



## Opportunities to Use 1332 Innovation Waivers to Promote Access to Affordable Coverage

- ★ [Section 1332 of the Affordable Care Act](#) (ACA) gives states the ability to pursue an innovative approach to high-quality health care coverage by waiving certain requirements of the ACA. The [goals](#) of a 1332 waiver are to provide more choice, competition, and affordability, while-retaining the ACA's basic protections.
- ★ To receive approval from the Department of Health and Human Services (HHS) and the Treasury Department, states must demonstrate that four guardrails are met: the waiver will not impact the affordability or the comprehensiveness of health plans, at least the same number of individuals will be covered, and the waiver must be deficit-neutral to the federal government within a ten-year period.
- ★ The Centers for Medicare and Medicaid Services (CMS) and the Treasury Department calculate the amount of “pass-through” funding given to the state, equal to the amount of funding the state would have received for premium tax credits and cost-sharing reduction amounts without the waiver. States have the flexibility to reinvest these funds into their programs to meet the needs of their specific populations.

### Current Landscape

- ★ As of August 2022, 1332 waivers have been approved for [seventeen](#) states, sixteen of which create reinsurance programs.
- ★ Several states have used 1332 waivers to create reinsurance programs while also including unique amendments to their waivers. Maine uses a [1332 waiver](#) to stabilize the individual and small group markets and improve affordability with reduced premiums by combining the two risk pools.
- ★ While most states utilize 1332 waivers for reinsurance programs, momentum for more innovative approaches to improve health care coverage and affordability is increasing. Colorado is the first state to use a 1332 waiver to create a public health insurance option, or [Colorado Option](#) (CO). [Washington](#) state also recently submitted a [waiver application](#) to expand Marketplace coverage and state premium assistance to undocumented individuals that is [currently under review](#).

## A Comparison of State 1332 Innovation Waivers

	<a href="#"><u>Colorado’s 1332 Innovation Waiver</u></a>	<a href="#"><u>Washington’s 1332 Innovation Waiver Application</u></a>	<a href="#"><u>Maine’s 1332 Reinsurance Waiver</u></a>
<b>Overview and Goals</b>	<p>Colorado is the first state to use a 1332 waiver to implement a public health insurance option, or “<a href="#"><u>Colorado Option</u></a>” (CO). This is a new waiver amendment that builds upon the state’s previously established <a href="#"><u>reinsurance program</u></a>. The CO will be implemented as outlined in <a href="#"><u>HB21-1232</u></a>, offering standardized health plans on the state-based exchange that are available to all residents, regardless of immigration status. The CO will be cheaper than other Marketplace plans due to premium reduction targets of <a href="#"><u>15% over three years</u></a>. The revenue generated from the CO and the reinsurance program will generate savings to further improve health coverage affordability in the state.</p>	<p>The approval of Washington’s 1332 waiver will expand eligibility for qualified health plans (QHPs) that are offered on the exchange, including dental plans, to all Washingtonians regardless of immigration status. <a href="#"><u>SB 5377</u></a> in 2021 established the state’s premium assistance program <a href="#"><u>Cascade Care Savings</u></a>. Approval of the 1332 waiver will expand the affordability program to all Washington residents up to 250% FPL, regardless of immigration status.</p>	<p>Maine is the <a href="#"><u>first and only state</u></a> to use a 1332 waiver to combine the individual and small group markets into a single risk pool, covered under the state reinsurance program, the <a href="#"><u>Maine Guaranteed Access Reinsurance Association (MGARA)</u></a>. With a larger pool, risk is spread across the market to achieve more stability, resulting in lower premiums.</p>
<b>Status</b>	<a href="#"><u>Approved</u></a> June 23, 2022.	<a href="#"><u>Pending</u></a> approval from CMS.	<a href="#"><u>Approved</u></a> July 15, 2022.
<b>Timeline</b>	<a href="#"><u>Effective</u></a> January 1, 2023, through December 31, 2027.	<p>The federal comment period ended on July 14, 2022.</p> <p><a href="#"><u>Expected Timeline</u></a> pending approval.</p> <ul style="list-style-type: none"> <li>★ August 2022- requested approval</li> <li>★ Nov. 2022- Open Enrollment for 2023 with Cascade Care Savings for non-waiver individuals</li> </ul>	<a href="#"><u>Effective</u></a> January 1, 2023, through 31, 2027.

