CMS
CENTERS FOR MEDICARE & MEDICAID SERVICES
CENTER FOR CONSUMER INFORMATION & INSURANCE OVERSIGHT

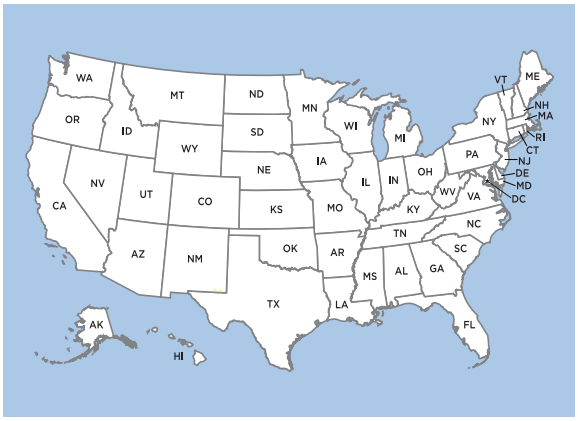
CCIIO DATA BRIEF SERIES

State Relief and Empowerment Waivers: State-based Reinsurance Programs

JUNE 2020

BACKGROUND

Section 1332 of the Patient Protection and Affordable Care Act (PPACA) permits states to apply for waivers that allow states to pursue innovative strategies that provide their residents with access to affordable, quality health care. In order to be approved, 1332 waiver applications must provide access to health coverage that is at least as comprehensive and affordable as would be provided absent the waiver, provide coverage to a comparable number of residents of the state as would be provided absent a waiver, and may not increase the federal deficit. States were first able to apply for 1332 waivers beginning on January 1, 2017, and to date, the Centers for Medicare & Medicaid Services (CMS), within the Department of Health and Human Services (HHS) and the Department of the Treasury (collectively, the Departments) have approved thirteen states' waivers.



Twelve states have used section 1332 waivers to waive the single risk pool requirement under section 1312(c)(1) of the PPACA to the extent that it would otherwise require excluding total expected state reinsurance payments when establishing the market-wide index rate which allow the states to implement state-based reinsurance programs.[1]

The data tables presented in the following sections provide an overview of the state-based reinsurance programs implemented using section 1332 waivers, including relevant information about premiums, issuer participation, and enrollment.

CURRENTLY APPROVED SECTION 1332 WAIVERS FOR STATE-BASED REINSURANCE PROGRAMS

Funding Sources and Program Design Elements

Tables 1 and 2 summarize state funding sources and programmatic elements for currently approved state-based reinsurance programs.[2] Through section 1332 waivers, states have designed and implemented different models of state-based reinsurance programs, including: a claims cost-based model, where issuers are reimbursed for a portion of the costs of enrollees whose claims exceed an attachment point (e.g., CO, DE, MD, MN, MT, ND, NJ, OR, RI, WI); a conditions-based model, where insurers are reimbursed for costs of individuals with one or more of pre-determined high-cost conditions (e.g., AK); or a hybrid conditions- and claims cost-based model (e.g., ME).

[1] State-based reinsurance programs are distinct from the temporary federal reinsurance program effective 2014 through 2016, the latter being established via section 1341 of the PPACA. The goal of the PPACA's temporary reinsurance program was to stabilize individual market premiums during the early years of the new market reforms that were effective beginning in 2014.

[2] State legislation authorizing states' funding sources are listed in the endnotes.

