New York 1332 Waiver Application Amendment
Public Hearing
June 14, 2024 at 9:00 AM

The following is a transcription of the Annual Public Forum and Public Hearing held by the New York State of Health on June 14, 2024 about New York's Section 1332 Waiver and proposed amendment. The transcribed presentation and comments were lightly edited for readability.

Danielle Holahan: We'll get started. I'm Danielle Holahan, Executive Director of New York State of Health, joined by Sonia Sekhar, Deputy Director of New York State of Health. This is our second of two public hearings, where we're doing a combined annual public forum to provide an update on the implementation to date of our approved 1332 waiver and then we want to walk through our proposed amendment with you all today, so thank you for joining. We're going do a few preliminaries and then we'll get underway.

If we could flip to the next slide, I'll just run through the agenda. Again, the purpose of our hearing today is to share updates on the waiver implementation thus far. We'd like to solicit comments on the proposed amendment. Sonia will walk through several slides on the amendment and then we'll open it up for public comment. We'll say this a couple of times throughout, but if you're interested in providing a comment today, we ask that you put your name into the chat, and we'll open your line when we get to that section.

First, Juan and Georgia will run through a few welcome and instructions, and then I'll walk through the implementation update. Then we'll turn it to Sonia who will walk through the waiver amendment and then we'll open it for public comment. So with that, Juan, will you take this next slide?

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

Georgia Wohnsen: Good morning. This is Georgia. We also do have ASL interpreters available on today's webinar. You should notice two interpreters Hannah and Corey, in the top area of the screen, they will both have their video on when they're doing ASL. If you'd like to have the ALS interpreters as part of your dashboard stage, you can drag them down, right click on their video and select "Move to Stage" or drag them down next to the presentation so that they will be more visible. They'll be switching on and off today, so you may want to add both of them to the stage if you are using this service. Additionally, closed captions are available on today's webinar. To enable closed captions, just click on the CC icon in the bottom left-hand side of your screen and select "Show Closed Captions."

Again, we do have a public comment period scheduled for the end of today's webinar. Those registered in advance, and who included "SPK" within their registration name are already on our list. If you did not register and you do wish to provide a public comment today or ask a question, please enter your name into the chat at any time during today's presentation, and we will unmute speakers in order. And with that, I will turn it back over to Danielle.

Danielle Holahan: Thank you, Georgia. Thank you, Juan. If we could go to the next slide. I will provide some information on 1332 waivers in general. Under Section 1332 of the Affordable Care Act, states are allowed to seek to waive provisions of the Affordable Care Act in order to pursue innovative strategies to provide residents with access to high quality, affordable coverage, while retaining the basic

protections of the Affordable Care Act. This is what we've done, and we're pleased to walk you through it today.

1332 waivers are approved by two federal entities, the Department of Health and Human Services and the Department of Treasury. As part of waiver applications, states must demonstrate that they comply with four statutory guardrails, and we'll walk you through how we have met these and seek to continue that in with the amendment.

The first guardrail is that it requires that states provide coverage that is at least as comparable, to at least as comparable a number of residents as absent the waiver. 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.

The fourth guardrail is in regard to deficit neutrality. We must demonstrate that we will not increase the federal deficit with the provisions of the waiver. Federal savings from these waivers are redirected to the state as passthrough funding, and that is what supports the program that we implement under the waiver.

This slide provides a high level of what has been approved already in New York. We submitted our initial 1332 waiver application in May 2023. After a public comment period, we updated the application, and submitted it again on December 18, 2023. There are four key elements of the approved waiver. The first and largest, is that we expanded eligibility for New York's Essential Plan to consumers with incomes of up to 250 % of the Federal Poverty Line (FPL) beginning on April 1, 2024.

Before waiver implementation, we operated New York's Essential Plan under the Basic Health Program structure, and eligibility ended at 200% of FPL. With this waiver, we were able to expand our eligibility levels to 250 % of FPL, and that went into effect in April 2024. The second provision, which came through our amended application, is the expansion of eligibility within the Essential Plan for the Deferred Action for Childhood Arrival (DACA) population, with incomes up to 250% of FPL, which will be implemented August 1, 2024.

