iowa insurance division

The State of Iowa's Proposed Stopgap Measure for the Individual Health Insurance Market

June 12, 2017

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The State of Iowa's Proposed Stopgap Measure

Introduction

To avoid a total collapse of Iowa's individual health insurance market, Iowa is requesting that the Centers for Medicare and Medicaid Services (CMS), the United States Department of Health and Human Services (DHHS), and the United States Department of Treasury consider this proposed request for emergency regulatory relief to provide, at least temporarily, stability to the health insurance market by allowing Iowa to implement the Proposed Stopgap Measure ("PSM") Plan described herein such that health insurance will, at the most fundamental level, be available for Iowa consumers. Iowa requests that the federal government exercise its authority granted by President Trump's Executive Order Minimizing the Economic Burden of the Patient Protection and Affordable Care Act Pending Repeal[1] to **allow Iowa to facilitate the implementation of a reinsurance program, premium subsidy mechanism, and standard health benefits plan to be offered to all eligible consumers for the plan year 2018.** [2]

Iowa submits this proposal under the Affordable Care Act (ACA) Section 1332 as an innovation waiver seeking additional federal cooperation and partnership to allow for the creation of a viable health insurance market for 2018 via Iowa's PSM program. In the alternative, should CMS not find this proposal to be a sufficient Section 1332 waiver, or find that the requested program is not waivable, then Iowa requests that CMS consider this to be a formal request for emergency regulatory relief as permitted by the referenced Executive Order.

With great concern for the estimated 72,000 Iowans covered with individual ACA-compliant health plans in 2017, Iowa has devised an innovative solution to reinsure the most vulnerable individuals, which in turn helps control healthcare premium costs and stabilizes the long-term viability of Iowa's individual health insurance market. Approval of Iowa's proposal for a Section 1332 waiver and emergency regulatory relief would be an example of a successful state-federal partnership during a time of extraordinary individual health market instability – a partnership in

[1] https://www.whitehouse.gov/the-press-office/2017/01/2/executive-order-minimizing-economic-burden-patient-protection-and

[2] As developed, this program requires a waiver of the Individual mandate provisions found at IRC §5000A, several provisions regarding federal funding found at IRC §36B and ACA §1402, and relief from the metallic tier requirements of ACA §1302(d).

which flexibility recognizes the uniqueness of state markets and the accessibility of insurance is preserved for Iowans needing to purchase individual health coverage.

Background

Although the ACA's Medicaid expansion program resulted in additional coverage for nearly 150,000 Iowans, the individual commercial market has not been successful. Because insurers had limited claims data on the uninsured population, many insurers initially underestimated premiums. After 2014, it became apparent that many of the newly insured individuals in Iowa's individual ACA-compliant market were much sicker and older than previously estimated. This caused significant losses in ACA-compliant markets around the country eventually forcing premiums to skyrocket. Iowa's individual ACA-compliant premiums have increased between seventy (70) and one-hundred (100) percent over the first three (3) years of the ACA. Consequently, this has resulted in declining enrollment of healthy individuals along with poor uptake by the younger population.

The instability of Iowa's individual ACA-compliant market was first marked with the liquidation of CoOportunity Health, Inc., which began with an order of rehabilitation on December 23, 2014.[3] Iowa's individual ACA-compliant market has seen continued instability since that time. On April 25, 2016, UnitedHealthcare notified the Iowa Insurance Division that they would not offer individual ACA-compliant plans in 2017.[4]

Then, on March 30, 2017, Wellmark, Inc. and Wellmark Health Plan of Iowa, Inc. ("Wellmark") notified the Iowa Insurance Division that they would not offer individual ACA-compliant plans in 2018.[5] Finally, on April 6, 2017, Aetna, Inc. notified the Iowa Insurance Division that it would not offer individual ACA-compliant plans in 2018.[6] There are two health insurance carriers (Medica and Gundersen Health Plan, Inc.) currently offering plans in 2017 on Iowa's ACA-compliant market that have not yet announced their plans for 2018. [7] Given the larger collapse, it is unlikely these carriers will remain meaning there will be **ZERO** carriers in Iowa's ACA-

[3] https://iid.iowa.gov/press-releases/insurance-commissioner-places-health-insurer-cooportunity-health-in-rehabilitation

[4] https://iid.iowa.gov/press-releases/unitedhealthcare-to-leave-certain-iowa-health-insurance-markets-in-2017

[5] https://iid.iowa.gov/press-releases/wellmark-to-leave-iowa%E2%80%99s-aca-health-insurance-market-in-2018

[6] https://iid.iowa.gov/press-releases/commissioner-ommen-statement-regarding-aetna-leaving-iowas-individual-market-in-2018

[7] In 2017, Gundersen Health Plan, Inc. only offers coverage in five (5) of Iowa's ninety-nine (99) counties.

compliant individual health care market in 2018, at least in almost all of Iowa's ninety-nine (99) counties.

CoOportunity, UnitedHealthcare, Wellmark, and Aetna have all reported very substantial losses in this market. The indecisiveness in the legislative process at the federal level has further debilitated the Iowa individual health insurance market. This uncertainty also prevented Iowa state legislators from enacting legislation during its session that might have supplemented any solutions from the federal level on this issue.

While legislation appears to slowly be moving at the federal level, it is unlikely any changes to the ACA will be enacted in time to keep Iowa's individual health insurance market from a total collapse leaving nearly 72,000 individuals with **zero** options to purchase health insurance for 2018. The program described herein would become effective **immediately** upon CMS approval to allow insurance carriers to decide whether they want to offer the Iowa PSM Plan for the 2018 calendar year and for all parties to begin implementation. Iowa requests that this proposal be granted as soon as possible and be effective for an initial period of **one year**. Iowa requests authority to have the option to renew the program for 2019 if necessary.