TABLE 1
State Funding Sources for Section 1332 State-Based Reinsurance Programs*

State	First Year of Operation Under a Waiver	State Funding Source
Alaska	2018	Alaska funds the state portion of its state-based reinsurance program through a separate fund called the Alaska Comprehensive Health Insurance Fund appropriated by the state legislature, which was set up within their general fund and financed by the state's premium tax that applies to all lines of insurance (not just health insurers) in Alaska.[1] Premium tax rates under this program vary from 0.75% to 6% depending on insurer type.
Colorado	2020	Colorado funds the state portion of its state-based reinsurance program through a special assessment fee on hospitals ($40M) and money from the state's general fund ($50M). General fund revenue includes a state premium tax of about $13M in 2020.[2]
Delaware	2020	Delaware funds the state portion of its state-based reinsurance program through an assessment on carriers and any person or entity subject to state regulation that provides either a) products subject to the Health Insurance Providers Fee under Section 9010 of the PPACA; or b) products subject to a state assessment. The state assessment is 2.75% of premium annually in years that the Health Insurance Providers Fee is waived, and 1% of premium annually in years that the Health Insurance Providers Fee is assessed.[3]
Maine	2019	Maine funds the state portion of its state-based reinsurance program through a) a market-wide assessment ($4 per member/per month), and b) a ceding premium equal to 90% of premiums received from consumers for all policies ceded, whether on a mandatory or discretionary basis.[4]
Maryland	2019	In 2019, Maryland funded the state portion of its state-based reinsurance program through a 2.75% state assessment on certain health insurance carriers.[5] The assessment amount is what carriers would have otherwise been subject to under the Health Insurance Providers Fee of Section 9010 of the PPACA, but Congress suspended the tax for 2019. For 2020 through 2023, the state will collect a 1% state assessment on the same carriers.[6]
Minnesota	2018	Minnesota funds the state portion of its state-based reinsurance program through their general fund and a portion of past accumulations of the state's 2% provider tax which applies to hospitals and other providers.[7]
Montana	2020	Montana funds the state portion of its state-based reinsurance program through a 1.2% annual state assessment on major medical health insurance premiums.[8]
New Jersey	2019	For each plan year, New Jersey funds the state portion of its state-based reinsurance program from revenue raised by shared responsibility payments per the state individual mandate,[9] and if necessary, the state general fund.
North Dakota	2020	North Dakota funds the state portion of its state-based reinsurance program through a state assessment on insurers writing in the small and large group health insurance markets. The 2020 assessment on the insurers is approximately $22M. North Dakota allows insurers to deduct the assessment from the state premium tax.[10]
Oregon	2018	For plan years 2018 and 2019, Oregon funded the state portion of its state-based reinsurance program through a phased-in 1.5% state premium assessment levied on major medical premiums, and for 2018 only, Oregon also used excess fund balances held in two state programs, the Oregon Health Insurance Marketplace (OHIM) fund and the Oregon Medical Insurance Pool (OMIP) account.[11] Starting in 2020, Oregon undertook two key changes to the assessments: a) increased the premium assessment from 1.5% to 2%, and b) expanded the assessment to apply to premiums derived from "insurance described in ORS 742.065" (stop loss insurance).[12,13]
Rhode Island	2020	Rhode Island funds the state portion of its state-based reinsurance program through a state appropriation for the Health Insurance Market Integrity Fund to support operation and administration of the program, and from penalties collected from the state individual mandate.[14,15]
Wisconsin	2019	Wisconsin funds the state portion of its state-based reinsurance program through state general purpose revenue (GPR), which consists of general taxes, miscellaneous receipts, and revenues collected by the state. The state is able to appropriate GPR for the Wisconsin Healthcare Stability Plan (WIHSP) through a sum sufficient appropriation.[16]

*Table endnotes found on page 8

TABLE 2
Program Design Elements of Section 1332 State-Based Reinsurance Programs

State	Type of Reinsurance Program	Program Parameters
Alaska	Conditions Based	**Total Planned Cost of Reinsurance Program:** $60M (2018) $64.1M (2019) $69M (2020) **Eligibility:** Alaska covers all the costs of claims for one or more of 33 conditions specified in state regulation (2018/2019); 34 conditions specified in state regulation (2020).
Colorado	Claims Cost Based	**Total Planned Cost of Reinsurance Program:** $250M (2020) Colorado's program specifies a three-tier structure for coinsurance rates, with targeted reduction in claim costs by rating area. **Attachment point:** $30,000 (2020) **Coinsurance rate:** Average 60% (2020) **Cap:** $400,000 (2020) **Tiers:** • Tier 1 (Rating Areas 1, 2, 3 for Boulder, Colorado Springs, Denver): Claim costs are to be reduced by between 15% and 20%; • Tier 2 (Rating Areas 4, 6, 7, 8 for Fort Collins, Greeley, Pueblo, Eastern Plains, central southern part of state): Claim costs are to be reduced by between 20% and 25%; • Tier 3 (Rating Areas 5 and 9 for Grand Junction, Mountain Areas, Western Slope, western half of state): Claim costs are to be reduced by between 30% and 35%.
Delaware	Claims Cost Based	**Total Planned Cost of Reinsurance Program:** $26.9M (2020) **Attachment point:** $65,000 (2020) **Coinsurance rate:** 75% (2020) **Cap:** $215,000 (2020)
Maine	Hybrid (Attachment Point/Conditions Based)	**Total Planned Cost of Reinsurance Program:** $93M (2019) $81.8M (2020) **Eligibility:** There are two types of ceding to the Maine Guaranteed Access Reinsurance Association (MGARA) for reinsurance benefits: a) all policies covering individuals with one of eight listed high-risk health conditions are required to be ceded, and b) any other policies may be ceded at the carrier's discretion. **Attachment point:** $47,000 (2019) $65,000 (2020) **Coinsurance rate:** 90% for $47,000-$77,000 (2019) 90% for $65,000-$95,000 (2020) 100% for >$77,000 (2019) 100% for >$95,000 (2020); and a percentage of claims above $1M, which are not partially covered by the high-cost risk pool under the federal risk adjustment program (2019/2020) **Cap:** None, but for claims above $1M the program pays net of amounts covered by the federal risk adjustment program high-cost risk pool (2019/2020)
Maryland	Claims Cost Based	**Total Planned Cost of Reinsurance Program:** $462M (2019) $400M (2020) **Attachment point:** $20,000 (2019/2020) **Coinsurance rate:** 80% (2019/2020) **Cap:** $250,000 (2019/2020)

