Frequently Asked Questions about Delaware's 1332 Waiver Application

Overview

Delaware intends to submit a 1332 waiver application to the U.S. Department of Health and Human Services and the U.S. Treasury (the Departments) which, if approved, would establish a reinsurance program that would be expected to lower premium rates for Individual health insurance plans by approximately 20.0% and improve the morbidity of the Individual single risk pool by as much as 0.6%.

If approved and implemented, the waiver application would take effect for the 2020 plan year and would be eligible to remain in effect for five years.

How would the reinsurance program work?

Insurers who offer coverage in Delaware's Individual market would be reimbursed by the reinsurance program for a percentage of the annual claims which they incur on a per member basis between a specified lower threshold ("attachment point") and upper threshold ("reinsurance cap"), to be determined each year by the Delaware Health Care Commission (DHCC).

Due to these reimbursements and the anticipated improvement in morbidity, it is expected that insurers would incur lower costs on their Individual health insurance plans each year, and that those lower costs would be required to be passed on to consumers in the form of lower premium rates (i.e., prior to the application of federal premium tax credits).

Who would benefit from the reinsurance program?

Consumers in the Individual market who do <u>not</u> receive federal premium tax credits (PTCs) would particularly benefit from the lower premium rates.

Consumers in the Individual market who do receive PTCs would be expected to experience little to no impact from the lower premium rates. This is because the PTCs are set such that eligible individuals pay no more than a specified percentage of their income for the second-lowest cost silver plan, regardless of the cost of the second-lowest cost silver plan. However, if the lower premium rates for the second-lowest cost silver plan were to be less than the specified percentage of income for certain individuals, they would pay the lower amount.

All consumers in the Individual market would be expected to benefit from increased stability due to an expectation that overall membership in the single risk pool would increase due to lower premium rates.

How much would the reinsurance program cost and how would it be funded?

Preliminarily, the total cost of the reinsurance pool needed for the 2020 plan year is expected to be approximately $43.8 million.

Based on actuarial modeling, over 80% of the cost of the reinsurance program is expected to be funded through federal “pass-through” dollars. These amounts are made available to the State under a 1332 waiver based on the presumption that the federal government would spend less in premium tax credits than it otherwise would have, due to lower premium rates.

The remainder of the cost of the program is expected to be funded through an assessment which would be equally applied to specified insurers based upon their premium tax liability, or the amount of their premium tax exemption value for the previous calendar year. The assessment would be equal to 2.75% of premium annually in years that the Health Insurance Providers Fee (i.e., as defined under 9010 of the Affordable Care Act) is waived, and 1.00% of premium annually in years that the Health Insurance Providers Fee is assessed. The State of Delaware would not be able to hold more than 5 years of operating and administrative funds to cover the expected cost of the reinsurance program.

What additional steps must be taken before Delaware’s 1332 waiver application is approved?

Senate Concurrent Resolution 70 (SCR 70) was passed on June 28, 2018 and authorizes the State’s submission of a 1332 waiver application. The establishment of the reinsurance program and the securement of a funding source for the reinsurance program, contingent on the approval of the State’s 1332 waiver application, is being established in the House Bill 193 (HB 193), which was introduced on June 3, 2019. HB 193 will need to be passed by the legislature and signed by the Governor prior to the submission of the State’s 1332 waiver application.

Additionally, two public hearings must be held prior to submission of the State’s 1332 waiver application. These public hearings are currently scheduled to take place on Tuesday, June 11, 2019 and Friday, June 14, 2019.

Once the two public hearings have been held and HB 193 has been passed and signed, the State of Delaware intends to submit its 1332 waiver application to the Departments for approval. Based on the timing of recent 1332 waiver applications filed by other states, it is expected that the Departments' review and decision of whether to approve Delaware's application will take approximately 6-7 weeks. It should be noted, however, that the Departments ultimately have up to 45 days following receipt of the application to determine its completeness and another 180 days following the determination of completeness to make a final decision regarding approval.

What happens if Delaware's 1332 waiver application is not approved?

Per HB 193, funding for the reinsurance program is contingent on the approval of the State's 1332 waiver application. If the application is not approved, it is expected that the State would no longer proceed with the implementation of a state-based reinsurance program for plan year 2020.