Submission to the Centers for Medicare and Medicaid Services (CMS): New York State's Request to Terminate the Section 1332 State Innovation Waiver and Return to the Basic Health Program

October 20, 2025

Submitted by the New York State Department of Health

Table of Contents

Section 1: Waiver Termination Request and Transition to the Basic Health Plan

Below, per the Specific Terms and Condition (STC) 8 regarding "State Request for Suspension, Withdrawal, or Termination of a Waiver," is New York's request to terminate the Section 1332 State Innovation Waiver.

The State may only request to suspend, withdraw, or terminate all or portions of its waiver plan consistent with the following requirements:

a) **Request for suspension, withdrawal, or termination: If the State wishes to suspend, withdraw, or terminate all or any portion(s) of the waiver, the State must submit a request to the Departments in writing specifying:**

the reasons for the requested suspension, withdrawal, or termination;

Due to anticipated changes in federal pass-through funding because of premium tax credit eligibility changes codified in H.R. 1, Public Law No: 119-21, New York expects to receive substantially less federal funding for its section 1332 waiver. Given the magnitude of anticipated decreases in funding, New York will be unable to provide state funding to offset program costs. As a result, New York is requesting to terminate its 1332 waiver as currently approved and re-activate its (currently suspended) Basic Health Program (BHP). New York seeks to collaborate with CMS to design and provide affordable coverage options for members who will no longer qualify for current Essential Plan waiver coverage or the BHP.

the effective date of the requested suspension, withdrawal or termination;

New York is proposing to terminate its 1332 waiver within six months of the effective date of *Section 71302 of the Reconciliation Act*, Public Law No: 119-21. Given the current effective date of January 1, 2026 and current assumptions around federal passthrough funding levels and notice requirements in the waiver specific terms and conditions, New York intends to implement these changes by July 1, 2026. Affected enrollees' coverage will be transitioned to CMS approved coverage options depending on their income at that time. Those who are eligible for BHP coverage will be in the Essential Plan under the BHP authority, experiencing no change in coverage.

and the proposed phase-out plan (with the summary of comments received, as described below).

Transition Timeline and Milestones

Phase 1: Planning and Coordination (Q3-Q4 of 2025)

- **Notice to CMS:** Submit formal intent to phase out New York's 1332 waiver and unsuspend New York's BHP.
- **Federal Coordination:** Finalize phaseout timeline, and transition to affordable coverage options for Essential Plan 200-250 population.
- **Stakeholder Engagement:** Convene plans, navigators, providers, and advocates.
- **Systems Update:** Update eligibility rules.

Phase 2: Outreach and Eligibility Preparation (Q1 of 2026)

Consumer Notice: Send individualized notices 90-days prior to effective date of eligibility change to all impacted Essential Plan expansion members explaining:

- Why the 1332 is ending and how that impacts their Essential Plan coverage.
- What coverage will be available on the Marketplace.
- Timeline and enrollment steps.

Phase 3: Special Enrollment Period and Coverage Transition (Q2 of 2026)

- **Enrollment Option:** Consistent with current coverage transition policies, members who want to enroll in CMS approved coverage options will have to log into their NY State of Health account and pick a plan within 90 days of the change in eligibility, subject to CMS approval.

- **Enhanced Assistance:** Provide dedicated navigator and call center support during this Special Enrollment Period.

Phase 4: Program Close-Out and Monitoring (Q3 2026 – Q2 of 2027)

- **Final EP Expansion Claims Processing:** Reconcile any residual capitation claims for Essential Plan member services provided through June 30, 2026.
- **Reports to CMS:** Submit final quarterly and annual reports to CMS of EP Expansion.
- **Final Insurer Reimbursement Implementation Plan (IRIP) payments issued:** The State will issue final IRIP payments to issuers through the end of the waiver period. No Qualified Health Plan premium adjustments are required since 2026 premiums will already assume the waiver is not in effect.
- **Cost-Sharing Reductions:** New York hopes to continue cost-sharing subsidies through the end of 2026, subject to available funds. Otherwise, they would terminate July 1, 2026.
- **Populations no longer eligible for Essential Plan**: Following the initial 90-day notice of coverage termination, members would receive follow-up communications and eligibility determination notices that include their coverage eligibility options effective July 1, 2026. The pregnancy population will return to being Medicaid eligible.
- **Evaluation:** Prepare and submit phase-out report assessing enrollee continuity, coverage uptake, and challenges.

In order to smoothly implement the waiver transition, New York respectfully requests approval of this phaseout plan by December 31, 2025 to ensure our team has time to effectuate the operational changes required.