Federal Authority

CMS has the authority to grant a state innovation waiver under Section 1332 of the ACA to allow the state to pursue innovative strategies to provide the residents with access to high quality, affordable health coverage. [8] These waivers allow states to implement innovative ways to provide access to quality health care that: 1) is at least as comprehensive and affordable as would be provided absent the waiver, 2) provides coverage to a comparable number of residents of the state as would be provided coverage absent a waiver, and 3) does not increase the federal deficit.[9]

As noted above, President Trump issued an executive order instructing the Secretary of the DHHS and the heads of all other executive departments and agencies with authorities and responsibilities under the ACA to "exercise all authority and discretion available to them to provide greater flexibility to States and cooperate with them in implementing healthcare

[8] 42 U.S. Code §18052.

[9] https://www.cms.gov/cciio/programs-and-initiatives/state-innovation-waivers/section_1332_state_innovation_waivers-.html

programs." [10] A copy of Executive Order 13765 (the "Order") is attached to this proposal as Appendix A.

President Trump made clear in the Order that he expects his Administration to "take all actions consistent with law to minimize the unwarranted economic and regulatory burdens of the Act, and prepare to afford States more flexibility and control to create a more free and open healthcare market." [11] Further, the Order grants the Secretary of DHHS the authority and responsibility to "waive, defer, grant exemptions from, or delay the implementation of any provision or requirement of the Act that would impose a fiscal burden on any State or a cost, fee, tax, penalty, or regulatory burden on individuals, families, healthcare providers, health insurers, patients, recipients of healthcare services, purchasers of health insurance, or makers of medical devices, products, or medications." [12]

CMS previously displayed its ability to be flexible in its adherence to the provisions of the ACA in its continued extensions of the transitional relief program requested by former President Barack Obama as related to grandmothered plans. CMS created a 'transitional policy' allowing for health insurance carriers to continue to offer certain non-compliant ACA policies to existing consumers. This continued policy position demonstrates that CMS does have authority to be accommodating and adaptable in its interpretation and implementation of the ACA.

In light of President Trump's Order, Iowa is requesting relief from strict compliance with the Section 1332 waiver requirements. As described above, the collapse of the individual health insurance market will leave Iowa consumers with no options to purchase health insurance for 2018. The requirements of Section 1332 present a challenge given Iowa's total market collapse; the timing requirements alone would prohibit any meaningful relief.

As originally contemplated, Section 1332 is intended to allow states to develop an innovative solution to improve its existing individual health insurance market. The breadth of requirements prohibit it from being applicable as a crisis management mechanism, which Iowa now requires to stabilize its individual health insurance market from collapse. However, CMS has the authority granted to it by President Trump's Order to provide flexibility in its execution of the Section 1332 waiver process. Iowa requests that CMS waive several requirements of Section 1332

[10] Executive Order 13765, Section 3.
[11] Executive Order 13765, Section 1.
[12] Executive Order 13765, Section 2.

in order to allow Iowa to timely implement the program proposed below. Attached as Appendix B is an annotated version of the checklist provided to Iowa by CMS with further explanation and detail regarding Iowa's inability to complete the requirements in time to stabilize its collapsed market for 2018.

Iowa's Individual Health Insurance Market

Prior to the ACA, Iowa had a stable individual market with some of the lowest premium levels in the nation. Iowa has a population of just over 3 million people, and nearly sixty-six (66) percent of Iowans had access to employer-sponsored insurance. [13] Prior to the implementation of the ACA, Iowa had one of the highest health insurance coverage rates in the nation with less than 9.7 percent of its residents being uninsured.[14]

It must be said that under the ACA, the number of uninsured individuals in Iowa has decreased, however the number of Iowans actually purchasing policies in the individual market has also decreased.[15] This is, in large part, due to the bipartisan, tailored version of the Medicaid expansion implemented by Iowa. The program, known as the Iowa Health and Wellness Plan, provides coverage to nearly 150,000 low-income, childless adults, many of whom were previously uninsured. [16] However, when the ACA was implemented many Iowans chose to take advantage of the grandfathered plans that were allowed as part of the ACA and transitional plans which were allowed in response to recommendations from the Center for Consumer Information and Insurance Oversight (CCIIO) and President Obama saying that "if you like your health plan you can keep it."[17] With the strong market pre-ACA, over 85,000 individuals chose not to enter the Marketplace and remain on their pre-ACA plans.[18]

Those individuals who did enroll in the ACA-compliant individual market tended to have a high utilization rate resulting in a more concentrated risk for carriers. This caused significant

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[13] This percentage of health insurance coverage is based on the health insurance market in 2010-2011, available at: http://www.epi.org/publication/bp353-employer-sponsored-health-insurance-coverage.

[14] Iowa Insurance Division 2013 calculation.

[15] See page 1 of Commissioner Gerhart's testimony before the U.S. Senate Committee on Homeland Security and Government Affairs Committee at http://www.hsgac.senate.gov/download/gerhart-testimony.

[16] Iowa Department of Human Services, Improve Iowan's Health Status, p. 3-28 available at: http://dhs.iowa.gov/sites/default/files/15-6_Improve_Health_Status.pdf.

[17] https://iid.iowa.gov/documents/cciio-transitional-plans-letter.

[18] Iowa Insurance Division numbers through December 31, 2016.

rate increases across the individual risk pools. For calendar years 2016 and 2017, Wellmark received rate increases of 26.5 and 42.6 percent respectively for its ACA compliant, off the Marketplace plans. [19] Aetna (formerly Coventry Health Care of Iowa, Inc.) received rate increases of 19.8 and 22.58 percent for the years 2016 and 2017 for its ACA compliant plans on and off the Marketplace. [20] The carriers suffered substantial losses even with the continued growth in premium rates.

