New York 1332 Waiver Application Amendment
Public Hearing
June 12, 2024 at 2:00 PM

The following is a transcription of the Annual Public Forum and Public Hearing held by the New York State of Health on June 12, 2024 about New York's Section 1332 Waiver and proposed amendment. The transcribed presentation and comments were lightly edited for readability.

Danielle Holahan: Thank you for joining us. I'm Danielle Holahan, Executive Director of New York State of Health. Thanks for joining us for this public forum and public hearing. I'm going to make a few remarks and go through the agenda for today.

We'll do some additional logistics and then we'll get underway. So again, thank you for joining. The purpose of this public hearing is to share updates on New York's 1332 waiver implementation as well as to solicit comments on the proposed amendment. We thank you for joining us.

The agenda, as you see on the screen, is to do a quick welcome and instructions and we will walk through the Spanish instructions. Georgia will walk through a few more instructions. I will do an overview of the waiver implementation to date. I'll turn it to Sonia Sekhar, our Deputy Director, who will walk through the outlines of the proposed waiver amendment, and then we'll open it for public comment. And, as we'll say a few times throughout, we invite anybody who wishes to provide a comment to enter their name into the chat and we'll have time for that. I'll pass it to Juan and we'll get underway. Thank you.

Juan Maranon: [Provided information in Spanish on how to dial into the interpretation line.]

Georgia, do you want to take the next few slides for us?

Georgia Wohnsen: Sure, thank you. Good afternoon, everybody. This afternoon we do have two ASL interpreters with us, Hannah and Carly, who should be visible at the top of your screen by video. If you'd like to make Hannah and Carly a bigger part of your screen, it's easy to include them on the dashboard right next to the presentation. All you have to do is right click on their in-video icon and select "Move to Stage." They will be switching on and off today, so it's a good idea to add them both to your Stage Desk Dashboard area if you'd like to use this service. Additionally, closed captions are also available during today's webinar. To enable closed captions, please find the "CC" icon in the lower left-hand side of your screen and select the language version that you'd like to enable for this session.

We do have a public comment period today and have a few instructions for that. Those that registered in advance and included "SPK" within their name are already on our speaker list. If you did not register and would like to provide a public comment today or ask a question, please enter your name into the chat feature at any time during the presentation. After the presentation, the lines for speakers will be opened, and each speaker will be given a designated amount of time to make their comments. With that, I will turn it back over to Danielle.

Danielle Holahan: Thank you, Georgia. If you could go to the next slide. I'll start with a reminder on the definition of 1332 waivers. Under Section 1332 of the Affordable Care Act, states may request to waive parts of the ACA to pursue innovative strategies to provide residents with access to high quality and affordable health insurance coverage while retaining the basic protections of the Affordable Care Act.

These waivers are approved by both the U.S. Department of Health and Human Services and the Department of Treasury.

There are four key statutory guardrails that states must demonstrate that they meet when they apply for a waiver, which are listed here. The first is coverage. We must demonstrate that under our waiver, we would provide coverage to at least a comparable number of residents as absent the waiver. This coverage must be at least as comprehensive as absent the waiver, and it must be at least as affordable for consumers as absent the waiver. And then finally, states must demonstrate that under these waivers there will be no increase to the federal deficit.

So those are the four guardrails, and we have successfully demonstrated with our initial application that we met all four. Finally, under 1332 waivers, federal savings from these waivers are redirected to states as pass-through funding. We'll walk through some of those details as well.

So that's a quick refresh on what these waivers are, also referred to as State Innovation Waivers. If we could go to the next slide, I'll give a reminder on what New York's approved 1332 waiver has done, and a reminder on our timeline.

We submitted our initial 1332 waiver application on May 12th of 2023. We submitted an updated application on December 18, 2023, and the parameters of our initial waiver were first to expand eligibility for our Essential Plan, which under the Basic Health Program eligibility ended at 200% of the Federal Poverty Level (FPL). Under the waiver we sought to increase the income eligibility to 250% of FPL beginning on April 1, 2024. We updated the application and added an expansion to include the Deferred Action for Childhood Arrival population, or DACA. That coverage will begin August 1, 2024.

Another feature of this waiver was to allow for pregnancy choice. What that means is, individuals who become pregnant while enrolled in the Essential Plan now have the choice to remain enrolled in the Essential Plan for the duration of their pregnancy and for twelve months postpartum. Before, under the Basic Health Program structure, when individuals became pregnant, they moved to Medicaid because of the higher eligibility levels under Medicaid that overlapped with the Essential Plan eligibility. Now, consumers are able to stay in the Essential Plan.