	<a href="#"><u>Colorado’s 1332 Innovation Waiver</u></a>	<a href="#"><u>Washington’s 1332 Innovation Waiver Application</u></a>	<a href="#"><u>Maine’s 1332 Reinsurance Waiver</u></a>
		<ul style="list-style-type: none"> <li>★ July 2023- State funds distributed into Cascade Care Savings affordability account, includes the newly eligible waiver population</li> <li>★ Nov. 2023- Open Enrollment for 2024 with waiver population eligible to enroll in QHPs and the Cascade Care Savings program</li> </ul>	
<b>Target Population</b>	<p>All Coloradans, regardless of immigration status, will be eligible for the CO.</p> <p>The CO is expected to serve <a href="#"><u>32,000</u></a> Coloradans by 2027. It is expected to bring <a href="#"><u>10,000 individuals</u></a> into the market who are not eligible for federal subsidies due to immigration status, lack of documentation, and individuals within the family glitch.</p>	<p>Over <a href="#"><u>100,000</u></a> Washington immigrants are currently excluded from affordable health care coverage, making up <a href="#"><u>23%</u></a> of the state’s uninsured population. Approval of the 1332 waiver would expand access to QHP coverage to this population and low-income individuals up to <a href="#"><u>250% FPL</u></a> would be eligible for state subsidies through the Cascade Care Savings program.</p>	<p>Since Maine’s original 1332 waiver was implemented in <a href="#"><u>2019</u></a>, the reinsurance program has been able to <a href="#"><u>stabilize the individual market and control premiums</u></a>. Meanwhile, <a href="#"><u>premiums in the small group market have continued to rise and enrollment has declined</u></a>. With the new 1332 waiver beginning in 2023, the combined risk pools will increase the size and stability of the market, thereby improving affordability and enrollment.</p>
<b>Impact for People</b>	<p>Improves affordability with <a href="#"><u>premium reduction requirements</u></a>.</p> <p>Comparative to the current reinsurance waiver by itself, this added amendment is expected to generate premium reductions of <a href="#"><u>1% in the first year and up to 14% by the fifth year</u></a>. All together, the combination of premium reduction targets in the new amendment and</p>	<p>Would expand access to health care coverage and affordability across the state to all Washingtonians. This has great implications for removing barriers to accessing needed health care services and improving health equity.</p> <p>Expected premium reductions range from <a href="#"><u>1.4-1.6%</u></a> every year in</p>	<p>The state estimates that average premiums in 2023 will be <a href="#"><u>6.0%</u></a> lower for small group coverage and <a href="#"><u>8.1%</u></a> lower for individual coverage, compared to premium costs without the 1332 waiver and the reinsurance program.</p>

	<a href="#"><u>Colorado’s 1332 Innovation Waiver</u></a>	<a href="#"><u>Washington’s 1332 Innovation Waiver Application</u></a>	<a href="#"><u>Maine’s 1332 Reinsurance Waiver</u></a>
	<p>the reinsurance waiver is expected to generate premium reductions of <a href="#"><u>22% in the first year and up to 32% by the fifth year</u></a>, when compared to the baseline without any waiver.</p> <p>An estimated <a href="#"><u>\$1.5 billion</u></a> in pass-through funding will be directed toward state-based subsidies for individuals up to 300% of the federal poverty level (FPL). This includes individuals who are ineligible for federal advanced premium tax credits (APTCs) such as those who are undocumented immigrants or those who fall into the family glitch.</p> <p>The CO is required to meet <a href="#"><u>culturally responsive network requirements</u></a> and is designed to <a href="#"><u>advance health equity</u></a> in the state.</p> <p>Creates <a href="#"><u>standardized plans</u></a> with a set of benefits that are designed to improve equity, such as by providing first-dollar coverage on certain high-value services.</p>	<p>relation to the baseline 10-year projections.</p>	
<b>Federal Pass-through Funding</b>	<p>Estimated <a href="#"><u>\$1.5 billion over the course of the 5-year waiver</u></a> compared to without-waiver projections.</p> <p>Relative to savings projected under the reinsurance waiver, savings are estimated to amount to between \$13 million and \$148 million in each year</p>	<p>The pass-through funding is <a href="#"><u>estimated</u></a> to be over \$11 million over the course of the waiver:</p> <ul style="list-style-type: none"> <li>★ 2024- \$1.7 million</li> <li>★ 2025- \$2.0 million</li> <li>★ 2026- \$2.2 million</li> <li>★ 2027- \$2.4 million</li> <li>★ 2028- \$2.6 million</li> <li>★ 2029- \$2.7 million</li> </ul>	<p>The pass-through funding over the course of the waiver is <a href="#"><u>estimated</u></a>:</p> <ul style="list-style-type: none"> <li>★ 2023- \$22.8 million</li> <li>★ 2024- \$18.0 million</li> <li>★ 2025- \$18.9 million</li> <li>★ 2026- \$19.8 million</li> <li>★ 2027- \$20.7 million</li> </ul>

