

What is a Section 1332 Waiver?

The Section 1332 Waiver, also known as a State Innovation Waiver, is part of the Affordable Care Act (ACA) and became an option to states beginning on January 1, 2017. It allows states to make changes to their insurance market provided consumer protections remain in place and:

- The waiver provides insurance coverage that is at least as comprehensive as current coverage
- The waiver will cover a comparable number of individuals; and
- The waiver does not increase the federal deficit.

As of December of 2017, at least 24 states were considering legislation to authorize a 1332 waiver implementation. The goals of these waivers are to reduce premiums, improve access to care, offer more choices to consumers, and provide more market stability.

Why is Wisconsin looking at a 1332 Waiver?

While most consumers receive insurance through their employer, or through government programs (i.e. Badgercare and Medicare), over 200,000 Wisconsinites purchase health insurance in the individual market. Many are self-employed, and others may work at employers who don't offer coverage. But for these Wisconsinites the individual market is important and it has been failing them.

Consumers continue to lose coverage choices as insurers leave the individual market or shrink service areas. Large insurers such as Humana and United dropped out of the individual market entirely effective the 2017 plan year. Most recently, Anthem and Molina stopped offering plans on the Exchange for 2018 and significantly limited their off Exchange service areas. As a result, over 75,000 people had to change insurers for their 2018 coverage and many of them had one or two insurers to choose from.

Insurers have lost over \$400 million in Wisconsin's individual market in the last three years. Insurance rates have skyrocketed – in one rating region, the rate for the second lowest cost silver plan (the basis for federal subsidies) increased over 100 percent.

In short, Wisconsin's individual market is in a fragile state and absent federal fixes to the ACA, Wisconsin needs to stabilize its own individual market for Wisconsinites.

Have any other states received a 1332 Waiver?

Yes. Among the states who have applied and received approval, the operation of a state based reinsurance program is the most common waiver. Alaska, Minnesota and Oregon have all received approval for reinsurance programs. Estimated reductions in premiums compared to where they would have been in 2018 absent reinsurance in these states ranged from 20 percent in Minnesota to 7.1 percent in Oregon. Alaska began a state funded program in 2017 that reduced premium increases from an estimated 42 percent to 7.3 percent.

Similar to Wisconsin, those states were facing significant problems in the number of insurers and the proposed premium rate increases. Reinsurance provides some funding for high cost claims, equalizing the losses among the insurers and allowing them to reduce rate increases for

consumers. In all cases, the data points to reinsurance as a successful step in stabilizing the market; that is, keeping insurers in the market and reducing rate increases market wide.

What is Governor Walker proposing?

The state is looking at a bifurcated process. With insurers exiting the market, shock rate increases, and consumers facing fewer choices, the individual market needs to be stabilized. In the short term, the state is looking at a state based reinsurance program similar to the waivers that were approved for other states. This is the fastest route to having an impact on the entire individual health insurance market. The proposal is expected to be in place in time to provide rate relief for the 2019 plan year.

The second part of the process will take additional time and will seek to find additional changes that will help further stabilize the individual market over the long term. A second waiver proposal is anticipated for consideration in early 2019, to potentially impact the 2020 plan year.

What is reinsurance?

Reinsurance provides coverage for certain types of losses. State and federal governments have run a variety of reinsurance programs over the years including for health insurers. There are three main types of reinsurance pools: condition based reinsurance – this type of program assigns specific risks (i.e. an individual's claims) to the reinsurance program; catastrophic based reinsurance – this type of program provides coverage for claims at a catastrophic level, and corridor based reinsurance which provides coverage in-between certain dollar amounts for example providing coverage between \$50,000 and \$250,000.

Governor Walker is proposing that the state create a program funded with federal and state resources that would create a corridor based reinsurance program, adjusted based on an annual actuarial analysis. It is anticipated, the state reinsurance program would provide coverage up to 80 percent for claims above \$50,000 and below \$250,000. This is similar to Minnesota's program. Insurers continue to cover claims above \$250,000 which continues to give them incentive to control costs.

This type of program provides the most predictable amounts for both state budgeting purposes and insurer predictability.

How much will the waiver cost? How much will it save consumers?

The state is estimating that it will propose a \$200 million program. Based on initial review, the state will be required to fund roughly twenty-five (25) percent of the program and the federal pass through dollars will support the remaining seventy-five (75) percent of the cost. State funding would come from estimated savings in the state Medical Assistance program. Therefore, initially, there will be no general fund impact for the program. If implemented, the program can be evaluated in future biennia to determine if it should continue and/or if additional 1332 waivers are to be pursued.

The reinsurance program will have a positive impact on 2019 rates, resulting in lower increases for 2019. The state will require insurers to file rates with both assumptions (i.e. with and without reinsurance) in order to help establish the savings from the program.

What will the process be?

In order to establish a state reinsurance program, Governor Walker will propose the program to the Wisconsin Assembly and Wisconsin Senate. Authorizing legislation is needed for a waiver to be approved. If approved and signed by the Governor, the state will begin the process of applying for the waiver with the Center for Medicare and Medicaid Services (CMS). This will include a public hearing process, and a separate consultation with the state's tribal communities. CMS will then begin their review process.

If approved, the program will be operational throughout 2019 and into future years. It is anticipated the Office of Commissioner of Insurance will operate the program.