

DEPARTMENT OF HEALTH & 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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December 11, 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 December 9, 2024, of New York’s (or “the State”) waiver extension application for a State Innovation Waiver under section 1332 of the Affordable Care Act (ACA).<sup>1</sup> I am pleased to send this letter from the Center for Consumer Information and Insurance Oversight (CCIO) 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 1332 waiver waives section 36B of the Internal Revenue Code (IRC) to the extent it would otherwise provide that a month is a “coverage month” (and therefore a PTC may be allowed for that month) if an individual residing in New York is under age 65 and has in effect a determination by the Exchange that their estimated household income is at or below 250% of FPL, as well as section 1402 of the ACA to the extent it would otherwise make New York residents under age 65 and with estimated household incomes at or below 250% of FPL eligible for cost-sharing reductions, for the purposes of enrolling these individuals in the State’s coverage program, the Essential Plan Expansion. New York’s approved 1332 waiver also waives the single risk pool requirement in the individual market under section 1312(c)(1) of the ACA to the extent it would otherwise prohibit including individuals with estimated household incomes 200 to 250% of FPL in the individual market single risk pool when establishing the market-wide index rate for the purposes described in the State’s section 1332 waiver application. The affordability programs under New York’s waiver also include the implementation of state cost-sharing subsidies for certain enrollees in the Exchange. New York’s waiver is currently approved from January 1, 2025, through December 31, 2028. New York’s extension request seeks to continue the waiver of IRC section 36B and ACA sections 1402 and 1312(c)(1) and implement its waiver program for an additional year, for plan year 2029. New York is not otherwise seeking to make changes to its section 1332 waiver program. Should New York seek to make changes to its waiver program during the extension

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<sup>1</sup> References to New York’s approved section 1332 waiver encompass both the initial waiver approval and the waiver amendment approval.

period, the State would need to follow the procedures detailed in the terms and conditions in effect at that time.

Consistent with 31 C.F.R. § 33.132 and 45 C.F.R. § 155.1332, the processes and procedures for extension requests,<sup>2</sup> and the next steps outlined in the Departments' December 11, 2024, letter<sup>3</sup> responding to New York's waiver extension letter of intent, the Departments have conducted a preliminary review of the waiver extension application. The Departments have made a preliminary determination that New York's waiver extension application is complete.

As provided in the December 11, 2024, letter and similar to the Federal public notice and approval process for new section 1332 waiver applications outlined in 31 C.F.R. § 33.108(d) and 45 C.F.R. § 155.1308(d), the date of this letter marks the beginning of the 30-day Federal public notice and comment process and 90-day Federal decision-making period. Public comments on New York's waiver extension application will be accepted by the Departments from December 11, 2024, through January 10, 2024. More information about the Federal public notice and comment process and section 1332 waivers generally can be found on the CCIO website.<sup>4</sup> The decision of the Departments regarding approval or denial of New York's waiver extension application will be issued within 90 days of this preliminary determination of completeness in accordance with section 1332(e) of the ACA.

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

Sincerely,



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

Cc: Aviva Aron-Dine, Deputy 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

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<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/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)

<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)