



THE SECRETARY OF HEALTH AND HUMAN SERVICES

WASHINGTON, D.C. 20201

JAN 17 2017

The Honorable Bill Walker  
Governor of Alaska  
Juneau, AK 99811

Dear Governor Walker:

Thank you for letter and for Alaska's application for a State Innovation Waiver under Section 1332 of the Affordable Care Act (ACA), under which Alaska has proposed to waive section 1301(a)(2) of the ACA and implement the Alaska Reinsurance Program (ARP) for 2018 and future years.

On January 17, 2017, the Departments of Health & Human Services and the Department of the Treasury (the Departments) indicated that they had reviewed your application and made a preliminary determination that the application is complete, in accordance with 45 CFR 155.1308(c). The decision of the Departments regarding approval of the waiver will be issued within 180 days in accordance with 45 CFR 155.1308(d).

We have not yet reviewed the State's application for compliance with statutory and regulatory requirements, but as Alaska begins its legislative session and issuers in Alaska prepare for the 2018 plan year I wanted to provide additional feedback on the material in your application. A waiver under which the state seeks to implement the ARP under a state plan contingent upon approval of the waiver should be approvable under our guidance and section 1332, if these requirements are met. In addition, the state should be able to receive pass-through funding associated with any resulting reduction in federal spending on Marketplace financial assistance due to the structure of the state plan.

Your application describes a process under which the state would appropriate funds in future legislation to fully fund the ARP, consistent with the actuarial analyses and assurances in your application, and contingent upon approval of the waiver. I would note that before the Departments can approve the waiver as proposed, legislation appropriating the funds for the ARP, contingent upon approval of the waiver, must be enacted in Alaska. Such legislation must be fully consistent with the terms outlined in the waiver application in order for us to be able to approve the application, should we determine that it meets all statutory and regulatory requirements.

We will be in touch if we need additional information as we review Alaska's application. Please do not hesitate to contact us if you have any questions.

Sincerely,

Sylvia M. Burwell

cc: The Honorable Jack Lew, Department of the Treasury

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Governor Bill Walker  
STATE OF ALASKA

January 24, 2017

The Honorable Tom Price  
Secretary Designate  
U.S. Department of Health and Human Services  
200 Independence Ave, SW  
Washington, DC 20201

Dear Secretary Designate Price:

We are pleased that CMS determined Alaska's Section 1332 State Innovation waiver under the Affordable Care Act (ACA) is complete. Alaska's application describes a process under which the State would appropriate funds through future legislation to fully fund the Alaska Reinsurance Program (ARP), consistent with the actuarial analyses and assurances in our application. The ARP is critical to stabilize costs for consumers in Alaska's individual health care market by balancing the impact of high cost claims associated with existing serious health conditions.

The January 17<sup>th</sup> letter from then-Secretary Burwell (enclosed) suggested that before the U.S. Department of Health and Human Services and the U.S. Treasury Department can approve the waiver as proposed, State legislation appropriating the funds for the ARP must be enacted in Alaska. Alaska is committed to pursuing funding necessary for the State portion of the waiver and is working closely with CMS throughout the State legislative process. We would note that the Governor's FY 18 operating budget includes multi-year funding to meet the concern expressed by the prior administration. It is also worth noting that in setting up the current program, the Alaska State Legislature created a fund and a fund source (insurance taxes) to fund the reinsurance program. The Alaska Legislature has also expressed support for the ARP and the Division of Insurance's efforts to attain an approved 1332 waiver.

Section 1332 State Innovation Waivers are a useful tool to encourage creative solutions to problems and promote state flexibility. As healthcare policy transitions at the federal level, we hope that waiver mechanisms can be streamlined to inspire states to develop, share, and implement health care system improvements. We are committed to working diligently to stabilize Alaska's health care market, and are willing to work with other states to use Alaska's waiver as a model of innovation and flexibility. We look forward to working with you and your staff on this project and respectfully request expedited approval of Alaska's Section 1332 waiver. As this situation continues to unfold, or if you would like to discuss the issues in greater detail, please contact my office at 907-465-3500 or my Commissioner of the Department of Commerce, Community, and Economic Development, Chris Hladick at 907-465-2500.