	<a href="#"><u>Colorado's 1332 Innovation Waiver</u></a>	<a href="#"><u>Washington's 1332 Innovation Waiver Application</u></a>	<a href="#"><u>Maine's 1332 Reinsurance Waiver</u></a>
	of the 5-year window, for total savings of \$515 million under this newly approved waiver.	<ul style="list-style-type: none"> <li>★ 2030- \$2.8 million</li> <li>★ 2031- \$3.1 million</li> <li>★ 2031- \$3.3 million</li> <li>★ 2031- \$3.4 million</li> </ul>	
<b>State Funding</b>	<p><a href="#"><u>\$1.5 million</u></a> for implementation in FY 2021-2022.</p> <p><a href="#"><u>\$1.9 million</u></a> for ongoing operating costs in FY 2022-23 and beyond.</p>	<a href="#"><u>\$55 million</u></a> in state funding (plus any pass-through funds beginning in 2025) will go towards the state's subsidy program, the Cascade Care Savings Program.	<a href="#"><u>\$26.7 million</u></a> every year from 2023-2027 for the reinsurance program.
<b>ACA Provision Being Waived</b>	<a href="#"><u>Section 1312(c)(1)</u></a> and <a href="#"><u>Section 1312(c)(2)</u></a> , which refer to single risk pool requirements in the individual and small group markets. These provisions were waived for the creation of the reinsurance program, and to allow carriers to adjust premiums to meet the CO premium rate reduction targets.	<a href="#"><u>Section 1312(f)(3)</u></a> prohibits individuals who are not U.S. citizens or U.S. nationals, and individuals who are not lawfully present from purchasing a QHP on the exchange. By waiving this requirement, all Washingtonians will be eligible to purchase coverage through the state-based Marketplace, and all Washingtonians up to 250% FPL will be eligible for the state affordability program.	<a href="#"><u>Section 1312(c)(1)</u></a> and <a href="#"><u>Section 1312(c)(2)</u></a> have been waived for the MGARA reinsurance program for the pooled individual and small group market, and to determine the market-wide index rate for rate setting and risk adjustments. <a href="#"><u>Section 1312(c)(3)</u></a> has been waived to allow for quarterly adjustments for small group plans that are not renewed on a calendar year basis.
<b>Market Impact</b>	<p>The CO will introduce standardized plans into the market with premium reduction requirements. This will promote competition in the market to offer more affordable, higher-value plans, improving the coverage options available on the exchange.</p> <p>Expected to bring over <a href="#"><u>10,000 individuals</u></a> into the market who are ineligible for federal APTCs.</p>	An expected increase in Marketplace enrollment of <a href="#"><u>1.1-1.4%</u></a> every year over the course of the 10-year waiver period.	<p>The combined individual and small group risk pools create a larger market, which allows for a greater spread of risk. <a href="#"><u>High-cost claims will be covered by reinsurance, providing more stability.</u></a></p> <p>Lower premiums are expected to increase enrollment in 2023 by about <a href="#"><u>5.3%</u></a> in small group coverage and <a href="#"><u>2.7%</u></a> in individual coverage.</p> <p>Maine also expects that the</p>