As noted above, the liquidation of CoOportunity Health was the first indication of the instability of the Iowa individual ACA-compliant market. The effects of that liquidation are still impacting the stability of the market in Iowa and continue to compound the problems. Prior to its liquidation, CoOportunity Health developed the programs pursuant to the federally mandated guidelines under the ACA and entered into loan agreements with the federal government to fund those programs. Despite assurances to the Iowa insurance commissioner, DHHS and CMS specifically did not fully fund the risk corridors program for the calendar year 2014, resulting in a debt to CoOportunity Health of approximately $130 million, contributing to the failure of CoOportunity. As of the date of this proposal, these funds have not yet been paid by the federal government and Insurance Commissioner Ommen, as liquidator for CoOportunity Health, has been forced to pursue a claim against the federal government in federal claims court.

The uncertainty of federal funding has continued to contribute to the instability of this market. At this critical juncture, given the instability at the federal level and the market conditions as discussed above, it is unlikely that insurance coverage will be available in all of Iowa's ninety-nine (99) counties for the calendar year 2018. This means that nearly 72,000 Iowans will be without any health insurance options. With no carriers in the individual market, those who are eligible and can also afford coverage through Iowa's existing high risk pool may opt for this coverage. However, as nearly 44,000 of these individuals are eligible for APTCs,[21] it is likely many will be unable to afford coverage in the high risk pool. It is more likely that many of these Iowans will seek care through emergency rooms. The Iowa Insurance Division estimates that

[19] Available at: https://iid.iowa.gov/press-releases/2016-wellmark-iowa-rate-proposal-review-decision and https://iid.iowa.gov/press-releases/2017-wellmark-inc-rate-proposal-review-decision.

[20] Available at: https://iid.iowa.gov/press-releases/2016-coventry-health-care-of-iowa-rate-proposal-review-decision and https://iid.iowa.gov/press-releases/2017-aetna-health-of-iowa-rate-proposal-review-decision.

[21] In 2017, Iowa's total individual marketplace has nearly 77,000 individuals. 51,573 Iowans selected a health insurance plan from the marketplace. 86% of these individuals receive financial assistance for their premium payments.

approximately 4,400 consumers will be eligible for coverage in the State's existing high risk pool and could cost up to $100 million dollars in 2018.[22] And because these costs eventually have a direct impact on the State's budget, Iowa will see an estimated $100 million annual reduction to its budget. Further, although Iowa does not have estimates on the costs of uncompensated care, the impact will surely result in a loss of jobs in the healthcare sector and a general reduction in the economic conditions for consumers, through increased premiums, and for business, through less consumer spending.

Iowa's Existing Regulatory Framework

Existing Iowa law and regulations provide considerable authority and flexibility to implement the requested waiver.

First, and most broadly, Iowa Code section 505.8(19) provides Iowa's Insurance Commissioner with the authority to "propose and promulgate administrative rules to effectuate the insurance provisions of the federal Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, and any amendments thereto, or other applicable federal law."

Second, and more specifically, Iowa law contains an existing mechanism to design and administer the Proposed Stopgap Measure and waiver provisions. In 1996, Iowa developed the individual health benefit reinsurance association (IIHBRA).[23] IIHBRA was established as part of the Individual Health Insurance Market Reform Act, which was enacted to "promote the availability of health insurance coverage to individuals regardless of their health status or claims experience." [24] The IIHBRA is a non-profit organization whose work is managed by the board of directors established by the Iowa Comprehensive Health Association (the "Association.") The Association also facilitates the Health Insurance Program of Iowa ("HIPIOWA"), a state-wide

[22] This estimate is based on an Iowa Insurance Division analysis of 2016 individual market consumer claims from: Wellmark, Inc., Wellmark Health Plan of Iowa, Aetna, Medica, UnitedHealthcare Life Insurance Company and UnitedHealthcare of the Midlands. In preparing this estimate, Iowa Insurance Division staff used 2016 individual consumer claims data and an average aged consumer of fifty (50) for all but one carrier, for which an average age of fifty-six (56) was used. Adjustments were also made for contractual differences in provider payments between participating carriers and HIPIOWA carriers. Finally, the Iowa Insurance Division assumed the newly eligible enrollees would (on average) select a $2,500 deductible HIPIOWA plan.

[23] Iowa Code § 513C.10 - https://www.legis.iowa.gov/docs/code/513C.10.pdf.

[24] Iowa Code §§513C.1 and 513C.2.

high risk pool.

The board of directors of the Association (the "Board"), with the approval of the commissioner, is authorized to adopt the form and level of coverage of the standard health benefit plan for the individual market, which is required to provide benefits substantially similar to the current state of the individual market. [25] For calendar year 2018, Iowa is developing a standard plan, the Iowa PSM Plan, which will provide benefits substantially similar to those currently offered in the individual health insurance market. The specifics of the plan are discussed in more detail below. As no plans have been submitted which would exist on the market in 2018, this standardized plan will be modeled after coverage offered to Iowa consumers in 2017 and as outlined in the Proposed Rule, found at Appendix C, Section 3. The Commissioner will recommend that the Board adopt the Iowa PSM Plan for 2018. Upon approval of the Iowa PSM Plan for 2018, the Commissioner will promulgate rules to set forth eligibility requirements and the plan requirements. [26] A listing of the proposed rules is attached as Appendix C.

The IIHBRA may, with the approval of the commissioner, increase cost-sharing provisions, intended to be spread amongst carriers, which include, but are not limited to, plan deductibles, coinsurance, or copayments. [27] For 2018, the IIHBRA would utilize pass through funding of Iowa's share of federal Advanced Premium Tax Credits (APTC) and Cost Sharing Reduction (CSR) payments, as explored in more detail below, to supplement an existing reinsurance program and establish a premium subsidy program for individuals who purchase the Iowa PSM Plan. This mechanism would utilize federal funds as a cost-sharing mechanism to lower premium costs and support a reinsurance program for high claim individuals who purchase the Iowa PSM Plan. While the cost-sharing mechanisms for IIHBRA typically involve cost-sharing among a number of carriers providing health insurance coverage for individuals, here, the cost-sharing will take the form of a program funded by the federal government and carried out by agreement with Iowa to be run through IIHBRA and funded by CMS.