Section 2: Evidence of Public Comment

New York State held an open comment beginning on September 10, 2025, and ending on October 10, 2025. The State provided multiple channels and opportunities for the public to provide comment on termination of its 1332 waiver as currently approved and re-activation of its (currently suspended) Basic Health Program (BHP). The State's public notice and comment procedures complied with the requirements specified in the New York State Department of Health—Patient Protection and Affordable Care Act Section 1332 Waiver Approval specific term and condition 8.

On September 10, 2025, the State published a press release and posted the public notice for the 30-day public comment period on NY State of Health's dedicated 1332 Waiver Information page: https://info.nystateofhealth.ny.gov/1332. The State emailed 4,858 stakeholders on the DOH email listserv and over 320,000 households who have a member currently enrolled in Essential Plan 200-250, to inform them of the comment period. In addition, on September 10, 2025, the State emailed the points of contact for the eight tribes to inform them of the comment period and gave the opportunity to request a separate tribal consultation if preferred.

Public Comment Process

The public was provided the opportunity to comment on the draft waiver online via email and through mail. The following table provides the total number of comments received during the 30-day public comment period

Comment Collection Channel	Total Number of Comments Received
Email	468
Mail	4
Total	**472**

Some commenters submitted multiple emails. A total of 3 comments were identified as duplicates.

Online Comments Received from Organizations

The State received a total of eighteen comments from fifty-three organizations online, through email. The comments were received from:

- Community Health Care Association of New York State (CHCANYS)

- Suburban Hospital Alliance of New York State
- New York City Department of Health and Mental Hygiene (NYC Health Department)
- New York Health Plan Association (HPA)
- Healthcare Association of New York State
- Primary Care Development Corporation (PCDC)
- CUNY Graduate School of Public Health and Health Policy (CUNY SPH)
- New York Health Foundation (NYHealth)
- Greater New York Hospital Association (GNYHA)
- Medicaid Matters New York (MMNY)
- The Legal Aid Society (LAS)
- NYC Health + Hospitals (NYC H+H)
- New York Legal Assistance Group (NYLAG)
- New York State Nurses Association (NYSNA)
- Coalition of New York State Public Health Plans (PHP Coalition)
- EmblemHealth
- Health Care for All New York (HCFANY) Letter From Multiple Associations:
    - African Services Committee
    - Center for Independence of the Disabled, NY
    - Children's Defense Fund-New York
    - Coalition for Asian American Children and Families
    - Community Service Society of New York
    - Consumers Union Empire Justice Center
    - Entertainment Community Fund
    - Hispanic Federation
    - Hospital Equity and Accountability Project
    - The Legal Aid Society
    - Make the Road New York
    - Medicare Rights Center
    - Metro New York Health Care for All Campaign
    - New York Immigration Coalition
    - Public Policy and Education Fund of New York/Citizen Action of New York
    - Raising Women's Voices-New York Schuyler Center for Analysis and Advocacy
    - South Asian Council for Social Services
    - Young Invincibles
- Letter From Multiple Associations
    - AiArthritis
    - American Cancer Society Cancer Action Network
    - American Heart Association
    - American Lung Association

- Arthritis Foundation
- Asthma and Allergy Foundation of America
- Blood Cancer United
- CancerCare
- Coalition for Hemophilia B
- Crohn's & Colitis Foundation
- Cystic Fibrosis Foundation
- Diabetes Patient Advocacy Coalition
- Epilepsy Foundation of America
- Lupus Foundation of America
- National Bleeding Disorders Foundation
- National Multiple Sclerosis Society
- National Patient Advocate Foundation
- Pulmonary Hypertension Association
- Susan G. Komen
- The AIDS Institute

The vast majority of comments received explicitly support the decision to return to the BHP as a means of mitigating harm to New Yorkers in the face of federal funding reductions enacted under H.R. 1 and support the State's dedication to covering as many New Yorkers as possible. Three letters cite the positive impact EP has had on lowering New York's uninsured rate. Fifteen letters provided suggestions for the transition back to BHP and recommendations for minimizing negative impacts on New Yorkers.

Online Comments Received from Individuals

The State received 472 individual comments via mail and email. Twenty-four comments showed support for New York's request to reactivate BHP. Four hundred and forty comments opposed the termination of the waiver, and the majority of comments received urged the State to develop affordable alternative coverage options for impacted EP enrollees.

The majority of commenters shared their fear of future struggles to access the healthcare they need and their ability to pay for Qualified Health Plan coverage given the rising cost of living and high premiums of Qualified Health Plans available through the marketplace (435 comments). Several comments received from individuals noted the negative impact of the expiring enhanced premium tax-credits. Several comments received from individuals were identified as not directly relevant to the waiver and expressed concern for the impact of H.R 1. Medicaid work requirements.