In addition, the waiver has included what we call a pregnancy choice provision. So individuals who become pregnant after enrolling in the Essential Plan can have the choice to remain in the Essential Plan for the duration of their pregnancy and twelve months postpartum. Before this waiver was approved, the rules required that individuals had to move to Medicaid after becoming pregnant because Medicaid's eligibility levels are higher. This change allows consumers to stay in the Essential Plan.

The fourth provision of the waiver is the Issuer Reimbursement Implementation Plan or IRIP, which we included in our waiver in order to prevent increases in individual market premiums as a result of moving this population out of the Qualified Health Plan market into the Essential Plan.

This makes issuers whole for the impact of that transition so that the Qualified Health Plan premiums are unaffected. So those are the four key provisions of this initial waiver that was approved. CMS and treasury approved this application on March 1, 2024, and we implemented it the very next month. Coverage at these expanded levels was implemented on April 1, 2024, and the approval was for a five-year period which runs from April 1, 2024, through the end of December of 2028.

In next slide, I'll provide a few updates on implementation. On the heels of that March 1st approval, we notified consumers in our Qualified Health Plan market, at these income levels, the 200-250% of FPL, of their eligibility for the Essential Plan with zero premiums and very low cost-sharing, and we seamlessly move them into the Essential Plan effective April 1, 2024. We were able to auto renew consumers staying with their same insurer from the QHP Market to the Essential Plan market on April 1st.

We also have seen new enrollment at these expanded eligibility levels, and this ramp up has occurred faster than we had initially estimated. As of the end of April, over 120,000 consumers at this new income level have enrolled in the Essential Plan. There is a total of over 1.3 million enrollees in the Essential Plan, but within this new eligibility level permitted under this waiver, we've seen additional enrollees since April 1st. In terms of composition, out of the 120,000, 78,000 enrollees were those that I mentioned previously were moved from the Qualified Health Plan market into the Essential Plan. Those individuals are seeing an average annual savings of $4,700, which includes both premiums and total out-of-pocket costs.

So that is a really significant change and was the crux of this waiver to begin with. We've also seen 42,000 individuals newly enroll in the Essential Plan since April 1st. That's the piece that was higher than anticipated, but we know this overlapped with the last months of the unwind of the Federal Public Health Emergency, and we think that contributed to this higher enrollment level. We're pleased to say we are on track with the implementation of the DACA expansion for individuals with incomes up to 250% of FPL on August 1st. The other federal changes that you all are likely aware of impacting the DACA population will happen along with open enrollment. These individuals will be eligible for Qualified Health Plan coverage, but we're able to start this earlier because it was approved as part of our initial waiver.

Finally, the Essential Plan under this 1332 waiver is expected to be fully federally funded with the passthrough dollars that we are receiving and that remains true under the amended waiver as well. So that's a very quick run through of where we are in these first months of our implementation of the waiver. Now I'll turn it to Sonia to walk through what we're seeking to do for 2025 through our amendment.

Sonia Sekhar: Great. Thank you, Danielle. So, just to reiterate, this section will just focus on what we're newly requesting as part of this waiver amendment. Subject to federal approval, the State Fiscal Year and enacted budget gave the Commissioner of Health the authority to provide premium and/or cost sharing subsidies to members eligible to enroll in Qualified Health Plans with financial assistance under the 1332 waiver. And so, through this waiver amendment, we're seeking federal approval to use the available federal passthrough funding to improve affordability for consumers enrolled in Qualified Health Plans. Specifically, the waiver amendment includes three proposals with a target effective date of January 1, 2025.

First, we're proposing to provide broad cost sharing reductions like lowering deductibles and co-payments to individuals eligible for Qualified Health Plans with financial assistance with incomes up to 400% of FPL. Second, we're proposing to implement a health equity plan design that eliminates most cost sharing to promote better chronic disease management for individuals with diabetes. And lastly, we're proposing to broadly eliminate all non-hospitalization 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 $307 million in 2025, and $1.3 billion over the course of the remainder of the waiver, which is 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. New York State of Health intends to implement this proposal by using existing Qualified Health Plans that are designed to have lower cost sharing by expanding eligibility for them to individuals with incomes up to 400% of FPL. Individuals with incomes from 250-350% of FPL will be eligible for the Silver 87 Plan, which has an actuarial value of 87% and that translates to a maximum out-of-pocket limit of $3,050, which is down from a maximum out-of-pocket limit of over $9,000. Individuals with incomes from 350-400% of FPL will be eligible for a Silver 73 Plan, which has a maximum out-of-pocket limit of $7,350, and similarly that's down from over $9,000.