Iowa anticipates carriers will price based upon represented income levels and Iowa will utilize the systems already in place at the Iowa Department of Revenue to verify income. We anticipate that this mechanism will provide a reasonable degree of income certainty for purposes

[25] Iowa Code §513C.8 - https://www.legis.iowa.gov/docs/code/513C.8.pdf.
[26] Iowa Code §513C.12 - https://www.legis.iowa.gov/docs/code/513C.12.pdf.
[27] Iowa Code §513C.10(2)(b) - https://www.legis.iowa.gov/docs/code/513C.10.pdf.

of the subsidy program discussed below. Premium credit payments will be paid to the carriers from the state in a similar manner as APTCs are currently paid to carriers by the federal government. Iowa also anticipates that carriers will provide technical support in the implementation of these subsidies.

Implementation of the Proposed Program

The State of Iowa requests CMS' support in its development and implementation of the Iowa PSM Plan, which would be available to all eligible Iowa consumers for the plan year 2018. Iowa proposes to provide the following: 1) a single, standardized plan to every eligible consumer from each participating carrier, 2) premium subsidies based on age and income, and 3) a reinsurance program for all plans offered under the Iowa PSM program.

According to a recent estimate published by Milliman, Iowans will receive approximately $194 million in APTCs and $48 million in CSRs in 2017. As premiums increase each year, the required funding for APTCs correspondingly increases as premiums are capped for those receiving APTCs. Furthermore, should Aetna finalize its decision to exit the market and choose not to participate in this plan, the standard silver premium will increase significantly based on 2017 premiums for the remaining carriers offering plans on the Marketplace. Iowa estimates that the required APTC funding for 2018 would be approximately $304 million given higher expected premiums in 2018 under the current landscape. By dividing this total funding of $352 million between a reinsurance program and individual premium credits, Iowa will be able to provide an affordable and comprehensive health care program that is budget neutral to the federal government and is intended to improve market stability.

A. Standardized Plan

Pursuant to Iowa Code Chapter 513C [28] and Iowa Administrative Code 191-75[29], Iowa will require each carrier, as a condition of receiving reinsurance funding through Iowa's proposal, to offer the Iowa PSM Plan. Iowa has engaged in detailed conversations about the PSM Plan with several insurance carriers and anticipates that one or more of these carriers will commit to offering the Iowa PSM Plan in 2018. With the exception of the grandfathered and transitional plans, the Iowa PSM Plan will be the **only plan available** for carriers and consumers in the 2018 Iowa

[28] Available at: https://www.legis.iowa.gov/docs/code/513C.pdf.
[29] Available at: https://www.legis.iowa.gov/docs/iac/chapter/191.75.pdf.

individual health insurance market.

For 2018, this plan will be offered on a guaranteed issue basis and will not have any annual or lifetime limits. Any Iowa resident who is eligible may purchase the Iowa PSM Plan. Individuals who wish to purchase the Iowa PSM Plan must purchase the Plan during the open enrollment period of November 1, 2017 and December 15, 2017. An individual who does not purchase during open enrollment and wishes to later purchase the Iowa PSM Plan must show proof of twelve (12) months of continuous coverage over the immediately preceding twelve (12) months in order to qualify for a special enrollment period.[30] The continuous coverage requirement is not required for a special enrollment period arising out of a birth and/or adoption.

Iowa requests relief to develop a single plan that meets the silver tier requirement of between sixty-eight (68) percent to seventy-two (72) percent actuarial value. This will provide administrative simplification for this relief program. The Iowa PSM Plan will include the essential health benefits required by the ACA[31] as well as all applicable state mandated benefits.[32] Given the Iowa PSM Plan will be in compliance with essential health benefits and metallic tier requirements, the federal risk adjustment program can be utilized to facilitate risk adjustment and high-cost risk pooling between carriers. In the event that multiple carriers offer the Iowa PSM Plan in 2018, participating carriers will be required to comply with the federal risk adjustment program as directed through the Federal Notice of Benefit and Payment Parameters.

B. Premium Subsidies

Iowa requests to use part of its share of the proposed federal funding to provide age and income based premium subsidies. These premium subsidies will only be available for Iowa consumers who purchase the Iowa PSM Plan. Iowa estimates the cost of premium subsidies to be $220 million, which may vary based on the actual enrollment count and age/income demographics of the population enrolled.

All individuals who purchase the Iowa PSM Plan will receive a monthly premium credit based on age and income that will be paid directly to the carrier. The subsidy will be a defined flat dollar credit based on 2017 household income, as a percentage of federal poverty level

[30] The Iowa PSM Plan will adhere to the special enrollment periods defined as by CMS. Available at https://marketplace.cms.gov/outreach-and-education/special-enrollment-periods-available-to-consumers.pdf.
[31] 45 C.F.R. §156.110.
[32] Iowa Code §514C; Iowa Administrative Code 191-35.35.

("FPL"), and the individual's age. The tables below serve as an example of how the age and income subsidies would be applied but do not necessarily reflect the final amounts.

Age	FPL	Flat Monthly Credit
0-20	133% - 150%	$250
0-20	150% - 200%	$221
0-20	200% - 250%	$162
0-20	250% - 300%	$103
0-20	300% - 400%	$44
0-20	>400%	$24

Age	FPL	Flat Monthly Credit
21-34	133% - 150%	$336
21-34	150% - 200%	$297
21-34	200% - 250%	$217
21-34	250% - 300%	$138
21-34	300% - 400%	$59
21-34	>400%	$32

Age	FPL	Flat Monthly Credit
35-44	133% - 150%	$398
35-44	150% - 200%	$351
35-44	200% - 250%	$257
35-44	250% - 300%	$164
35-44	300% - 400%	$70
35-44	>400%	$37

Age	FPL	Flat Monthly Credit
45-54	133% - 150%	$554
45-54	150% - 200%	$489
45-54	200% - 250%	$391
45-54	250% - 300%	$326
45-54	300% - 400%	$228
45-54	>400%	$65

Age	FPL	Flat Monthly Credit
55+	133% - 150%	$828
55+	150% - 200%	$760
55+	200% - 250%	$702
55+	250% - 300%	$643
55+	300% - 400%	$556
55+	>400%	$117

Attached as Appendix D is a more detailed description of the proposed subsidy program as relates to the various age and income brackets. The table is provided merely as an example, and does not reflect filed and/or approved premium rates as of the date of this proposal.

