.

Summary of New Hampshire's Waiver Proposal

Rationale

New Hampshire is concerned about the possibility of a perfect storm of problems affecting its individual health insurance market for 2018 and beyond. As described above, issuers have lost money; trends in health care spending are on the rise again; and issuers have expressed concerns about the lack of a clear federal commitment to fund the CSRs. All of this has combined to place tremendous upward pressure on health insurance rates in the individual market. The New Hampshire individual health insurance market is also suffering a reduction in issuers (down from 5 to 3), with the largest remaining issuer said to be considering pulling out.

Increasing premiums are an obvious impediment to affordable coverage, which primarily impacts the roughly 25,000 individual market members that are not eligible for APTC. Higher individual Marketplace premiums also increase federal outlays in the form of higher APTC payments. In addition, developments described above have created market instability and threaten the near-term viability of the marketplace. Granting the waiver is fully consistent with the 1332 standard and with CMS regulations and guidance.

Benefits of Waiver

The reinsurance mechanism, along with the waiver, is estimated to decrease premium rates by approximately 7.3% from what they would have been absent the mechanism and waiver.

Section Impacted by Pass-Through Funding

As permitted by the ACA, New Hampshire proposes to apply the federal funding that would be paid to New Hampshire consumers absent the state-based reinsurance program. This funding could be combined with ongoing broad-based assessments under **NH RSA 404-G** to further stabilize the individual market. The implementation of the state-based reinsurance program directly affects the cost of the “applicable second lowest cost silver plan” in Section 36B (b) (3) (B) of the Internal Revenue Code.

Impact if Waiver is Not Granted

Not granting the waiver would lessen the impact of the reinsurance mechanism.

The reinsurance mechanism, along with the waiver, is estimated to decrease premium rates by approximately 7.3% from what they would have been absent the mechanism and waiver.

Characteristics of New Hampshire’s Health Insurance Market

The New Hampshire insurance market is challenged by a relatively small, aging population with few major health care providers that compete with each other. Total state population is about 1.3 million people, and fewer than 300,000 are in the fully insured market regulated by the NHID.⁴ There are three major carriers operating in the state, Cigna, Anthem, and Harvard Pilgrim Health Care, but Cigna is almost exclusively covering self-funded employers.⁵ A handful of carriers with insignificant market share exist, without any clear sign of potential growth or sustainability.

The individual market in New Hampshire has been precarious for decades. In 2013, this market covered only 16 percent of the fully insured population, or fewer than 40,000 members.⁶ More than eighty percent of those people were insured with Anthem. Anthem continues to cover a large proportion of the individual market, and has publicly announced their withdrawals from several states and indicated that they are continuing to review other markets.

In 2014, Anthem was the only insurance company to offer coverage on New Hampshire’s Federally Facilitated Marketplace. Years 2015 and 2016 showed strong competition in the individual market with five carriers on the exchange, but unfavorable financial performance

⁴ New Hampshire Insurance Department Report on 2015 Cost Drivers, November 2016 (“2015 Report”), <https://www.nh.gov/insurance/reports/documents/nhid-2015-medical-cost-drivers-final-report.pdf>.

⁵ 2015 Report.

⁶ New Hampshire Insurance Department Report on 2014 Cost Drivers, November 2015 (“2014 Report”) https://www.nh.gov/insurance/reports/documents/2015_annual_report_cost_drivers.pdf.

during 2016 has led to only three expressing their intention of participating on the exchange in 2018.

Under the ACA, the individual market rules changed dramatically in 2014, moving away from consideration for health status and reliance on a high risk pool. This created a great deal of uncertainty, premium increases, and the introduction of unpopular product offerings that had narrow networks. Even so, by covering the Medicaid expansion population through the PAP program and implementing the individual mandate, our individual market covered 38 percent of the fully insured market in 2016, or more than 100,000 people.⁷ Changes to the ACA may cause the New Hampshire market to revert to the characteristics of 2013, and the heavy dependence on a carrier that has expressed concerns with about its future in our state.

