State Health Policy Highlights
State Reinsurance Programs and 1332 Waivers: Considerations for States

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STATE Health & Value STRATEGIES | *Driving Innovation Across States*

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Introduction

The Affordable Care Act (ACA) was designed to help bring stability to the individual market. But faced with a fluid federal regulatory environment, many states continue to face challenges including large premium increases and declining insurer participation. One solution to continued market instability is a state-based reinsurance program similar to the federal program that reduced premiums by more than 10 percent per year from 2014 through 2016. The Department of Health and Human Services (HHS) and the Department of the Treasury ("the Departments") have strongly encouraged states to establish their own reinsurance programs.

This State Health Policy Highlight provides an overview of approved 1332 reinsurance waivers to date and spotlights a new 1332 application template developed by State Health and Value Strategies. For those interested in a deeper dive, *State Reinsurance Programs: Design, Funding and 1332 Waiver Considerations for States*, provides a roadmap of policy, program design, and financing considerations for states that are contemplating development of a state-based reinsurance program under 1332 waiver authority.

Questions? Contact Heather Howard at heatherh@princeton.edu.

Approved Section 1332 Reinsurance Waivers

The Departments approved three 1332 "state innovation" waivers for reinsurance programs in 2017 and another four in 2018. These waivers offset state program financing with federal "pass-through" funding equal to the federal savings generated by reducing premiums. This means that to fund their reinsurance programs, states only have to cover the net cost after the federal pass-through funding (offset) is applied.

Table 1. Overview of Approved 1332 Reinsurance Waiver Funding

Overview of Approved 1332 Reinsurance Waiver Funding, 2019 (in millions)							
	Alaska	Maine	Maryland	Minnesota	New Jersey	Oregon	Wisconsin
Total Reinsurance Program Funding[1]	$64	$93	$462	$271	$324	$95	$200
Federal Pass-Through Funding	$69	$65	$373	$85	$180	$42	$128
State Funding Required (after pass-through funding)[2]	N/A	$28	$89	$186	$144	$53	$72
Percentage of Program Covered by Federal Dollars[3]	100%	70%	81%	31%	56%	44%	64%

Developing a 1332 Waiver Application

HHS has published a checklist that provides a step-by-step guide to what a state must include in its waiver application.[4] States can review the approved applications from Alaska, Maine, Maryland, Minnesota, New Jersey, Oregon, and Wisconsin to see how the checklist has been successfully used. State Health and Value Strategies (SHVS), in partnership with technical expert Jason Levitis, has developed a standardized application template that provides states with a model to follow that is based on successful 1332 applications submitted to date. SHVS also maintains a map that tracks state activity in applying for and implementing Section 1332 waivers.

Planning the Waiver Timeline

SHVS has a to-do list for states considering a Section 1332 reinsurance waiver for plan year 2019. The first step listed in the to-do list is to sketch out a calendar for activities, which will vary depending on whether a state is a Federally Facilitated Marketplace or a State-Based Marketplace. The most important lesson on the timeline is to be in close communication with the Departments, identifying and discussing any trouble spots, as well as understanding what other states may be in the queue.

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ABOUT STATE HEALTH AND VALUE STRATEGIES—PRINCETON UNIVERSITY WOODROW WILSON SCHOOL OF PUBLIC AND INTERNATIONAL AFFAIRS

State Health and Value Strategies (SHVS) assists states in their efforts to transform health and health care by providing targeted technical assistance to state officials and agencies. The program is a grantee of the Robert Wood Johnson Foundation, led by staff at Princeton University's Woodrow Wilson School of Public and International Affairs.

The program connects states with experts and peers to undertake health care transformation initiatives. By engaging state officials, the program provides lessons learned, highlights successful strategies and brings together states with experts in the field. Learn more at *www.shvs.org*.

ABOUT MANATT HEALTH

This brief was prepared by Joel Ario and Jessica Nysenbaum. Manatt Health integrates legal and consulting expertise to better serve the complex needs of clients across the healthcare system.

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Endnotes

1. These amounts are set by the states, which have the flexibility to decide on the size of the reinsurance program, typically based on what percentage of premium reduction they have targeted.

2. Note that the state share of costs after the federal pass-through are calculated by using projected reinsurance losses, which are not actually settled until the following year in most programs (e.g., 2019 losses are filed and settled in 2020). Actual losses could increase or decrease the state share depending on how the state's reinsurance program allocates those losses.

3. If a state uses all of the federal funds to replace state dollars, this is the percentage of the total program covered by federal dollars.

4. Centers for Medicare & Medicaid Services. *Checklist for Section 1332 State Innovation Waiver Applications, including specific items applicable to High-Risk Pool/State- Operated Reinsurance Program Applications*. CMS.gov. https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Downloads/Checklist-for- Section-1332-State-Innovation-Waiver-Applications-5517-c.pdf. May, 2017. Accessed February 26,2018.