C. Reinsurance Program

Iowa proposes to utilize federal funds to supplement its existing reinsurance program that will be designed to have attachment points that control the costs of premiums. Iowa's proposed reinsurance program will reimburse the carriers for high cost individuals who incur claims greater than $100,000 on an annual basis. The program would provide eighty-five (85) percent coinsurance protection for claims between $100,000 and $3,000,000. By having a $100,000 initial attachment point, carriers are forced to be more actively engaged in successful care management to drive down costs. And, as part of this reinsurance program through IIHBRA, carriers will be required to agree to care management protocols.

Additionally, this program will operate in conjunction with the Federal High-Cost Risk Pooling Program, which provides federal reinsurance at an attachment point of $1,000,000 with coinsurance payments of sixty (60) percent. Accordingly, for claims between $1,000,000 and

$3,000,000, the Iowa PSM Plan will provide coinsurance of twenty-five (25) percent, which when combined with the Federal High-Cost Risk Pooling Program will total eighty-five (85) percent total coinsurance protection. Once an individual claim reaches $3,000,000, the carrier will have one-hundred (100) percent coinsurance protection, with sixty (60) percent from to the Federal High-Cost Risk Pooling Program, and forty (40) percent coinsurance from the Iowa PSM Plan.

This level of reinsurance above $3,000,000 is necessary to protect consumers from having to subsidize the costs of catastrophic claims. By providing reinsurance at this level, the carriers are able to keep consumers from paying increased premiums due to catastrophic claimants.

Iowa estimates funding for this to be approximately $80 million, although results may vary based on the actual enrollment count and experience of the population enrolled. With the guarantee of reimbursement at these levels, future premium rate increases will be substantially lower than without this guaranteed reimbursement.

Conclusion

Given the continued uncertainty at the federal level, Iowa must be granted authority to move forward with this proposal for 2018. While the long-term goal is, and should continue to be, a permanent solution to ensure market stability, in the short term there needs to be an option for Iowans to purchase individual health insurance for 2018. To that end, Iowa developed the Proposed Stopgap Measure to temporarily stabilize the individual health insurance market for 2018.

To ensure that participating insurers are able to properly implement the Proposed Stopgap Measure, Iowa respectfully requests that CMS consider this proposal in a timely fashion. Iowa is prepared to engage with CMS on this proposal in any way necessary to ensure its prompt review and acceptance.

Iowa has a history of a strong health insurance market, and when left to its own devices, we are confident that we can do this again. We need flexibility and support from DHHS and CMS to do so. Without this emergency relief, 72,000 of Iowans will have no options for health insurance.

APPENDIX A

President Donald Trump's January 20, 2017 Executive Order

Presidential Documents

Executive Order 13765 of January 20, 2017

Minimizing the Economic Burden of the Patient Protection and Affordable Care Act Pending Repeal

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. It is the policy of my Administration to seek the prompt repeal of the Patient Protection and Affordable Care Act (Public Law 111–148), as amended (the ''Act''). In the meantime, pending such repeal, it is imperative for the executive branch to ensure that the law is being efficiently implemented, take all actions consistent with law to minimize the unwarranted economic and regulatory burdens of the Act, and prepare to afford the States more flexibility and control to create a more free and open healthcare market.

Sec. 2. To the maximum extent permitted by law, the Secretary of Health and Human Services (Secretary) and the heads of all other executive departments and agencies (agencies) with authorities and responsibilities under the Act shall exercise all authority and discretion available to them to waive, defer, grant exemptions from, or delay the implementation of any provision or requirement of the Act that would impose a fiscal burden on any State or a cost, fee, tax, penalty, or regulatory burden on individuals, families, healthcare providers, health insurers, patients, recipients of healthcare services, purchasers of health insurance, or makers of medical devices, products, or medications.

Sec. 3. To the maximum extent permitted by law, the Secretary and the heads of all other executive departments and agencies with authorities and responsibilities under the Act, shall exercise all authority and discretion available to them to provide greater flexibility to States and cooperate with them in implementing healthcare programs.

Sec. 4. To the maximum extent permitted by law, the head of each department or agency with responsibilities relating to healthcare or health insurance shall encourage the development of a free and open market in interstate commerce for the offering of healthcare services and health insurance, with the goal of achieving and preserving maximum options for patients and consumers.

Sec. 5. To the extent that carrying out the directives in this order would require revision of regulations issued through notice-and-comment rulemaking, the heads of agencies shall comply with the Administrative Procedure Act and other applicable statutes in considering or promulgating such regulatory revisions.

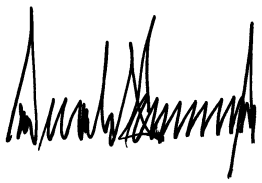
Sec. 6. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
January 20, 2017.