New Hampshire is recognized as having the third oldest population in the country,⁸ and our individual market has the oldest population within the fully insured market. Even after including the Medicaid expansion (PAP) population, which brought down the average age by two years, the individual market has an average age of 40.6, 3.1 years older than the average age of the small group market and 3.6 years older than the average age of the large group market.⁹

Health care prices in New Hampshire are some of the highest in the country. A 2016 report from the Health Care Cost Institute concluded that “[c]ompared to the national average, Alaska has the highest average health care prices, followed by Wisconsin, North Dakota, New Hampshire and Minnesota. In New Hampshire and Wisconsin, over 20 percent of health care services are twice the national average price.”¹⁰ Unfavorable financial performance in 2016, general uncertainty in the market, a small, older, and aging population base, and a limited ability of carriers to control health care prices put New Hampshire’s individual market in a precarious position going forward.

The April 2016 ASPE brief showed that among the FFM states, New Hampshire has the lowest percentage of Exchange participants receiving APTCs, at 66 percent.¹¹ This further suggests that people trying to decide whether to purchase individual insurance in New Hampshire are more likely to be price sensitive to the cost of health insurance increases, and potentially decide against coverage. The people most likely to leave the market due to premium increases are the healthiest individuals who see the smallest benefit to obtaining health insurance.

⁷ 2015 Report.

⁸ US Census 2015, <https://www.census.gov/>.

⁹ 2015 Report.

¹⁰ Newman, David “Prices For Common Medical Services Vary Substantially Among The Commercially Insured” 2016 <http://content.healthaffairs.org/content/35/5/923.full?ijkey=HTJz6HvLSIf0E&keytype=ref&siteid=healthaff>.

¹¹ “Health Insurance Marketplace Premiums After Shopping, Switching, and Premium Tax Credits, 2015-2016” April, 2016, <https://aspe.hhs.gov/system/files/pdf/198636/MarketplaceRate.pdf>.

Characterizations of Defined Populations

Native Americans

New Hampshire has no recognized Native American tribes, and estimates that less than 1% of the population identifies as American Indian. The NHID assumes that the majority of this population obtains coverage in much the same way as the rest of the New Hampshire population.

Military

A small percentage of New Hampshire's population has health coverage related to current or previous military service. This includes Air Force, Army, Coast Guard and Veteran's Administration beneficiaries.

Medicaid

New Hampshire has expanded Medicaid to include adults with income up to 138% of the federal poverty level. Specifically, New Hampshire's Premium Assistance Program ("PAP"), created by **NH RSA 126-A:5, XXV** and authorized by the **PAP 1115 Waiver**, pays for the purchase of Qualified Health Plans (QHPs) to cover low-income adults who are newly eligible under the ACA's Medicaid expansion. Approximately half of New Hampshire's QHP enrollees are PAP members.

Proposed Waiver: Utilizing Pass-Through Funding

ACA Section 1312 (c)(1) requires a health insurance issuer to consider all enrollees in all health plans (other than grandfathered health plans) offered by such issuer in the individual market, including those enrollees who do not enroll in such plans through the Exchange, to be members of a single risk pool. To maximize the rate-lowering impact of the reinsurance program, the state would like to waive this single risk pool provision to the extent it would otherwise require excluding state reinsurance payments when determining the market wide index rate.

As provided by the ACA, New Hampshire seeks a pass-through of the federal funding that would be paid to New Hampshire consumers absent the state-based reinsurance program. This funding could be combined with assessments under **RSA 404-G** to further stabilize the individual market. The implementation of the state-based reinsurance program directly affects the cost of the "applicable second lowest cost silver plan" (2LCSP) in Section 36B (b)(3)(B) of the Internal Revenue Code:

B) APPLICABLE SECOND LOWEST COST SILVER PLAN.—

The applicable second lowest cost silver plan with respect to any applicable taxpayer is the second lowest cost silver plan of the individual market in the rating area in which the taxpayer resides which—

(i) is offered through the same Exchange through which the qualified health plans taken into account under paragraph (2) (A) were offered, and

(ii) provides—

(I) self-only coverage in the case of an applicable taxpayer—

(aa) whose tax for the taxable year is determined under section 1(c) (relating to unmarried individuals other than surviving spouses and heads of households) and who is not allowed a deduction under section 151 for the taxable year with respect to a dependent, or

(bb) who is not described in item (aa) but who purchases only self-only coverage, and

(II) family coverage in the case of any other applicable taxpayer.