The Honorable Tom Price  
Alaska 1332 State Innovation Waiver  
January 24, 2017  
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Sincerely,



Bill Walker  
Governor

Enclosure

cc: The Honorable Lisa Murkowski, United States Senate  
The Honorable Dan Sullivan, United States Senate  
The Honorable Don Young, United States House of Representatives  
Norris Cochran, Acting Secretary, United States Department of Health and Human Services  
The Honorable Valerie Davidson, Commissioner, Alaska Department of Health and Human Services  
The Honorable Chris Hladick, Commissioner, Alaska Department of Commerce, Community, and Economic Development  
Lori Wing-Heier, Director, Division of Insurance, Alaska Department of Commerce, Community and Economic Development

## State of Alaska Response to CMS Discussion Questions

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Discussion questions for the State:

1.

- A.) What amount will the state need to fully fund the ARP each year from 2018 to 2022?
- B.) Was there an assumption used for funding the ARP in the state's actuarial analysis?

- A.) Refer to attachment 1 for the breakdown of state and federal funding.
- B.) The Oliver Wyman actuarial analysis used the \$55 million appropriated for 2017 adjusted by inflation. The Oliver Wyman report, which was submitted with the waiver application, details the total amount (page 49, appendix table 24).

2.

- A.) How is the state planning to determine the level of state funding for the ARP each year of the waiver? For example, is the state funding estimate based on issuer claims, a portion of total reinsurance claims, or other evidence?
- B.) For 2017 was the \$55 million sufficient to cover claims?

- A.) The state is planning to supplement the federal funding. The state funding estimate is based on a percentage of the total program.
- B.) The \$55 million estimate was based on claims. It is too early in 2017 for the state to make a determination on the sufficiency of \$55 million covering claims. The Alaska Reinsurance Program began on January 1, 2017. Claims will be paid quarterly and the first quarter has not yet expired. Premera's projection states that reinsurable claims will exceed the \$55M, but the program is capped at the amount in the Alaska Comprehensive Health Insurance fund. The original amount is based on actuarial analysis for claims in 2014 – 2015 for a set of diagnosis codes that are detailed in the regulations that were submitted in the waiver application. Please see attachment 2.

3.

- A.) What is the timing for the determination of state funding?
  - B.) Could you describe your legislative approach, how much the state plans to appropriate per year, and the source of funding?
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- A.) The amount of state funding is determined by the Operating Budget, which must be appropriated by the legislature during the regular session. We've submitted a request for \$55 million for FY 18 from the general fund. Due to recent budget difficulties, the budget hasn't been finalized until July the last few years.
  - B.) The Alaska legislature has appropriated money for 2017, and submitted a request for funding in 2018. If the state receives a full appropriation for 2018, we will use the state funds to pay for the program as long as possible. The source is the Alaska Comprehensive Health Insurance fund within the general fund (revenue is generated through premium taxes).

## State of Alaska Response to CMS Discussion Questions

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- 4.
- A.) Could you describe the provisions for reinsurance coverage under ARP?
  - B.) Are issuers required to cede all policies with specified conditions to ARP?
- A.) Please see the regulations for detailed provision of reinsurance coverage under ARP: <https://www.commerce.alaska.gov/web/Portals/11/Pub/ARP-Regulations.pdf> Claim information should be submitted to ACHIA. Claims will be paid as long as there are funds available in the fund to pay claims. Insurers will submit to ACHIA the premiums of consumers who are ceded to the program, including CSR payments. They will also pay pharmacy reimbursements and report on third party liabilities, recoveries and reimbursements from other sources. Insurers must have paid a claim for a high risk individual and continue to pay claims for this person. All claims of a high risk individual will be eligible for payment by ARP. Claims must be received within 18 month after the end of the calendar year in which the claim was received. The insurer continues to administer claims for the covered person.
- B.) Yes, issuers must cede, 3 AAC 31.510(a). Insurers offering individual health care insurance plans (except grandfathered or transitional plans) are required to cede claims for consumers with specified conditions beginning January 1, 2017.
- 5.
- A.) Does the state have a sense of the 2016 actual and 2017 estimated number of transitional plan enrollees?
  - B.) Of these lives, what is the expected morbidity distribution of these lives?
  - C.) How many of these lives are expected to be eligible for APTCs?
- A.) There were 1,860 transitional plan enrollees as of September 2016 (source: Oliver Wyman data call 2016). On August 12, 2016, Premera reported in a rate filing: "As of July there are 1,897 members on individual transitional policies, all with very low utilization compared to the metallic pool. It is our assumption that those who wanted richer benefits or were eligible for subsidies have already moved to ACA policies. Those who are left on transitional policies may face sticker shock when they see premiums over twice their current premiums and will elect to pay the tax penalty. To the extent that some may be holding out until transitional relief ends, the impact of including these members at lower utilization may be offset by pent up demand and just a few members coming from the ACHIA pool..."
- B.) We'd need to request this information from Oliver Wyman.
  - C.) The number of lives expected to be eligible for APTCs is nominal. On August 3, 2016, Premera reported in a rate filing: "Of the 1,922 members left in the individual transitional non grandfathered pool, we do not expect many to enroll due to the large difference in premiums. We have assumed those who were eligible for premium subsidies would have already moved to metallic plans."
6. On Pg. 35 of the application the regulations state that "the association shall establish a true-up process with respect to a calendar year to reflect adjustments made in establishing the final