The final feature of our waiver is insurer reimbursement. The purpose of the Insurer Reimbursement Implementation Plan, or IRIP, is to prevent potential increases in individual market premiums that would result from the move of the 200-250% of FPL population that was previously enrolled in the Qualified Health Plan market and now moved to the Essential Plan. There was an estimated premium impact, but because of the IRIP, we were able to negate any increases in the Quality Health Plan market resulting from this waiver. These are the four features of this waiver.

We were happy to receive CMS and Treasury approval on March 1, 2024 and then just one month later, we were able to implement this eligibility expansion on April 1, 2024. Coverage at these expanded levels began on April 1, 2024. The waiver was approved for a five-year period, so it will run through the end of December 2028. Next, we will provide a very quick overview of the implementation thus far.

In March, right on the heels of the approval, we were able to send out notices to consumers in that income cohort, the 200-250% of FPL, informing them that they would be auto re-enrolled into Essential Plans starting April 1. This was quite seamless given the large overlap of health insurers that participate

in both markets, and something that the Marketplace is familiar with doing at renewal annually, so this this went quite smoothly, I'm happy to say.

The ramp up of our enrollment has gone faster than we had originally estimated. What we're showing here on the slide are enrollment counts as of the end of April. We had over 120,000 consumers in this new income band, the 200-250% of FPL. Of that number, 78,000 individuals were seamlessly transitioned from their Qualified Health Plan coverage into the Essential Plan. We are quite pleased to share in the notice to these consumers that they would be seeing a savings of quite a significant magnitude in addition to premiums and out of pocket costs that average to an $4,700 annual savings relative to the Qualified Health Plan market. So, 78,000 individuals moved from QHP to EP and then another 42,000 individuals have newly enrolled in an EP coverage since April 1, 2024.

As I said, this ramp up has occurred far more quickly than we originally anticipated, in part because it overlapped with the end of the unwind of the Public Health Emergency designation. So, we think that is related to these higher enrollment levels.

We're pleased to say that we are on track to begin enrolling the DACA population. So, consumers with incomes up to 250 % of FPL will be eligible beginning on August 1, 2024, and this will be similar to the QHP migration I described above. We'll be moving consumers out of State-funded Medicaid into the Essential Plan and we will also be opening eligibility to newly eligible DACA individuals as well, which is also on track for an August 1, 2024 implementation.

This concludes the summary of the current waiver. Now Sonia will walk through the amended waiver. The amended waiver is expected to be fully funded by the federal pass-through funding, and I will pass it to Sonia to walk through the amendment.

Sonia Sekhar: Great, thank you Danielle. So as Danielle said, this next section of the presentation is going to go through what we're requesting as part of the 1332 waiver amendment. So, subject to federal approval, the State Fiscal Year 2025 budget gives the Commissioner of Health the authority to provide premium and/or cost reduction subsidies to members eligible to enroll in Qualified Health Plans through our 1332 waiver. Through this waiver amendment, New York is seeking federal approval to use pass-through funding available through the 1332 waiver to improve affordability for consumers.

Specifically, the waiver amendment includes three proposals with a target effective date of January 1, 2025. New York is proposing to provide broad reductions in cost sharing like deductibles and co-payments to individuals eligible for Qualified Health Plans with financial assistance with incomes up to 400% of FPL. Second, New York proposes to implement a health equity plan design that eliminates most cost sharing to promote better chronic disease management for individuals with diabetes. Lastly, New York proposes to broadly eliminate all non-hospital related cost sharing for individuals who are pregnant or in their twelve-month postpartum period. In total, we expect these proposals to lower cost sharing for nearly 118,000 consumers by an aggregate of $307 million in 2025, and by $1.3 billion from 2025-2028.

Now we'll review the details of the first proposal to lower cost-sharing broadly for individuals with incomes up to 400% of FPL. We intend to leverage existing Qualified Health Plan products with lower cost sharing by expanding eligibility for those products to individuals with incomes up to 400% of FPL.

Individuals who have incomes of 250 - 300% of FPL will become eligible for the Silver 87 Plan. The 87 stands for the Actuarial Value (AV) of the plan. And this plan has a much lower maximum out-of-pocket level than these consumers are currently eligible for, so their maximum out-of-pocket per year will be reduced to $3,050.

Individuals with incomes between 350% and 400% of FPL will become eligible for the Silver 73 Plan. The 73 also stands for the Actuarial Value of the plan, and these plans have a maximum annual out-of-pocket limit of $7,350.

Our goal is to automatically move consumers at these income levels, who are already enrolled in Silver Plans, to the products that they'll be eligible for. Consumers who are not already in Silver Plans will be able to enroll in them on November 1st when our open enrollment for 2025 begins. Overall, our expectation is that about 100,000 consumers will benefit from this change. The majority of this group (79,000) will be individuals with incomes of 250-350% of PFL, and they will save an average of $3,500 per year. We expect another 20,000 individuals with incomes from 350%-400% of FPL to save about $700 per year.

