

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
Center for Consumer Information and Insurance Oversight  
200 Independence Avenue SW  
Washington, DC 20201



February 6, 2020

**VIA ELECTRONIC MAIL:** ryan.loke@georgia.gov

The Honorable Brian P. Kemp  
Governor, State of Georgia  
115 State Capitol  
Atlanta, Georgia 30334

Dear Governor Kemp:

Thank you for your submission on December 23, 2019 of Georgia's application for a State Innovation Waiver under section 1332 of the Patient Protection and Affordable Care Act (PPACA). In Phase I, Georgia seeks to waive PPACA's requirement for the single risk pool, under section 1312(c)(1) of PPACA, to implement a state reinsurance program for plan years 2021 through 2025. In Phase II, Georgia seeks to waive sections 1301(a), 1302(b), 1302(c), 1302(d), 1311, and 1402 of PPACA and section 36B of the Internal Revenue Code (IRC) to transition the State's individual market from the Federally-facilitated Exchange to the new Georgia Access Model. As described in the application, the Georgia Access Model would take advantage of flexibilities outlined by CMS in the waiver concepts released on November 29, 2018 to create a new, state-administered premium assistance program and to provide financial assistance for different types of health insurance plans. Phase II would go into effect for plan years 2022 through 2025.

Georgia's application included a cover note from Governor Kemp specifically requesting that the Department of Health and Human Services and the Department of the Treasury (collectively, the Departments) consider review and approval of each of the phases of Georgia's waiver application separately, and further requested the review and approval of Phase I be accelerated. The Departments have also received your letter of February 5, 2020, reiterating your request to separately review Phase I of Georgia's application, which includes a reinsurance program that, if approved, would go into effect on January 1, 2021. The letter further requests that the Departments pause the preliminary review of Phase II of Georgia's application pending the submission of additional supporting information. In accordance with 45 CFR 155.1308(c) and 31 CFR 33.108(c), the Departments have completed a preliminary review of the application with respect to Phase I of the waiver, and we have made a preliminary determination that Georgia's application with respect to this phase is complete. Per your request, and in light of the additional time available for implementation of Phase II, the Departments have paused the preliminary review of Phase II of Georgia's application pending the receipt of the supplemental information requested in this letter. We look forward to continuing to work with Georgia on both phases of this application.

Pursuant to 45 CFR 155.1308(d) and 31 CFR 33.108(d), the date of this letter marks the beginning of the Federal public notice process and 180-day Federal decision-making period for Phase I of Georgia's application, relating to the implementation of a state reinsurance program. Public

comments on Phase I of Georgia's application will be accepted by the Departments from February 6, 2020 through March 7, 2020, and more information about the Federal public notice process and section 1332 waivers generally can be found on the CCIIO website.<sup>1</sup> The decision of the Departments regarding approval or denial of Phase I of Georgia's application will be issued within 180 days of this preliminary determination of completeness of Phase I of Georgia's application in accordance with 45 CFR 155.1316(c), 31 CFR 33.116(c), and other applicable regulations.

Before making a preliminary determination of completeness for Phase II of Georgia's application, the Departments request additional supporting information. Pursuant to 45 CFR 155.1308(g) and 31 CFR 33.108(g), during the Federal review process, the Departments may request additional supporting information from the State as needed to address issues that arise in reviewing the application.

45 CFR 155.1308(f)(3)(iv) and 31 CFR 33.108(f)(3)(iv) state that the analyses, actuarial certifications, data, assumptions, analysis, targets and other information must provide the HHS Secretary and the Secretary of the Treasury, as applicable, with the necessary data to determine that the state's proposed waiver will meet the four guardrails as part of a section 1332 waiver. In order to accurately demonstrate the effect of the section 1332 waiver on these four guardrails, we request information and analyses to clarify the impact of Phase II of Georgia's section 1332 waiver proposal on:

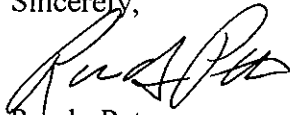
- Other provisions of PPACA, including section 4980H of the IRC "Shared Responsibility for Employers Regarding Health Coverage." In particular, please provide information on how, if at all, effects of the waiver on applicable PPACA provision(s) may impact the guardrails, including through changes in employer behavior as a result of the waiver.
- Consumers who experience changes during the course of the year that may affect their eligibility for subsidies. In particular, please explain whether Georgia plans to require reconciliation of state subsidy amounts (to reflect recipients' actual income and family sizes for the year) as part of the state's waiver plan. Please also provide information on the process for any subsidy redeterminations within or between plan years. Please also confirm that the submitted analyses reflect the State's intended policies and describe the impact, if any, on the guardrails, or submit additional analyses as may be needed.
- Per 45 CFR 155.1308(f)(4)(iii)(A) and 31 CFR 33.108(f)(4)(iii)(A), please also provide data on the age distribution, health expenses, and health insurance status of the relevant population in Georgia, as well as on the number of employers by number of employees and whether the employer offers insurance, cross-tabulations of these variables, and an explanation of data sources and quality.

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<sup>1</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)

On receipt of the information requested, the Departments will continue their preliminary review to determine if Phase II of Georgia's application is complete. Again, we look forward to continuing to work with Georgia on both phases of this application. Please do not hesitate to contact us if you have any questions.

Sincerely,



Randy Pate

Director, Center for Consumer Information & Insurance Oversight  
Deputy Administrator, Centers for Medicare & Medicaid Services

Cc: David Kautter, Assistant Secretary for Tax Policy, U.S. Department of the Treasury  
Gen. John F. King, Commissioner, Georgia Department of Insurance  
Ryan Loke, Special Projects, Office of Governor Brian Kemp