## State of Alaska Response to CMS Discussion Questions

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accounting for that calendar year,...” Could the state confirm that the Alaska Comprehensive Health Insurance Association (ACHIA) is responsible for the true-up of additional reinsurance funds to account for risk adjustment? If so please explain when this would occur in relation to the calendar year.

The state confirms ACHIA is responsible for this true-up. The time frame for this true up process is in the plan of operations which is agreed to between ACHIA and their administrator BM, LLC. The Plan of Operation currently requires data collection to begin March 1st. The proposed true-up would be communicated 45 days after the notice of final risk adjustment transfers by CCIO. True-up payables would be in September of the same year. The true-up will not use additional reinsurance funds; it will be a pass through transfer between insurers.

7.

- A.) Could the state clarify the timing of the reinsurance payment to issuers? For example, when does the state expect to disburse the \$55 million for FY 18?
- B.) More specifically, when will the payment start, and will it be a one-time payment or will this is a cash flow distribution throughout the year? If throughout the year, when will the payment be final?

- A.) Per federal regulations, individual health insurance plans run on a calendar year basis. State funding is already in place for 2017. Reimbursements will be made quarterly beginning May 2017 (May, August, November, February).
- B.) The payments will be distributed throughout the year. Final payment for claims allocated to a calendar year must be received by March 1<sup>st</sup> of the following the calendar year. These final claims will be paid by May.

8.

- A.) Would Alaska be willing to share process or methodology for reconciling high risk pool costs into a risk adjusted market?
- B.) Could the state share financial data with CCIO upon completion?

- A.) For 2017, there is only one insurer, nothing to be risk adjusted this first year.
- B.) We will consider doing so.

9. With regard to the state reinsurance program, can the state elaborate to explain any information the state need from CCIO to administer the reinsurance program? Are there responsibilities the state was envisioning that CCIO would undertake? If so, when would the state need that information?

The state doesn't currently need any information from CCIO to administer the program, except for the risk adjustment report that is released annually on June 30th. There are not any responsibilities that the state envisions CCIO would take on.

## State of Alaska Response to CMS Discussion Questions

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10.

- A.) What are the gross (pre ARP) projected number of claims and incurred claims by year for the baseline and waiver scenarios?
- B.) Also, please provide the projected number of claims for each year for the baseline and waiver scenarios.

- A.) Pre-ARP info for 2015 available in Exhibit 1.5 of Premera rate filing (currently held confidential).
- B.) We'll need to request this information on incurred claims from Oliver Wyman.

11.

- A.) As proposed, AK would allow issuers to pass enrollees to ARP who have a qualifying condition within 90 days of the qualifying claim.
- B.) What about year to year? If the person re-enrolled for the following year, are they automatically entered back into the pool, or would the issuer have to pass them over to ARP again, based on a qualifying claim for the condition?

- A.) This is not accurate. It is anytime during the year up until March 1st of the following year.
- B.) The person would need to be re-ceded. The insurer must pay a claim for a qualifying condition. For example, if in 2017 a person is ceded due to claims for cancer treatment, goes into remission in December 2017 and has no claims related to cancer (or another listed condition) in 2018, they will be ceded in 2017, but not ceded in 2018.

12. If there are two carriers in the market – how is AK adjusting the RA program - because someone will be paying into the pool, and someone will be getting money, so would AK make an adjustment based on those results? Or would AK want to know that before they made the adjustment?

The adjustments for multiple carriers will be detailed in the plan of operations.

### Enclosures

- Attachment 1 Oliver Wyman letter
- Attachment 2 CC Haus Monin report HB 374 data