

1332 Waiver Amendment Application

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Background & Description of Request

- Maryland General Assembly passed Access to Care Act (SB705/HB728)
 - Directs MHBE to apply for waiver amendment to allow all residents to enroll on-Exchange, regardless of immigration status (waiver of section 1312(f)(3) of the Affordable Care Act)
- Maryland has an approved section 1332 waiver to facilitate the state reinsurance program through 2028
- MHBE requests to waive section 1312(f)(3) for the period January 1, 2026 through December 21, 2028. MHBE anticipates launching the new eligibility rules by November 1, 2025 for enrollment in 2026 plans.

Evidence of Sufficient Authority Under State Law

- 2018 - Maryland General Assembly passed House Bill 1795 – Establishment of a State Reinsurance Program (HB 1795). Directed MHBE to submit a Section 1332 State Innovation Waiver to HHS and the Treasury to establish a State Reinsurance Program
- 2024 - MGA passed Access to Care Act (SB705/HB728), which directs MHBE to apply for an amendment to Maryland’s existing 1332 waiver to allow all Maryland residents to enroll in private plans on-Exchange, regardless of immigration status, and
 - Clarifies technical amendments to the MD Insurance Code
 - Adds two sections to the MD Insurance Code:
 - § 31–123, to direct MHBE to submit a state innovation waiver application amendment under § 1332 of the ACA to establish a Qualified Resident Enrollment Program; and
 - § 31–124, to direct MHBE to implement a Qualified Resident Enrollment Program to facilitate the enrollment of qualified residents in qualified plans, contingent on approval from the Departments of a Section 1332 waiver amendment

Impact on 1332 Guardrails

The amended waiver would continue to meet the statutory guardrails:

1332 Waiver Guardrail	Estimated Waiver Impact
Comprehensiveness: Provide coverage that is at least as comprehensive as the coverage provided without the waiver	Not requesting changes to Essential Health Benefits, so no impact
Affordability: Provide coverage and cost-sharing protections against excessive out-of-pocket spending that are at least as affordable as without the waiver	Amended waiver would not change enrollees' out-of-pocket costs or raise premiums
Coverage: Provide coverage to at least a comparable number of residents as without the waiver	Amended waiver would not impact coverage of individuals who were already eligible pre-amendment, and newly eligible enrollments will lead to increase in coverage
Federal Deficit: No increase to the federal deficit	Amendment expected to immaterially reduce premiums, reducing federal APTC liability and the federal deficit

Public Notice and Comment Period

- 30-day comment period: June 10 - July 9, 2024
- Two public hearings
 - June 18, 2024
 - July 3, 2024
- Notice of public hearings was posted on MHBE's website on May 10, 2024
- The public may also submit comments to mhbe.publiccomments@maryland.gov
- Summaries of the meetings will be added to the final submission of the application, as well as:
 - Presentations
 - Meeting minutes
 - Comments received

Summary of Comments

- All comments are supportive of the amendment request
- Final application will include comments
- Seven oral comments made during public hearings
 - Maryland Health Care for All
 - Maryland Community Health System
 - Maryland Assembly of School-Based Health Centers, the American College of Nurse Midwives, and the Maryland Academy of Physician Assistants
 - Maryland Occupational Therapy Association and Maryland Dental Action Coalition
 - Catholic Charities of Baltimore
 - CASA
 - NAACP of Maryland
- Fifteen* written comments received
 - La Clínica del Pueblo
 - ACLU of Maryland
 - Maryland Health Care for All
 - American Cancer Society Cancer Action Network
 - Maryland Academy of Physician Assistants
 - Jews United for Justice
 - American College of Nurse Midwives
 - Maryland Dental Action Coalition
 - Maryland Occupational Therapy Association
 - CareFirst BlueCross BlueShield
 - CASA
 - American Lung Association and partner organizations
 - 3 members of the public

*up from eight since Board materials were distributed

Timeline

April/May	MHBE submitted letter of intent (LOI) after Board vote to authorize submission
6/4/2024	CMS responded to LOI allowing MHBE to apply for waiver amendment
6/10 - 7/9/2024	Application published on MHBE website; 30-day state public comment period <ul style="list-style-type: none"> - 6/18/24 - Public Hearing #1 - 7/3/24 - Public Hearing #2
7/15/2024	Board vote to submit application; staff submit application to the Departments
7/16/2024	Sixth Annual Reinsurance Forum
8/29/2024	Federal government determines whether application is complete (up to 45 days)
8/29 - 9/30/2024	30-day Federal public comment period
2/25/2025	Last day for federal approval: federal government may take up to 180 days from determination of completeness to approve an application (MHBE has requested a decision by the end of 2024)
March-August 2025	Design, finalize system updates; complete testing
11/1/2025	Open enrollment starts for plan year 2026; all qualified residents eligible to enroll
1/1/2026	Plan year 2026 coverage begins

Request for Approval to Submit Amendment Application

MOTION: I move to [approve/defer/reject] submission of the 1332 Waiver Amendment Application [as presented] *or* [as amended] to the Centers for Medicare and Medicaid Services (CMS) in the Department of Health and Human Services, and the Department of the Treasury (“the Departments”) for an amendment of Maryland’s existing 1332 Waiver.