TABLE 2, cont.
Program Design Elements of Section 1332 State-Based Reinsurance Programs

State	Type of Reinsurance Program	Program Parameters[1]		
Minnesota	Claims Cost Based	**Total Planned Cost of Reinsurance Program:** Up to $271M each year (2018/2019/2020) $136M (2018) $156.6M* (2019) $169M** (2020)		
		Attachment point: $50,000 (2018/2019/2020)	**Coinsurance rate:** 80% (2018/2019/2020)	**Cap:** $250,000 (2018/2019/2020)
Montana	Claims Cost Based	**Total Planned Cost of Reinsurance Program:** $34.5M (2020)		
		Attachment point: $40,000 (2020)	**Coinsurance rate:** 60% (2020)	**Cap:** $101,750 (2020)
New Jersey	Claims Cost Based	**Total Planned Cost of Reinsurance Program:** $295M* (2019) $320M* (2020)		
		Attachment point: $40,000 (2019/2020)	**Coinsurance rate:** 60% (2019/2020)	**Cap:** $215,000 (2019/2020)
North Dakota	Claims Cost Based	**Total Planned Cost of Reinsurance Program:** $47M (2020)		
		Attachment point: $100,000 (2020)	**Coinsurance rate:** 75% (2020)	**Cap:** $1M (2020)
Oregon	Claims Cost Based	**Total Planned Cost of Reinsurance Program:** $90M (2018) $95.4M (2019) $101.8M (2020)		
		Attachment point: $95,000 (2018) $90,000 (2019/2020)	**Coinsurance rate:** 59.2% (2018) 50% (2019/2020)	**Cap:** $1M (2018/2019/2020)
Rhode Island	Claims Cost Based	**Total Planned Cost of Reinsurance Program:** $14.7M (2020)		
		Attachment point: $40,000 (2020)	**Coinsurance rate:** 50% (2020)	**Cap:** $97,000 (2020)
Wisconsin	Claims Cost Based	**Total Planned Cost of Reinsurance Program:** $200M (2019/2020)		
		Attachment point: $50,000 (2019) $40,000 (2020)	**Coinsurance rate:** 50% (2019) 50% (2020)	**Cap:** $250,000 (2019) $175,000 (2020)

[1] For the Total Cost of Reinsurance Program, values marked with one asterisk (*) indicate estimates and values marked with two asterisks (**) indicate projections.

Premiums

Table 3 presents the actual impact of the waiver on statewide average premiums compared to the estimated impact on statewide average premiums (i.e., as estimated in the original state waiver application) for each waiver year.

TABLE 3
Statewide Average Premium Impact of Section 1332 State-Based Reinsurance Programs[1]

State	First Year of Operation Under a Waiver	Estimated Statewide Average Premium Reduction in First Year of Waiver[2]	Actual Statewide Premium Reduction from Waiver Compared to No Waiver[3]		
			2018	2019	2020
Alaska	2018	Up to a 20% reduction	30.2%	34.0%	37.1%
Minnesota	2018	Up to a 20% reduction	16.8%	20.2%	21.3%
Oregon	2018	Up to a 7.5% reduction	7.2%	6.7%	8.0%
Maine	2019	Up to a 9% reduction		13.9%	7.2%
Maryland	2019	Up to a 30% reduction		39.6%	35.8%
New Jersey	2019	Up to a 15% reduction		15.5%	16.9%
Wisconsin	2019	Up to an 11% reduction		9.9%	11.0%
Colorado	2020	Up to a 16% reduction			22.4%
Delaware	2020	Up to a 20% reduction[4]			13.8%
Montana	2020	Up to an 8% reduction			8.9%
North Dakota	2020	Up to a 20% reduction			20.0%
Rhode Island	2020	Up to a 5.9% reduction			3.8%
Average Premium Reduction[5]			**12.7%**	**17.8%**	**17.7%**

[1] The average statewide premium is an average of premiums with each rating area given an equal weight. Enrollment data by rating area are unavailable.