[FR Doc. 2017–01799
Filed 1–23–17; 2:00 pm]
Billing code 3295–F7–P

Appendix B : Checklist for Section 1332 State Innovation Waiver Applications – Iowa Comments

	DHHS Citation & Description	DHHS Comments	Iowa Comments
1	**45 CFR 155. 1308(a),(b), (c), (d)** Submit application States should submit application with enough time to allow for an appropriate implementation timeline	E-mail applications to: StateInnovationWaivers@cms.hhs.gov. Note that DHHS/Treasury will conduct a preliminary review of the application for completeness within 45 days of receipt of the application. The final decision of DHHS/Treasury will be issued no later than 180 days after the application completeness determination is made.	Iowa has concerns about the length of time DHHS may take to review its proposal. Iowa also has concerns that the staff reviewing the proposal may not have been part of the conversations with HHS senior level management and may take a 'strict interpretation' of the 1332 waiver requirements. Iowa requests DHHS provide feedback within 14 days and requests that those staff who may review this proposal to have been apprised of the conversations with DHHS senior level management.
2	**45 CFR 155.1308(f)(2)** Written evidence of the State's compliance with the public notice and comment requirements, set forth in 45 CFR 155.1312.	Include: 1. A copy of the web page and/or notice that was posted. The notice must include a comprehensive description of the Section 1332 waiver application, where the application is available, how to submit written comments, and the timeframe to submit comments (minimum of 30 days). The notice should include the location, date, and time of public hearings. 2. Report on the issues raised during the public comment process.	Iowa intends to comply with this section after receiving the feedback requested from DHHS in #1 above. Given the quick turn-around time needed to successfully implement this proposal, Iowa cannot wait for completion of the 30-day public comment period to provide this information to DHHS. Iowa will provide all documentation requested in this section.
	Public Hearings	Include: 1. Evidence that a minimum of 2 public hearings were convened on separate dates and locations (i.e., notice or agenda). 2. Report on the issues raised during public hearings.	Iowa intends to comply with this section after receiving the feedback requested from DHHS in #1 above. Given the quick turn-around time needed to successfully implement this proposal, Iowa cannot wait for completion of public hearings to provide this information to DHHS. Iowa will provide all documentation requested in this section.

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	Tribal Consultation and evidence of meaningful consultation (if the state has one or more Federally-recognized Indian tribes)	Include: 1. Evidence of an official meeting between the state and Tribal representatives. 2. Report of the issues raised during official meeting.	Iowa intends to comply with this section after receiving the feedback requested from HHS in #1 above. Given the quick turn-around time needed to successfully implement this proposal, Iowa cannot wait for completion of Tribal Consultation to provide this information to DHHS. Iowa will provide all documentation requested in this section.
3	**45 CFR 155.1308(f)(3)(i), (ii)** Comprehensive description of State's enacted legislation and program to implement a plan meeting the requirements for a Section 1332 waiver and a copy of the state's enacted legislation	Include legislation establishing authority to pursue a Section 1332 waiver and/or for the program to implement a state plan for a waiver. *If submitting a Section 1332 waiver application implementing a high-risk pool/state-operated reinsurance program and seeking a pass through of funding*, the legislation must provide that the high-risk pool/state-operated reinsurance program is contingent upon federal approval of the waiver (or become effective only if the Section 1332 waiver is approved). This could be accomplished by making appropriations or funding for the program or the authorization for the reinsurance program contingent on approval of the Section 1332 waiver, or by otherwise structuring the legislation so that the program cannot operate without an approved Section 1332 waiver in place.	As set forth in this proposal, Iowa Code Section 505.8(19) provides broad authority to the insurance commissioner to meet this requirement. Iowa Code 513C.10 provides authority to regulate the Iowa PSM health insurance program with a reinsurance structure. To the extent the federal regulation purports to require more, Iowa requests DHHS waive specific state legislative recognition of Section 1332 waiver as providing health coverage for Iowans is far more essential than the structure of the authorizing legislation. Iowa's legislature has recessed its 2017 session. Further, Iowa can promulgate administrative rules that will be effective by January 1, 2018 upon DHHS approval of this proposal.
4	**45 CFR 155.1308(f)(3)(iii)** List of provision(s) of the law that the state seeks to waive and reason for the specific request(s).	Include a description of the provision the seeking to be waived and how it will facilitate the state's plan.[4] If the state is seeking pass-through funding, include an explanation of how, due to the structure of the state plan, the state anticipates that individuals would not qualify for premium tax credits, small business tax credits, or cost-sharing reductions for which they	Iowa has provided this information in its proposal.

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		would otherwise be eligible. Also explain how the state plans to use that funding. For a *high-risk pool/state-operated reinsurance Section 1332 Waiver* a state should request a waiver of one or more related provisions of the ACA[5] and explain how that will facilitate the state's plan to implement a state-operated reinsurance program for 2018 and/or future years. The state should further explain how the provision(s) of the ACA that the state is seeking to waive are connected to and/or relate to the state's plan for a reinsurance program. The state should also state how the high-risk pool/state-operated reinsurance program would result in a reduction in federal spending on premium tax credits, if the state expects to receive pass-through funding, and how the state wants to use that funding to implement the state plan under the Section 1332 waiver.	
5	**45 CFR 155.1308(f)(4)(i)-(iii)** Actuarial analyses and actuarial certifications Economic analyses Data and assumptions **Note a state can combine the elements of an actuarial analysis and economic analysis into one report or submit separate actuarial and economic reports.*	Include: 1) An actuarial analysis and certification to support the state's finding that the waiver complies with the coverage, comprehensiveness, and affordability requirements in each year of the waiver. 2) An economic analysis to support the state's finding that the waiver will not increase the federal deficit over the five-year waiver period or in total over the ten-year budget period. 3) The data and assumptions that the state relied upon to determine the effect of the waiver on coverage, comprehensiveness, affordability and deficit neutrality requirements.	Iowa requests DHHS waive the requirements of this section as they are not applicable to Iowa's proposal. The 'traditional' 1332 Innovation waiver was designed to allow states to propose innovative and long-term changes to the functions of the ACA. Iowa's proposal is a short-term solution to prevent the crisis of not having any carriers offering ACA compliant plans in 2018. Iowa does not intend its proposal to be a long-term solution, but rather the solution for 2018. Iowa intends to revisit the functionality of this program in lieu of any federal guidance that may be applicable for 2019. Therefore, providing detailed analysis expanding 5 years is not necessary for Iowa's proposal