ACA Section 1401(a), enacting Section 36B of the Internal Revenue Code. Due to the state's subsidization of the individual market, the required premium for the 2LCSP will be less than it would be absent the program. Because the required premium is less, the federal premium tax credits are also less than they would be absent the program.

The state proposes to receive federal pass-through funding as described in the December 11, 2015 guidance issued by CMS and the Department of Treasury. The federal funding would be utilized to ensure the viability of the individual market by stabilizing the premium rates.

Description of Waiver Program

HB 469 permits the Commissioner to propose a stabilization mechanism. New Hampshire seeks to implement a reinsurance mechanism. Funds will be raised via an assessment against the broader insurance market. Funds will be used to fund a corridor reinsurance program, similar to the federal reinsurance program administered beginning in 2014.

Pass-Through Funding Proposal

The GA actuarial analysis, under the waiver scenario, illustrates that the state-based reinsurance program saves the federal government approximately, initially, \$8.7 million in APTC savings during 2018. This figure of \$8.7 million represents approximately 32.2% of the total net dollars assessed. By making this money immediately available to the reinsurance mechanism, i.e., by reinvesting this money into the individual market, further APTC savings will be realized, i.e., 32.2% of the reinvested \$8.7 million. This results in a geometric series, with the total APTC savings equal to $\$8.7 \text{ million} * 1 / (1 - 32.2\%) = \12.8 million total APTC savings.

These funds will be made available to individual issuers through a corridor reinsurance mechanism. NHID is proposing that NH Health Plan pay 40% of claims incurred between \$45,000 and \$250,000. This is expected to generate claims of approximately \$40 million. At the end of the plan year, NHID proposes that NH Health Plan true up the coinsurance percentage to distribute the remaining, estimated \$4.9 million. NH Health Plan will be responsible for developing a plan of operation that details the payment method.

Not only do the projected savings reflect the general proportion of the individuals who are eligible for subsidies, the inclusion of the non-APTC consumers under the waiver scenario further assists the pool due to their favorable health status. The premium will generally remain about the same for those receiving premium tax credits. Without the state-based reinsurance program, the state would anticipate lapses for those who are not eligible for subsidies. The proportion of non-APTC consumers affects the amount of expected pass-through funding. Federal support via pass-through funding would support the continued viability of the state-based reinsurance program and the New Hampshire individual market.

Tax Credit Proposal

Due to the state-based reinsurance program, the federal government will realize significant savings from the reduced premium tax credits. The formula for a consumer's premium tax credit is the cost of the second lowest cost silver plan (2LCSP) minus the household's required contribution which depends on the percentage of Federal Poverty Level (FPL). With a lower rate increase, the cost of a 2LCSP is less; therefore, the amount of subsidy or APTC provided to the household will be less. As the state's proposal for the innovation waiver, New Hampshire requests that the savings to the federal government from the state-based reinsurance program be provided to the state as pass-through funding to be used as future appropriations to the fund, which will further lessen the financial stress on New Hampshire's individual health insurance market.

Affected Populations and Demographics

The waiver proposal would provide funding in support of the reinsurance mechanism to stabilize NH's individual market. The waiver will maintain, rather than reduce coverage, affordability, and comprehensiveness. Its approval will have a positive effect on the federal deficit.

Effect on Residents' Ability to Get Care Out of State

New Hampshire's proposed waiver will have no effect on residents' ability to obtain care out of state. Benefits would not be changed due to the waiver program. New Hampshire health plans provide for coverage out of state when services are not available in the state.

Description of Post-Waiver Marketplace

Individual Health Insurance Market

There will be no change to the operating function of the individual market. Individuals and families may apply on the FFM at www.healthcare.gov where eligibility for Medicaid, tax credits, or cost sharing reductions will be determined. Individuals and families not eligible for other public or private coverage will be able to complete enrollment in a participating Qualified Health Plan on the FFM. New Hampshire consumers may also continue to purchase health insurance directly from an insurance company. Assistance with plan selection may be provided by an agent or broker, navigator or other in-person assister.