	<a href="#"><u>Colorado’s 1332 Innovation Waiver</u></a>	<a href="#"><u>Washington’s 1332 Innovation Waiver Application</u></a>	<a href="#"><u>Maine’s 1332 Reinsurance Waiver</u></a>
			MGARA program will continue to incentivize individual and small group insurers to offer plans in the market.
<b>Public Comment State and Federal</b>	<p>State comment period:</p> <ul style="list-style-type: none"> <li>★ <a href="#"><u>Public comment on state CO 1332 waiver application</u></a></li> </ul> <p>Federal comment period &amp; approval:</p> <ul style="list-style-type: none"> <li>★ <a href="#"><u>Public comment on CO 1332 waiver application</u></a></li> <li>★ <a href="#"><u>USofCare support for CO 1332 waiver application</u></a></li> <li>★ <a href="#"><u>USofCare support for CO 1332 waiver approval</u></a></li> </ul>	<p>State comment period:</p> <ul style="list-style-type: none"> <li>★ <a href="#"><u>Summary of public comments</u></a></li> </ul> <p>Federal comment period &amp; approval:</p> <ul style="list-style-type: none"> <li>★ <a href="#"><u>Public comment from individuals on waiver application</u></a></li> <li>★ <a href="#"><u>Public comment from organizations on waiver application</u></a></li> <li>★ <a href="#"><u>USofCare support for WA 1332 waiver application</u></a></li> </ul>	<p>State comment period:</p> <ul style="list-style-type: none"> <li>★ <a href="#"><u>Public comment on ME 1332 waiver amendment</u></a></li> </ul> <p>Federal comment period &amp; approval:</p> <ul style="list-style-type: none"> <li>★ <a href="#"><u>Public comments on ME 1332 waiver application</u></a></li> <li>★ <a href="#"><u>Public comment sign-on letter on ME 1332 waiver application</u></a></li> </ul>
<b>Stakeholder Engagement</b>	Information on stakeholder engagement can be found <a href="#"><u>here</u></a> .	Information on stakeholder engagement can be found <a href="#"><u>here</u></a> and <a href="#"><u>here</u></a> .	Information on stakeholder engagement can be found <a href="#"><u>here</u></a> .
<b>Helpful Resources</b>	<p><a href="#"><u>Waiver amendment application</u></a></p> <p><a href="#"><u>Actuarial analysis</u></a></p> <p><a href="#"><u>CMS fact sheet</u></a></p> <p>USofCare Colorado Option 1332 <a href="#"><u>Explainer</u></a></p>	<p><a href="#"><u>Waiver application</u></a></p> <p>Actuarial analysis can be found in <a href="#"><u>Appendix C</u></a> of the waiver application.</p>	<p><a href="#"><u>Waiver application</u></a></p> <p><a href="#"><u>Actuarial analysis</u></a></p> <p><a href="#"><u>CMS fact sheet</u></a></p>

## Other innovative 1332 waivers that states are exploring

### Nevada

- ★ [SB 420](#) authorized the state to leverage its existing infrastructure for Medicaid Managed Care Organizations (MCOs) and commercial insurers to offer public option plans with premium reduction targets, beginning 2026. Prior to creating the public option, **SB 420 requires the state to submit a 1332 waiver application to CMS by January 1, 2024**, to advance the affordability goals of the public option.
- ★ Nevada's [1332 waiver](#) would generate federal pass-through funding to improve the affordability of public option plans and enable state subsidies for low-income Nevadans. If certain parameters are met, the 1332 waiver would allow Nevada to combine the risk pools for the public option and Medicaid. Additionally, a 1332 waiver could authorize new temporary coverage options as an alternative to COBRA.
- ★ Nevada is [currently](#) in the process of drafting a 1332 waiver application, completing an actuarial analysis, and conducting stakeholder engagement, with the goal of submitting the application by February 2023. More information can be found [here](#).

### Oregon

- ★ [HB 4035](#) established a Task Force to create a Bridge Plan for Oregonians with incomes between 138%-200% of the federal poverty level (FPL) to maintain their health coverage when the COVID-19 Public Health Emergency comes to an end and the Medicaid continuous coverage requirement expires. Individuals in this income level are also particularly vulnerable to changes in income, resulting in frequent churn between Medicaid eligibility status. The [bill](#) gives the Oregon Health Authority (OHA) flexibility to pursue necessary federal waivers, including a 1332, to create the Bridge Plan.
- ★ OHA has indicated that a 1331 Basic Health Plan (BHP) may be the best approach to establish the Bridge Plan and a [1332 waiver may be pursued](#) once the BHP has been fully implemented.
- ★ The Department of Consumer and Business Services (DCBS) has also [suggested](#) a narrow amendment to Oregon's existing 1332 reinsurance waiver in order to capture the federal pass-through funding that otherwise would be lost without a 1332.

### New York

- ★ Advocates in the state are [trying to advance policies](#) that reduce the state's uninsured rate, including a state premium assistance program, a public option program, or a state program for low-income immigrants. A 1332 waiver could be used to accomplish these options.
- ★ The state could also utilize a [1332 waiver to revisit its BHP](#), such as expanding eligibility to individuals above 200% FPL and undocumented immigrants.
- ★ In August 2022, [Assembly Bill 10664](#) was introduced to propose a state public option that would allow the state to seek any applicable federal waivers for the approval and operation of the program.