The next proposal eliminates non-hospitalization related cost sharing to help individuals with diabetes so they can access the care they need to manage their illness. The diabetes cost sharing reductions will modify all QHP products at all metal levels but excludes catastrophic coverage. Cost sharing for medical care, like primary care office visits related to diabetes, treatment, lab services, diabetics supplies, and prescription drugs including insulin, related to diabetes care will be eliminated. So, consumers will not be charged copays, deductibles, or coinsurance for these services.

Cost sharing will remain for hospitalization and most specialist office visits. We've provided a pretty detailed list of these services which I believe are available on our website and if it's not there now we will add that. Our estimate is that approximately 17,000 consumers will be impacted by this change and will save about $1,650 annually.

The final proposal under the amendment is an effort to respond to the maternal health crisis that we're experiencing in New York, along with many other states, and builds on current federal rules that prohibit cost sharing for maternal health services. So, with the exception of delivery and hospital stays, cost sharing will be waived for all services and prescription drugs for pregnant and postpartum individuals, regardless of what the service is treating. This also prohibits prior authorization for blood pressure monitors. We expect this proposal to impact about 1,600 consumers, with an annual savings of $2,800 per person. As you know, we have a relatively small population of pregnant individuals enrolled in Qualified Health Plans.

Under all of these proposals, New York will be paying insurers directly to offset cost sharing reductions for consumers, so consumers won't have to wait to be reimbursed. Consumers will benefit from these initiatives immediately in 2025. Consumers won’t have to pay any upfront costs and then be reimbursed. The proposed cost sharing reductions are estimated to cost $307 million in 2025 and $1.3B over the duration of the waiver from 2025 to 2028.

Our expectation, as Danielle said, is to pay for these cost sharing reductions using federal passthrough funding. This next section covers the statutory guardrails that Danielle referenced earlier that New York and all 1332 waivers need to be in compliance with. On the first point of comprehensiveness of coverage offered, which refers to the benefit packages that members enroll with, the waiver has no

impact because we're not actually changing the benefit package available to members. We're primarily focusing on affordability, and so that's actually the second guardrail. And overall, this amendment is projected to strengthen New York's compliance with the affordability guardrail by saving nearly 118,000 New Yorkers $307 million next year and $1.3 billion over 2025-2028.

Regarding coverage, there is an expectation of a relatively small increase in the overall enrollment, and some of this may be individuals moving from off-marketplace to on-marketplace to benefit from these new cost sharing reductions. Regarding deficit neutrality, we estimate a small increase in federal premium tax credits spending, which will be subtracted from our passthrough funding.

This next slide covers the timeline for this waiver amendment and the key dates for implementation. We published the draft waiver amendment on May 28th. Today we're holding our first public hearing, and we're holding the same public hearing on Friday at 9:00AM.

The public comment period opened when we published the amendment and it will be closing on June 27, 2024. We aim to incorporate any changes from the public comment period and submit the final waiver amendment to the federal government on July 1st in order to stay on track for a January 1, 2025 implementation. And our hope is that based on what we submit, we'll receive approval on September, 16th. All of the new changes that we've implemented will be available in time for open enrollment, which is visible on our site on October 1st, and open enrollment will begin on November 1st. And with that, I will pass it back to Danielle.

Danielle Holahan: Thank you, Sonia. For today's hearing we did not receive anyone who pre-registered to provide comment, but we want to open up the floor for anybody who would like to provide a comment by putting your name in the chat. We'll give it a few minutes for folks to do that.

In the chat feature on the bottom of your screen, just enter your name and we'll know that you're interested in providing comment. If we don't have comment, we'll close early for today, but we'll just give this a minute for anybody who would like to either provide a comment or ask any clarifying questions from the material that we went through today.

As a reminder, we have a Spanish line, if anybody on that line wants to also provide comment though that line. I see there are no comments so far or questions from the Spanish line.

The last slide shows how people can submit a written comment; you will see that we have provided the email address that we've set up for comments on this amendment: NYSoH@health.ny.gov.

As Sonia said, the comment period will be open through June 27. We will also take comments in writing at the address on the screen and the materials are all posted to our website. We have the link on the bottom, which includes all of the analyses. We provided a pretty high-level summary of the amendment here today, but the detail is there. Feel free to submit questions through that email box as well, and we will answer as quickly as we can. I think we're not having comments today, which is perfectly fine. We appreciate you making time for us. We will be back Friday morning. We will cover the same material, so don't feel like you need to join again, but if you would like to submit a comment in writing, the information is here on the screen.

Thank you again and we look forward to hearing from you all. Have a good afternoon.