Small and Large Employers

Premiums for small and large group coverage may increase slightly as a result of the assessment to fund the state-based reinsurance mechanism. Otherwise, there will be no change in the insurance market for groups.

Number of Employers Offering Coverage Pre/Post Waiver

New Hampshire does not expect any changes in the number of employers offering coverage in-state.

Impact on Insurance Coverage in the State

New Hampshire's proposed waiver seeks pass-through funds based on savings to the federal government. It will not directly affect coverage in the marketplace because the state-based reinsurance program does not affect the benefits or coverage available.

The program is intended, however, to provide stability to the individual health insurance market and potentially attract health insurance companies. New Hampshire's proposal encourages

competition in the state. If additional companies move into the New Hampshire individual market, consumers will benefit from natural market forces.

Actuarial modeling provided by Gorman Actuarial indicates that the state-based reinsurance program will help reduce the premium rates necessary for insurers in the New Hampshire individual market to cover claims, and thus the amounts charged to New Hampshire residents. In addition, the slowing of the growth of rate increases and potential rate decreases due to the state-based reinsurance program may draw additional residents into the market. Modeling indicates that the state-based reinsurance program may attract healthier members to the individual market, further reducing premium rates.

New Hampshire's waiver does not seek modification of the benefits offered to New Hampshire consumers. Benefit packages are expected to continue to contain essential health benefits while maintaining historical benefit levels and meeting required out-of-pocket limits. Under the waiver, New Hampshire's insurance coverage will continue to meet all requirements of federal and state law.

Increase/Decrease in Administrative Burden

New Hampshire expects that the proposed waiver will result in minimal administrative burden and related costs for some relevant parties. Consumers and insurers will be unaffected, but the State of New Hampshire will have additional reporting requirements to the federal government related to the waiver. The federal government will have additional administrative requirements with regard to pass-through funding.

For Individuals and their Families

There will be no administrative impact to individuals and families related to this waiver. Individuals will continue to purchase individual and family plans in the same manner. Consumers can purchase plans on the FFM at www.healthcare.gov (particularly if they wish to obtain a tax credit), work with a broker or agent, or contact an insurer directly regarding purchasing insurance coverage outside the exchange.

For Insurers

Under the proposed waiver, insurers will continue to manage enrollment and administration of claims in the same manner as they have previously. While they will have additional administrative requirements if they participate in the state-based reinsurance program, the waiver would not impact insurers' operations.

For State Agencies

Under the waiver, New Hampshire will be required to provide to the federal government reports, actuarial studies, and other documentation justifying the amount of pass-through funding provided in support of the state-based reinsurance program.

For Federal Agencies

New Hampshire's waiver does not necessitate significant operational changes for the FFM or IRS. The proposed waiver's impact on the federal agencies is limited to the administrative work of calculating and facilitating the transfer of pass-through funds. The waiver does not affect the calculation of APTC or the reconciliation of premium tax credits when consumers file their taxes.

Effect on Sections of ACA that are Not Proposed to be Waived

No other section of the ACA would be affected by the proposed waiver.

Comparability: Data and Analysis, Actuarial Certifications, Assumptions, Targets

The actuarial and economic studies find that compared to a baseline without a waiver, the scenario with a waiver will have no impact on comprehensiveness, federal deficit neutrality, or the effect on federal operational considerations. However, coverage comparability and affordability will be positively impacted. Actuarial analysis reflects slightly increased enrollment in the individual market upon implementation of the proposed waiver.

Coverage Comparability

The proposed waiver meets the comparability test because there will be an increase in the number of New Hampshire residents covered. There will not be any changes in coverage for vulnerable populations by coverage category, health status, age, geographic location, or any other demographic characteristic due to the waiver. The actuarial analysis indicates that there will be additional enrollees under the waiver. The increased enrollment, versus the anticipated enrollment without the waiver, will come from residents with income above 400% FPL.