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		The actuarial and economic analyses must compare coverage, comprehensiveness, affordability and net Federal spending and revenues under the waiver to those measures absent the waiver (the baseline) for each year of the waiver. The deficit analysis should show yearly changes in the federal deficit (that is, revenues less spending) due to the waiver. It should include a description of all costs associated with the program, including federal administrative costs, foregone tax collections, and any other costs that the federal government might incur. For states considering establishing a *high-risk pool/state-operated reinsurance Section 1332 waiver*, the state should use a baseline in which there is no state or federal funding for a state reinsurance program, and should compare premiums and coverage under the baseline for each year to those projected under the waiver (i.e. with a reinsurance program with funding). Data used to produce these projections might include overall and Second Lowest Cost Premium (SLCSP) and enrollment information for a recent plan year. The actuarial and/or economic analyses must include: • A comprehensive description of the parameters of the reinsurance arrangement, including projected funding levels. • A projection of the following items separately under both a 'without-waiver' scenario and a 'with-waiver' scenario:	Iowa has, however, provided much of this requirement as it relates to 2018 including: 1) its analysis that compares the costs of the second lowest cost silver plan premium, 2) the estimated premium credit per member per age and income level, and 3) the parameters of its reinsurance program.

		• Number of non-group market enrollees by income as a share of FPL (0% - 99%, ≥100% to ≤150%, >150% to ≤200%, >200% to ≤250%, >250% to ≤300%, >300%- ≤400%**,** and greater than 400% of FPL), by PTC-eligibility, and by plan. • Overall average non-group market premium rate. • Second Lowest Cost Silver Plan rate for a representative consumer (e.g., a 21-year old non-smoker), by rating area. • Aggregate premiums and PTC amounts. • Aggregate shared responsibility payments, health insurance provider fee, and exchange user fee for FFE or SBE-FP states. • Documentation of the assumptions and methodology used in the projections. Additional information may be required to facilitate evaluation of state estimates and calculation of pass-through amounts by the Departments.	
6	**45 CFR 155.1308(f)(4)(iv)** Draft timeline for implementation of the proposed waiver	Include a timeline and discussion of implementation of the waiver plan. *If applicable*, include an explanation as to how the state will provide the federal government with all information necessary to administer the waiver at the federal level**.** If a *high-risk pool/state-operated reinsurance program Section 1332 waiver*, include: 1. How the state will implement a reinsurance program. 2. The data collection timing and mechanism for collecting claims information and generally for pay-out. 3. Whether the state is using conditions-based list for reinsurance and/or an attachment point model.	Iowa has provided this information in its proposal.

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		4. Whether the reinsurance program includes incentives for providers, enrollees, and plan issuers to continue managing health care cost and utilization for individuals eligible for the described reinsurance (if any). 5. Whether the state is specifying a co-insurance amount, or a cap, based on available funds, similar to the federal program. 6. Any legislation and/or regulations related to the state reinsurance program.	
7	**45 CFR 155.1308(f)(4)(v)(A)(B)(C)(D) and (E)** Additional Information	Additional Information that is pertinent to your waiver plan. This may include: 1) Explanation of whether the waiver increases or decreases the administrative burden on individuals, insurers, or employers. 2) Explanation of whether the waiver will affect the implementation of ACA provisions which are not being waived. Note: The state should identify if any section of the ACA would be adversely affected by the proposed waiver. 3) Explanation of how the waiver will affect residents who need to obtain health care services out of the state. Please include whether the state health plans provide for coverage out of state. 4) If applicable, an explanation as to how the state will provide the Federal government with all information necessary to administer the waiver at the Federal level. 5) Explanation of how the state's proposal will address potential compliance, waste, fraud, and abuse.	Iowa requests DHHS waive the requirements of this section as they are not applicable to Iowa's proposal. The 'traditional' 1332 Innovation waiver was designed to allow states to propose innovative and long-term changes to the functions of the ACA. Iowa's proposal is a short-term solution to prevent the crisis of not having any carriers offering ACA compliant plans in 2018. Iowa does not intend its proposal to be a long-term solution, but rather the solution for 2018. Iowa intends to revisit the functionality of this program in lieu of any federal guidance that may be applicable for 2019. Aside from the information requested in this checklist, Iowa is committed to providing DHHS with any other information requested to assess the proposal.

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8	**45 CFR 155.1308(f)(4)(vi)** State's suggested reporting targets for the four statutory requirements	States must propose a plan for quarterly and/or annual reporting of data to demonstrate that the waiver remains in compliance with the scope of coverage, affordability, comprehensiveness and deficit requirements. For example, a state might meet this requirement by proposing to continue to report the same data used to support the application findings as required under **45 CFR 155.1308(f)(4).** For comprehensiveness, if there is no change to the provision of the ten Essential Health Benefits (EHB) identified in the benchmark plan, the state can indicate that it will report on any modifications from federal or state law on an annual basis. For a *high-risk pool/state-operated reinsurance program Section 1332 waiver,* the state must provide each year the actual Second Lowest Cost Silver Plan premium under the waiver and an estimate of the premium as it would have been without the waiver, for a representative consumer in each rating area. Coverage and affordability metrics may be also reported on an annual basis.	Iowa intends to comply with this section after receiving the feedback requested from DHHS in #1 above. Given the quick turn-around time needed to successfully implement this proposal, Iowa cannot wait to assess the reporting requirements prior to providing this information to DHHS. Iowa will work with DHHS to determine what reporting requirements it requires.

APPENDIX C

PROPOSED RULES

191 - Chapter [XX.XX]

XX.1 These rules are adopted pursuant to the general rule making authority of the insurance commissioner in Iowa Code 505 and 513C to establish the Iowa Proposed Stopgap Measure ("PSM") Plan

XX. 2 Definitions

"Eligible consumer" means an individual who meets the following criteria:

(1) Is a resident of Iowa; and
(2) Is not eligible for health insurance coverage through an employer or Title XVIII, XIX, or XXI of the Social Security Administration Act.

"Eligible health carrier" means any health insurer who the commissioner approves to offer the Iowa Proposed Stopgap Measure Plan.