[2] The estimated average statewide premium reduction is provided by each state as part of its waiver application.

[3] The actual average statewide premium reductions are calculated using premium information submitted by each state for pass-through calculations pertaining to each year of the approved waiver. Consistent with the specific terms and conditions of the waiver, each state provides to the Departments: 1) the final second lowest cost silver plan (SLCSP) rates for a representative individual (e.g. a 21-year-old nonsmoker) in each rating area; and, 2) the state's estimate of what the final SLCSP rates for a representative individual in each rating area would have been absent approval of the waiver for each year of the approved waiver.

[4] Delaware estimated premiums to be reduced by an average of 13% to 20%, depending on the level of funding expected to be available for each plan year, plus any additional assumed morbidity improvement, as explained in its application.

[5] This number reflects the weighted average premium reduction (using 2018 risk adjustment premium) among states with approved reinsurance programs.

Issuer Participation

Table 4 shows changes in issuer participation among states with approved section 1332 state-based reinsurance programs.

TABLE 4
Issuer Participation in States with Section 1332 State-Based Reinsurance Programs[1]

State	First Year of Operation Under a Waiver	On-Exchange, Individual Market Issuer Participation			
		2017	2018	2019	2020
Alaska	2018	1	1	1	2^ Re-entry: Moda
Minnesota	2018	4	4	4	5^ Re-entry: PreferredOne
Oregon	2018	6	5 Exit: ATRIO Health Plans	5	5
Maine	2019	3	2 Exit: Anthem	3^ Re-entry: Anthem	3
Maryland	2019	3	2 Exit: Cigna	2	2
New Jersey	2019	3	4^ Entry: Mulberry Health (Oscar)	4	4
Wisconsin	2019	15	11 Exits: Anthem, Franciscan Health Solutions, Gundersen Health System, Molina Healthcare	12^ Re-entry: Molina	13^ Re-entry: WPS Health Plan, Inc.
Colorado	2020	7	7	7	8^ Entry: Oscar Health
Delaware	2020	3	1 Exits: Aetna (two separate HIOS ID's)	1	1
Montana	2020	3	3	3	3
North Dakota	2020	3	2 Exit: Medica	3^ Re-entry: Medica	3
Rhode Island	2020	2	2	2	2

[1] For FFE states, CMS issuer counts are based upon the number of unique Health Insurance Oversight System (HIOS) ID's. Issuers represent the organization within an insurance company that is responsible for insurance offerings in a given state. Registering an entity as an Issuer within HIOS will generate a unique Issuer ID. Whereas State-based Marketplace (SBM) data is self-reported from the Marketplaces to CMS, including the following states with approved section 1332 waivers: CO, MD, MN, and RI.

^ Denotes a new issuer participating (entry or re-entry) in the individual market from the previous year.

Enrollment

Table 5 displays enrollment both on and off-Exchange for states that began implementing section 1332 state-based reinsurance programs in 2018, and compares these states to national enrollment numbers.

TABLE 5
Individual Health Insurance Market Subsidized[1] and Unsubsidized Average Monthly Enrollment for Waiver States with First Year of Operation Effective 2018[2]