Response to Public Comments

The State reviewed all comments and appreciated the input received. All comments were considered equally. The following outlines the predominant themes from commenters:

- Concern for potential impacts, such as loss of coverage
- Support for unsuspending New York's BHP
- Request to use BHP Trust Fund to cover Essential Plan 200-250
- Suggested additional policy considerations
- BHP transition considerations for EP 200-250 group

Concern for Potential Impacts, Such as Loss of Coverage

Summary of Comments: Several commenters expressed concerns for the potential impact on consumers losing coverage. Many comments suggested the State proactively develop a plan to mitigate the potential coverage loss. Suggestions included updating the NY State of Health website to reflect anticipated changes for Essential Plan enrollees, delaying termination of the 1332 waiver, adjusting the State budget to continue Essential Plan coverage through 2026, and allowing impacted consumers to obtain alternative coverage arrangements.

State Response: The State appreciates the comments received and recognizes the importance of access to health care coverage. As noted in the termination phaseout plan, due to these federal cuts, New York has insufficient funding to offset program costs. The State is committed to working with CMS to explore alternate health plan options for the impacted population and will have an outreach and education plan to inform impacted consumers of changes to their coverage. Consumers are encouraged to visit our Stay Connected informational site page for the latest NY State of Health Updates. The State continuously provides updates on the informational website to help consumers understand the impact of the Federal Reconciliation Bill on New York and how it may affect their health insurance in 2026.

Support for Unsuspending New York's BHP

Summary of Comments: Several commenters explicitly supported the request to revert to the Basic Health Program and develop affordable coverage options for members who will no longer qualify for the Essential Plan. Commenters also supported the State coordinating with the federal government to secure approval for BHP reactivation as quickly as possible.

State Response: The State appreciates the support and will continue to explore ways to make coverage affordable for those who will lose their Essential Plan coverage during this transition.

Request to use BHP Trust Fund to cover Essential Plan 200-250

Summary of Comments: Many commenters suggested using the Basic Health Program trust fund surplus as way to continue operating the Essential Plan under the 1332 Waiver.

State Response: The State appreciates the comments received; however, federal law restricts the State's ability to use the Basic Health Program Trust Fund to provide coverage for those who do not meet the statutory definition of Basic Health Program eligible, which currently does not include those who are enrolled in Essential Plan with incomes above 200% of FPL.

Suggested Additional Policy Considerations

Summary of Comments: A handful of comments received provide suggestions for additional policy considerations. These comments included suggestions for reducing Essential Plan waiver program costs, including exploring options to introduce price transparency, charge nominal premiums for coverage, changing eligibility standards, or otherwise pursuing cost reductions through significant structural program changes.

State Response: The State appreciates the feedback, but many of the suggested changes are beyond the scope of the 1332 Waiver unwinding process as defined in the Specific Terms and Conditions and therefore cannot be pursued at this time.

The State appreciates the suggestions for additional considerations and will continue to identify opportunities to make investments to improve health outcomes and provide coverage for those who are currently enrolled in Essential Plan 200 to 250.

BHP Transition Considerations for EP 200-250 Group

Summary of Comments: Several commenters suggest the State ensure there is a clear transition period, ample notification to members, and full support to help people enroll in alternative plans. Multiple organizations asked that the State provide Essential Plan 200-250 enrollees more time to transition to new coverage (ideally 90 days). Several commenters asked for clarity on where impacted EP 200 to 250 enrollees can go to enroll in coverage and which plans will be available to them. Another commenter suggested the State phase-out of 1332 waiver-funded cost sharing reductions. A commenter also suggested that, during the transition period, the State provide grandfathering or phase-in protections for families already enrolled, especially those expecting children or in mid-pregnancy. A commentor also requested the State ensure zero or minimal interruption in coverage (no gap periods) and seamless continuity of care and monitor and evaluate health outcomes among affected populations.

State Response: The State appreciates the comments and will continue to work closely with insurers to ensure a smooth transition for consumers moving from the Essential Plan into a Qualified Health Plan. Many of these comments are included in our transition plan to CMS. Subject to federal approval, the State will request a 90-day Special Enrollment Period, to allow consumers ample time to transition to a Qualified Health Plan. For consumers who are pregnant or within their one-year postpartum period, the State will take steps to ensure these individuals have coverage when the 1332 waiver ends. The State will also implement outreach and education campaigns to provide information to consumers during the transition. Additionally, certified enrollment assistors will perform outreach to consumers impacted by the transition to help them enroll in a new health plan option. Consumers are also encouraged to visit our Stay Connected informational site page for the latest NY State of Health Updates.