XX. 3 Covered benefits.

(1) The Iowa Proposed Stopgap Measure Plan shall provide the following benefits:
    a. All Essential Health Benefits set forth in 45 C.F.R. § 156.110, and

    b. Benefits set forth in Iowa Code 514C.

(2) The Iowa Proposed Stopgap Measure Plan shall have an actuarial value between sixty-eight (68) percent and seventy-two (72) percent.

XX. 4 Enrollment.

(1) For calendar year 2018, any eligible consumer who wishes to purchase the Iowa Proposed

Stopgap Measure Plan must purchase the Plan between November 1, 2017 and December 15, 2017.

(2) For special enrollments during plan year 2018, a consumer must demonstrate that he or she has not been without health care coverage for more than 63 days in the immediately preceding 12 months as a condition of being determined an eligible consumer.

(a) Beginning in plan year 2019 a consumer must demonstrate that he or she has not been without health care coverage for more than 63 days in the immediately preceding 12 months as a condition of being determined an eligible consumer.

(3) The requirements of this rule shall not apply in situations of birth or adoption.

(4) This shall be the enrollment timeframe for subsequent years should the Iowa Proposed Stopgap Measure program be renewed.

XX.5. Premium Credits.

(1) Premium credits based on age and income will be available to any eligible consumer who purchases the Iowa Proposed Stopgap Measure Plan. The premium credit will be a defined monthly dollar amount as defined by the commissioner or delegated agent.

(2) Premium credits will be available based on the income level reported and verified by the commissioner or delegated agent.

(3) Premium credits will be paid by the commissioner or delegated agent to the eligible health carrier.

XX. 6 Reinsurance program

(1) Reinsurance shall be available for eligible health carriers for eligible consumer claims incurred in a benefit year at the following amounts:

(a) For claims that are greater than $100,000 and up to $1,000,000, the Iowa Proposed Stopgap Measure program will reimburse eighty-five (85) percent.

(b) For claims that greater than $1,000,000 and up to $3,000,000, the Iowa Proposed Stopgap Measure program will reimburse twenty-five (25) percent.

(c) For claims that are greater than $3,000,000, the Iowa Proposed Stopgap Measure program will reimburse forty (40) percent.

(2) Reinsurance payments will be paid in the time and manner defined by the commissioner or delegated agent to the eligible health carrier.

XX.7 Funding. The Iowa Proposed Stopgap Measure program shall be funded by monies received from the Center for Medicare and Medicaid Services (CMS). If no funding or an insufficient amount of funding is received from CMS, the Iowa Proposed Stopgap Measure program shall not be available for eligible consumers and a carrier participating in the Iowa Proposed Stopgap Measure program may cancel or nonrenew a Iowa Proposed Stopgap Measure policy.

XX. 8 The Iowa Proposed Stopgap Measure program shall be available through December 31, 2018, unless the commissioner and CMS renew the program.

Appendix D

Age	Premium Age	FPL	APTC FPL	2017 Std Silver Premium	2017 APTC	Silver Premium after APTC	2018 Premium	Flat Monthly Credit	2018 Premium after Credit
0-20	10	133%-150%	125%	$161	$148	$13	$272	$250	$22
0-20	10	150%-200%	175%	$161	$129	$32	$272	$221	$51
0-20	10	200%-250%	225%	$161	$104	$57	$272	$162	$110
0-20	10	250%-300%	275%	$161	$76	$85	$272	$103	$169
0-20	10	300%-400%	350%	$161	$44	$117	$272	$44	$228
0-20	10	>400%		$161	$0	$161	$272	$24	$248
21-34	29	133%-150%	125%	$284	$250	$34	$398	$336	$62
21-34	29	150%-200%	175%	$284	$203	$81	$398	$297	$101
21-34	29	200%-250%	225%	$284	$139	$144	$398	$217	$181
21-34	29	250%-300%	275%	$284	$68	$216	$398	$138	$260
21-34	29	300%-400%	350%	$284	$20	$264	$398	$59	$339
21-34	29	>400%		$284	$0	$284	$398	$32	$366
35-44	40	133%-150%	125%	$324	$291	$34	$454	$398	$56
35-44	40	150%-200%	175%	$324	$243	$81	$454	$351	$103
35-44	40	200%-250%	225%	$324	$180	$144	$454	$257	$197
35-44	40	250%-300%	275%	$324	$108	$216	$454	$164	$290
35-44	40	300%-400%	350%	$324	$33	$291	$454	$70	$384
35-44	40	>400%		$324	$0	$324	$454	$37	$417
45-54	50	133%-150%	125%	$453	$419	$34	$635	$554	$81
45-54	50	150%-200%	175%	$453	$372	$81	$635	$489	$146
45-54	50	200%-250%	225%	$453	$309	$144	$635	$391	$244
45-54	50	250%-300%	275%	$453	$237	$216	$635	$326	$309
45-54	50	300%-400%	350%	$453	$155	$298	$635	$228	$407
45-54	50	>400%		$453	$0	$453	$635	$65	$570
55+	60	133%-150%	125%	$688	$655	$34	$964	$828	$136
55+	60	150%-200%	175%	$688	$608	$81	$964	$760	$204
55+	60	200%-250%	225%	$688	$544	$144	$964	$702	$262
55+	60	250%-300%	275%	$688	$473	$216	$964	$643	$321
55+	60	300%-400%	350%	$688	$391	$298	$964	$556	$408
55+	60	>400%		$688	$0	$688	$964	$117	$847

Notes:

* Silver premiums are generated from Aetna's 2017 Federal rate data template and the IID's Demographic and Plan Selection file (to ascertain regional membership distribution) so that statewide silver premiums could be estimated.

** 2018 premium is a simple estimate using the 2017 IID rate sheet summaries (lowest 10 silver premiums weighted against 2017 regional membership x 1.25). IID assumed a 25% rate increase for 2018 which is a pure estimate. Within the context of the current market uncertainties (CSR for example), these numbers are extremely difficult to estimate.