



## Overview of New York's 1332 State Innovation Waiver

The Essential Plan eligibility expansion will take effect April 1, 2024, pending final federal approval. In May of 2023, New York submitted a 1332 State Innovation Waiver application to expand the Essential Plan (EP) to New Yorkers with incomes up to 250% of the Federal Poverty Level to the U.S. Departments of Health and Human Services and Treasury. Through this expansion of Essential Plan coverage, the State seeks to increase access to high quality, affordable health insurance for low- and moderate-income individuals.

Since the original submission, New York has made additional updates to the application in response to public comments and federal review. First, the application was updated to eliminate the proposed \$15 monthly member premium for the EP expansion group. Second, New York added the Insurer Reimbursement Implementation Plan (IRIP) to alleviate premium increases in the Qualified Health Plan (QHP) market resulting from this waiver. Third, New York added Deferred Action for Childhood Arrivals (DACA) recipients as part of the proposed Essential Plan expansion. The waiver also requested that EP members have the choice to remain in EP when they become pregnant rather than moving to Medicaid. It is expected that nearly 100,000 New Yorkers will enroll in EP as a result of this waiver, including over 20,000 individuals who were previously uninsured and over 70,000 individuals who will move from QHP coverage to EP, with an average annual savings of \$4,700.

## NYSOH's Operational Activities Related to the QHP to EP Transition<sup>1</sup>

- **March 2, 2024:** NYSOH will send updated eligibility and enrollment notices to the population that will be transitioned from QHP (200-250% of FPL) to the new "EP 200-250" variant. These members will be defaulted into their QHP issuer's EP 200-250 product when available, but all members will have the option to pick a different EP Issuer, or to stay in their QHP, but at the full premium cost. Members whose QHP issuer does not have an EP 200-250 product in the appropriate service area will be auto-assigned into a plan if they do not choose one in 10 days, consistent with Medicaid Managed Care auto-assignment rules. The auto assignment job is run daily.
- **March 5, 2024:** "EP 200-250" plans will be live in the NYSOH system.
- **March 16, 2024:** 834 enrollment transactions will be sent to Issuers to terminate QHP coverage for the population with incomes of 200-250% of FPL effective 3/31/24, and add the "EP 200-250" coverage with a 4/1/24 enrollment effective date.
- **April 4, 2024:** Implementation of EP Pregnancy Choice Provision-- Individuals who are currently in EP (both Aliessa and non-Aliessa) and who report being pregnant will remain EP eligible, instead of being moved into Medicaid. Eligible pregnant EP members can call Customer Service if they would like to move to Medicaid.

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<sup>1</sup> Please refer to the flow charts at the end of this document for more detailed information on the transition of members from APTC coverage to the new EP 200-250 coverage group.



Outreach efforts will be made via text, email, and/or assistor and customer service center outreach to individuals who are QHP-eligible (FPL 200-250), but not currently enrolled, requesting them to update their application in order to see if they are eligible for EP 200-250. We are also planning to send a notice to these members. Lastly, all NYSOH enrollment assistors, including Marketplace Facilitated Enrollers, will receive a training so they are equipped to assist their clients with gaining access to EP 200-250 if they're eligible.

### **Accumulators – QHP to EP 200-250**

In response to CMS concerns about the impact of a mid-year implementation on consumer spending, NYSOH is requesting that QHP issuers who have enrollees transitioning from QHP to the new EP 200-250 cohort carryover any plan accumulators (deductible and out of pocket maximum amounts) incurred between January 1, 2024 - March 31, 2024, to the new EP 200-250 coverage.

In addition, since the new effective date for these EP enrollees is April 1, 2024 and runs for a 12-month cycle, these accumulators will need to be extended through March 31, 2025, and will reset to zero as of April 1, 2025 upon renewal. This allows the members to stay on a normal 12-month renewal/accumulator cycle going forward. This includes members who will need to change Issuers due to their QHP Issuer either not participating in EP, or their Issuer's QHP and EP service areas not aligning. There are an estimated 1,800 members anticipated to fall into this scenario.

NYSOH will be distributing reports to the Issuers to ensure that the entire population transitioning from QHP to EP 200-250 is identified. NYSOH anticipates being able to share this information iteratively with plans beginning mid-February through the end of March.

### **Plan Reporting for QHP Enrollees with High Utilization or in a Course of Treatment**

To ensure the mid-year waiver implementation does not disrupt care for members, NYSOH requests issuers to perform enhanced outreach to members who are undergoing a course of treatment or have high utilization, or who have prior authorizations on file for services not yet rendered. As part of this outreach, Issuers should review any relevant coverage impacts of the EP 200-250 transition such as access to providers or specific services to ensure members know how to use their new coverage.

The issuer should review current prior authorization reports for upcoming care, along with any claims activity that may identify these members and work with them to ensure upcoming treatment and providers will be covered. Our collective goal is for this to be a seamless process for these members covered under the new EP cohort.

NYSOH will also offer a one-time, 60-day exceptional circumstances SEP (as described in NY's waiver application) for enrollees who would like to maintain enrollment in their QHP without financial assistance. (45 CFR 155.420(d)(9).) This SEP provides flexibility on effective dates for enrollment, so there is no gap in coverage for those enrollees who want to keep their QHP. (See 45 CFR 155.420(b)(2)(iii).)



**Benefits for Pregnant Individuals: Approach for Ensuring Benefit and Cost Sharing Parity with Medicaid for Members who Become Pregnant.**

As part of New York’s 1332 Waiver, individuals who report becoming pregnant will remain in the Essential Plan rather than move to Medicaid for their pregnancy and 12 months postpartum. Beginning April 1, 2024, EP consumers that report being pregnant will default to staying within EP and will need to “opt out” to transition to Medicaid.

Consistent with the waiver application, the expectation is that there will be parity in coverage and benefits between EP and Medicaid. In addition, there is a high degree of overlap (between 95%-98%) within Issuer’s provider networks for EP and Medicaid. Due to these factors, it is anticipated that most pregnant consumers will remain in EP.

NYSOH will be adding an identifier to the 834 enrollment transactions to health plans, to inform Issuers when an EP member is pregnant. Issuers are expected to charge no more than the maximum out-of-pocket cost limits that would have applied had they been in Medicaid. Furthermore, consistent with Medicaid, copays are to be waived for pregnant individuals and postpartum individuals up to one year.

**DACA Population – Effective August 1, 2024**

Starting August 1, 2024, EP eligibility will be extended to individuals 19-64 with DACA status and incomes up to 250% of the Federal Poverty Level (FPL). To implement this change, New York will move all existing DACA Medicaid enrollees and any new income-eligible applicants into EP assuming they meet the other criteria for the program. Under the law’s eligibility standards, applicants will qualify for coverage if they reside in New York, are under sixty-five, do not have other minimum essential coverage, and meet the income requirements.

The DACA population includes an estimated 12,000 individuals currently enrolled in Medicaid and another 2,500 individuals with incomes above Medicaid levels and up to 250% FPL.

Additional details and timeline for the DACA population implementation will be shared with Issuers in the coming months.

## Appendix 1: Summary of EP Expansion Operational Plan