States with First Year of Operation Under a Waiver in 2018	Individual Market Enrollment	2016 Individual Market Average Monthly Enrollment	2017 Individual Market Average Monthly Enrollment	2018 Individual Market Average Monthly Enrollment
Alaska[3]	**Total**	**17,596**	**15,898**	**16,761**
	Percent Change[4]		*-10%*	*+5%*
	Subsidized	14,065	13,442	14,125
	Percent Change		*-4%*	*+5%*
	Unsubsidized	3,531	2,456	2,636
	Percent Change		*-30%*	*+7%*
Minnesota	**Total**	**240,312**	**155,471**	**148,943**
	Percent Change		*-35%*	*-4%*
	Subsidized	42,631	61,932	62,832
	Percent Change		*+45%*	*+1%*
	Unsubsidized	197,681	92,539	86,111
	Percent Change		*-53%*	*-7%*
Oregon	**Total**	**224,670**	**210,384**	**190,899**
	Percent Change		*-6%*	*-9%*
	Subsidized	87,436	95,919	98,489
	Percent Change		*+10%*	*+3%*
	Unsubsidized	137,234	114,465	92,410
	Percent Change		*-17%*	*-19%*
Total U.S.[5]	**Total**	**14,517,542**	**13,018,351**	**12,128,447**
	Percent Change		*-10%*	*-7%*
	Subsidized	8,248,839	8,025,959	8,356,247
	Percent Change		*-3%*	*+4%*
	Unsubsidized	6,268,703	4,992,392	3,772,200
	Percent Change		*-20%*	*-24%*

[1] Subsidized and unsubsidized in terms of eligibility for Advance Payments of the Premium Tax Credit (APTC).

[2] Enrollment data for 2016, 2017, and 2018 sourced from: Trends in Subsidized and Unsubsidized Enrollment August 12, 2019. Data includes average monthly enrollment in PPACA individual market (on and off-exchange), and does not include enrollment in grandfathered or transitional plans. Available online at https://www.cms.gov/CCIIO/Resources/Forms-Reports-and-Other-Resources/Downloads/Trends-Subsidized-Unsubsidized-Enrollment-BY17-18.pdf.

[3] Alaska began operating its reinsurance program in 2017, prior to the first year of its 1332 waiver.

[4] Percent changes in enrollment are for 2016 to 2017 and 2017 to 2018.

[5] Total U.S. enrollment excludes data on plans from Massachusetts and Vermont, because both states have merged their individual and small group markets.

TABLE 1 ENDNOTES:
Legislation Authorizing State Funding Sources for Reinsurance

Alaska

[1] HB 374 was signed into law on July 18, 2016. Available online at http://www.akleg.gov/basis/Bill/Detail/29?Root=HB%20374

Colorado

[2] HB19-1168 was signed into law on May 17, 2019. Available online at http://leg.colorado.gov/sites/default/files/2019a_1168_signed.pdf

Delaware

[3] HB 193 was signed into law on June 20, 2019. Available online at http://legis.delaware.gov/BillDetail/47632

Maine

[4] SP 221 LD 659 was signed into law on June 2, 2017. Available online at https://legislature.maine.gov/legis/bills/getPDF.asp?paper=SP0221&item=3&snum=128

Maryland

[5] HB 1782 was signed into law on April 10, 2018. Available online at http://mgaleg.maryland.gov/2018RS/chapters_noln/Ch_37_hb1782E.pdf

[6] HB 258 was signed into law on May 25, 2019. Available online at http://mgaleg.maryland.gov/2019RS/Chapters_noln/CH_597_hb0258t.pdf

Minnesota

[7] HF No.5 became law on April 4, 2017. Available online at https://www.revisor.mn.gov/bills/text.php?number=HF5&version=5&session=ls90&session_year=2017&session_number=0

Montana

[8] SB 125 was signed into law on April 30, 2019. Available online at https://leg.mt.gov/bills/2019/BillPdf/SB0125.pdf

New Jersey

[9] A3380 was signed into law on May 30, 2018. Available online at https://www.njleg.state.nj.us/2018/Bills/A3500/3380_R1.PDF

North Dakota

[10] HB 1106 was signed into law on April 18, 2019. Available online at https://www.legis.nd.gov/assembly/66-2019/documents/19-8068-05000.pdf

Oregon

[11] HB 2391 was signed into law on July 5, 2017. Available online at https://olis.leg.state.or.us/liz/2017R1/Downloads/MeasureDocument/HB2391

[12] 2017 Oregon Revised Statutes, 742.065 published in 2017. Available online at https://www.oregonlegislature.gov/bills_laws/ors/ors742.html

[13] HB 2010 was signed into law on March 13, 2019. Available online at https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2010

Rhode Island

[14] S 2934 was signed into law on July 2, 2018. Available online at http://webserver.rilin.state.ri.us/BillText/BillText18/SenateText18/S2934A.pdf

[15] H 8351 was signed into law on July 2, 2018. Available online at http://webserver.rilin.state.ri.us/BillText/BillText18/HouseText18/H8351.pdf

Wisconsin

[16] 2017 Wisconsin Act 138 was signed into law on February 27, 2018. Available online at https://docs.legis.wisconsin.gov/2017/related/acts/138