We aim to move eligible consumers already enrolled in Silver Plans to these products automatically during the annual renewal, as well as consumers who are not already enrolled in a Silver Plan but are newly eligible for these lower cost sharing plans. We'll be able to enroll these populations in November 2024 when our 2025 open enrollment period begins. In total, we estimate that approximately 100,000 consumers are expected to benefit annually. The majority, about 79,000, will have incomes from 250-350% of FPL and we expect them to save about $3,500 per year. The remaining 20,000 thousand individuals will have incomes from 350-400% of FPL and we expect them to save about $700 per year.

The next proposal eliminates non-hospitalization related cost sharing to lower cost barriers for individuals with diabetes so they can access the care they need. The diabetes cost sharing reductions will modify all Qualified Health Plan products at all metal tiers, except for catastrophic coverage, so cost sharing is eliminated for the following services related to diabetes care. The first category is medical care, which would include things like primary care office visits, lab services, diabetic supplies, and prescription drugs, including insulin. Consumers won't be charged co-pays, deductibles, or coinsurance for these services. Cost sharing will remain in place for hospitalization and most specialist office visits. In total, we expect approximately 17,000 consumers to benefit from this change annually, saving them about $1,650 per year.

The final proposal under the amendment is an effort to respond to the maternal health crisis in New York and around the country and builds on current federal rules that prohibit cost sharing for most maternal health services. So, with the exception of delivery and hospital stays, cost sharing will be waived for all services, regardless of whether they are directly related to a particular pregnancy condition, as well as prescription drugs for pregnant and postpartum individuals. We have a relatively small population of individuals who are pregnant in Qualified Health Plans, so we only expect to impact about 1,600 consumers, but this would save them about $2,800 a year.

Under all of these proposals, New York will pay insurers directly to offset the costs of these lower cost sharing designs, so consumers shouldn't have to pay anything up front. They should experience the effects of this policy right away in 2025. The proposed cost sharing reductions are expected to cost about $307 million, as we mentioned before in 2025, and $1.3 billion over the duration of the waiver from 2025 to 2028.

And as we mentioned earlier, we expect that federal passthrough funding will cover the entire cost of these proposals. Going back to what Danielle talked about earlier, here we review how this waiver amendment impacts our compliance with the 1332 waiver guardrails, which are the key standards by which 1332 waivers are evaluated. On comprehensiveness of coverage offered, which refers to the benefits offered, there is no impact because we're not changing the benefits that are offered. We are primarily impacting the affordability of accessing care through this amendment.

So that leads us to our next guardrail. Overall, this amendment is projected to strengthen New York's compliance with the affordability guardrail because it saves nearly a 118,000 New Yorkers $307 million next year and $1.3 billion over the course of the waiver from 2025-2028.

The next guardrail is coverage, and we expect that, due to these changes in affordability in the plan design, there will be a relatively small increase in over overall enrollment in Qualified Health Plans as a result of the amendment.

And lastly, we have the deficit neutrality guardrail, and because of this small increase in enrollment, we estimate a small increase in federal premium tax credit spending, which we will subtract from our overall federal passthrough funding for the waiver.

On the next slide, we are reiterating some of the key dates to ensure that we're able to implement this waiver amendment on time, which is targeted for January 1, 2025. We published the draft waiver amendment a couple of weeks ago on May 28th, and we held our first public hearing this past Wednesday, June 12th, and this is our second public hearing. When we posted the waiver amendment on May 28, 2024, we also opened the 30-day public comment period, so the public comment period will close on June 27, 2024. We hope to incorporate any feedback we get on the waiver amendment and submit it to the federal government on July 1, 2024. In order to stay on track for that January 1, 2025 implementation, we're hoping to receive federal approval on September 16th, and the goal is that all of the new plan designs and eligibility changes will be in place for open enrollment 2025, which begins in November. So, with that, I will pass it back to Danielle.