There is no impact to employer group coverage and governmental insurance programs.

Affordability of Coverage

The purpose of the state-based reinsurance program is to mitigate rate increases by removing high cost claims from the individual health market. Premium tax credits associated with the ACA will continue to be paid based on federal methodology, but the growth of such payments is slowed by the state-based reinsurance program. Actuarial modeling shows that due to the state-based reinsurance program, premiums are expected to be 6% lower under the waiver scenario. APTC eligible individuals will see little change in premium due to their receipt of APTC. Residents with incomes above 400% FPL who currently pay all premiums without any federal tax credits will experience premium reductions.

Under the ACA, the amount consumers are expected to contribute to healthcare costs is limited to a percentage of their income. Residents with incomes of 250-400% FPL would continue to be eligible for tax credits based on the 2LCSP, and (if they purchase a silver plan) they would pay premiums that the federal government deems affordable. A small number of currently covered consumers may consider the premiums unaffordable and choose to discontinue their coverage. However, the overall number of New Hampshire consumers that will be covered is projected to slightly increase when compared to the number of consumers that will be covered if the waiver is not approved. Consumers under 250% FPL will likely choose silver plans with cost share reduction benefits. The New Hampshire waiver meets the affordability of coverage guardrail because there is no change to the federal definition of affordability, vulnerable populations are not impacted, and aggregate enrollment will increase.

Scope and Comprehensiveness of Coverage

All New Hampshire individual market plans include the ten EHB as well as state-mandated benefits. None of these benefits will change under the waiver. Mandated benefits are noted below and at <https://www.cms.gov/CCIIO/Resources/Data-Resources/Downloads/New-Hampshire-ehb-benchmarkplan.pdf>.

Affordable Care Act Essential Health Benefit Category

1. Ambulatory patient services
2. Emergency services
3. Hospitalization
4. Maternity and newborn care
5. Mental health and substance abuse disorder services, including behavioral health treatment
6. Prescription drugs
7. Rehabilitative and habilitative services

8. Laboratory services
9. Preventive and wellness services and chronic disease management
10. Pediatric services, including oral and vision care

Federal Deficit Neutrality

It is expected that the proposed waiver will not result in increased spending, administrative or other expenses to the federal government.

Effect on Federal Operational Considerations

The proposed waiver requests no state-specific changes to FFM nor does it require state-specific modifications of the Internal Revenue Code for administration of the waiver. The waiver requires federal premium tax credit savings be passed through to the state.

10-Year Waiver Budget (Budget Neutrality)

New Hampshire is proposing APTC savings of \$12.8 million in 2018, due to state subsidization of the New Hampshire Reinsurance Program. The proposed waiver reduces health care premiums and leads to a decrease in APTC sufficient to immediately outweigh any possible negative impact on the federal budget.

Assuring Compliance, Reducing Waste and Fraud

The NHID has responsibility for regulating and ensuring compliance and solvency of health insurers, performing market conduct analysis and examinations, conducting investigations, and providing consumer outreach.

Implementation Timeline and Process

July 19 – Notice of Hearing

July 26 – Joint Legislative Health Reform Oversight Committee

August 2 & 3 – NHID Public Hearings

August 14 – NH Health Plan Board meets to vote on Plan of Operation

August 18 – Close of State’s Public Comment Period

August 25 – Final Application filed

Reporting Responsibilities

Per 45 CFR 155.1308(f)(4), the New Hampshire Insurance Department will submit the required reports for the scope of coverage requirement, the affordability requirement, the comprehensive requirement, and the federal deficit requirement.

As required, New Hampshire will hold public meetings six months after the proposed waiver is granted and annually thereafter. The date, time, and location of each forum will be posted on the NHID website. The division will also notify consumer and business advocacy organizations. Each meeting will be conducted at a site that allows both in-person and remote attendance to accommodate residents across the state.

Waiver Development Process

As required under 1332(a)(1)(B)(i), the NH General Court passed HB 469 authorizing the submission and implementation of the proposed waiver.

NHID will amend this section with details of the public hearing process and comments received.