

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

	DHHS Citation & Description	DHHS Comments	Iowa Comments
1	<p>45 CFR 155. 1308(a),(b), (c), (d)</p> <p>Submit application States should submit application with enough time to allow for an appropriate implementation timeline</p>	<p>E-mail applications to: StateInnovationWaivers@cms.hhs.gov.</p> <p>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.</p>	<p>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 DHHS 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.</p>
2	<p>45 CFR 155.1308(f)(2)</p> <p>Written evidence of the State’s compliance with the public notice and comment requirements, set forth in 45 CFR 155.1312.</p>	<p>Include:</p> <ol style="list-style-type: none"> 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. 	<p>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.</p>
	<p>Public Hearings</p>	<p>Include:</p> <ol style="list-style-type: none"> 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. 	<p>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.</p>

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	Tribal Consultation and evidence of meaningful consultation (if the state has one or more Federally-recognized Indian tribes)	<p>Include:</p> <ol style="list-style-type: none"> 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	<p>45 CFR 155.1308(f)(3)(i), (ii)</p> <p>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</p>	<p>Include legislation establishing authority to pursue a Section 1332 waiver and/or for the program to implement a state plan for a waiver.</p> <p><i>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.</i></p>	<p>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.</p> <p>Further, Iowa can promulgate administrative rules that will be effective by January 1, 2018 upon DHHS approval of this proposal.</p>
4	<p>45 CFR 155.1308(f)(3)(iii)</p> <p>List of provision(s) of the law that the state seeks to waive and reason for the specific request(s).</p>	<p>Include a description of the provision the seeking to be waived and how it will facilitate the state’s plan.⁴</p> <p>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</p>	Iowa has provided this information in its proposal.

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		<p>would otherwise be eligible. Also explain how the state plans to use that funding.</p> <p><i>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 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.</i></p>	
5	<p>45 CFR 155.1308(f)(4)(i)-(iii) Actuarial analyses and actuarial certifications Economic analyses Data and assumptions</p> <p><i>*Note a state can combine the elements of an actuarial analysis and economic analysis into one report or submit separate actuarial and economic reports.</i></p>	<p>Include:</p> <ol style="list-style-type: none"> 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. 	<p>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 <u>and long-term</u> 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</p>

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		<p>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.</p> <p>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.</p> <p>For states considering establishing a <i>high-risk pool/state-operated reinsurance Section 1332 waiver</i>, 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:</p> <ul style="list-style-type: none"> • 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: 	<p>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.</p>
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		<ul style="list-style-type: none"> • 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. <p>Additional information may be required to facilitate evaluation of state estimates and calculation of pass-through amounts by the Departments.</p>	
6	<p>45 CFR 155.1308(f)(4)(iv) Draft timeline for implementation of the proposed waiver</p>	<p>Include a timeline and discussion of implementation of the waiver plan. <i>If applicable</i>, 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.</p> <p><i>If a high-risk pool/state-operated reinsurance program Section 1332 waiver</i>, include:</p> <ol style="list-style-type: none"> 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. 	<p>Iowa has provided this information in its proposal.</p>

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		<p>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).</p> <p>5. Whether the state is specifying a co-insurance amount, or a cap, based on available funds, similar to the federal program.</p> <p>6. Any legislation and/or regulations related to the state reinsurance program.</p>	
7	<p>45 CFR 155.1308(f)(4)(v)(A)(B)(C)(D) and (E) Additional Information</p>	<p>Additional Information that is pertinent to your waiver plan. This may include:</p> <ol style="list-style-type: none"> 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. <p style="margin-left: 40px;">Note: The state should identify if any section of the ACA would be adversely affected by the proposed waiver.</p> 3) Explanation of how the waiver will affect residents who need to obtain health care services out of the state. <p style="margin-left: 40px;">Please include whether the state health plans provide for coverage out of state.</p> 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. 	<p>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 <u>and long-term</u> 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.</p> <p>Aside from the information requested in this checklist, Iowa is committed to providing DHHS with any other information requested to assess the proposal.</p>

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8	<p>45 CFR 155.1308(f)(4)(vi) State’s suggested reporting targets for the four statutory requirements</p>	<p>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).</p> <p>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.</p> <p><i>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.</i></p>	<p>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.</p>
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