Danielle Holahan: Thank you, Sonia. If we could go to the next slid. Just as a reminder, anyone who wishes to provide a public comment today, we ask that you put your name in the chat and we'll open your line.

We don't have any pre-registered commenters, so this period is really for anybody who's on the line today who wishes to either provide a comment or ask a question. Just please put your name in the chat, which is that little bubble at the bottom of your screen, and I will open your line and take questions and comments. We'll give you a minute to do that now and while we're doing that, looks like we may have a commenter.

Joanna Loomis: This is not a comment so much as it's a question, but on the waiver information page, it talks about a couple of other components of the waiver, including Social Determinants of Health grants and Behavioral Health grants. Could you provide any more information on those?

Danielle Holahan: Sure, I'll take the first one, and Sonia you can describe the other, but we included this in the initial waiver. In the Essential Plan, we have been asking our health insurers to screen for social determinants of health so that we can collect information and identify where there are needs. Under the waiver, we're reserving some funding to provide grants. One of the areas of focus is food insecurity, so that's something that we want to address. Since most of our insurers participate in both Medicaid and the Essential Plan, and are aligned with the Medicaid waiver, which as you likely know, is seeking to do a lot in this area, including Social Care Networks that will be awarded later this summer. We would leverage that and implement our programs aligned with Medicaid so that we're not duplicating efforts, but it would of course be focused on the Essential Plan population. Sonia, could you describe some of the efforts in the behavioral health space?

Sonia Sekhar: We're exploring a number of different proposals. We're looking at harm reduction and how we can improve contingency management and access to care in that space. We're exploring opportunities with particular providers who are following evidence-based practices that help people stick with their treatment for substance use disorder. I think we're also exploring other opportunities for health plans to innovate in the space by looking at clubhouse models and crisis intervention models that are not in the traditional sphere. So that's what we're exploring for behavioral health grants, which would follow on the Medicaid Social Care Network, so we'd like to leverage that network and build on it for the Essential Plan population.

Danielle Holahan: Thank you for the question. So, we'll invite others to ask questions by putting your name in the chat or provide comment. But while we're waiting for others, Georgia, do you want to flip to the next slide or the final slide that includes a little more information we can share with folks while we're waiting?

We wanted to just make sure folks were aware that written comments can also be provided and so we have an email address and a mailing address where you can submit written comments to us through the end of the comment period on June 27th.

We look forward to hearing your input, and would really invite you all to submit comments. It's a piece of our application that CMS is quite interested in. We want to include whatever we can as far as either support or input on how we might make changes. This is an important feature of this comment period and why it is open for 30 days, so we would encourage you to submit anything in writing if you don't have a comment you want to provide today. We also on this page provide a link to all of the waiver materials, there's a tremendous amount.

I'm seeing the question in the chat "Will we provide these slides?" If they're not already on this page where you see the link at the bottom, we will be posting them there. So yes, you will receive these. And this really is just a very high-level summary of materials that are already on the website. The draft application has numerous tables and details, as well as an implementation update which goes through aspects of what has happened in the first couple of months of our implementation in a lot more detail than we provided here today as well. There's a tremendous amount of information on that website. You can also reach out through that email address provided. You can reach us if you have any issues finding what you need on our website as well. So, with that, we'll make one last call for anybody who has a question or wants to provide a comment by adding your name in the chat.

We'll hold on for a minute here, but if there's nothing else, we thank you all for participating today and your interest in this waiver. We are thrilled that we were approved, and we are looking forward to continuing to build on it. We're very excited for the provisions that we've outlined for 2025, and we'll continue to innovate, but your partnership in improving this is really important to us and I think, that was shown in the last go around with the addition of the DACA population that came out of the public comments that we received, and we're happy that that went through.

Anything you all share, we do listen, and we appreciate you all participating. I'm not seeing anybody else, so I'll stop there. We thank you again for participating today and we will be in touch. Have a good day.