

New York 1332 Waiver Operational Report

May 29, 2024

Overview

New York received approval of its Section 1332 State Innovation Waiver on March 1, 2024 to expand eligibility for New York’s Essential Plan. The Essential Plan (“EP”) has operated since 2015 as a Basic Health Program (BHP), providing affordable and comprehensive coverage to eligible individuals with incomes up to 200% of the Federal Poverty Level (FPL). The 1332 waiver allows New York to expand the Essential Plan to eligible consumers with incomes up to 250% of the FPL beginning April 1, 2024 and to eligible Deferred Action for Childhood Arrivals (DACA) recipients beginning August 1, 2024. This report contains details regarding the State’s approach to implementing and operating the Essential Plan under the 1332 waiver.

BHP Suspension

The State submitted a BHP blueprint suspension application to the Centers for Medicare & Medicaid Services (CMS) on November 14, 2024. The BHP suspension application was approved on March 1, 2024. It is in effect for the duration of the 1332 waiver from April 1, 2024 through December 31, 2028. The State will continue to pay claims from the BHP Trust Fund for services rendered for members through March 31, 2024. Surplus BHP funding will remain frozen in the state account for the duration of the suspension, unless otherwise pre-approved for use by CMS. The State will provide the fund balance and remit interest accrued on the account on a cadence specified by CMS.

Essential Plan Governance

The Essential Plan program will continue to be governed and administered by the New York State Department of Health under the 1332 waiver, with oversight by the Deputy Secretary for Health for New York State, the Governor’s Counsel’s Office, and the New York State Division of Budget. Under the BHP, the Essential Plan was administered by the New York State Department of Health, with oversight regarding use of funds by the BHP Trustees, who certified financial statements and use of funds in accordance with federal regulation. The BHP Trustees will continue to oversee the suspended BHP Trust Fund in accordance with federal rules. Under the 1332 waiver, the New York State Department of Health will continue to work closely with the Governor’s Office and Division of the Budget for the ongoing operation of the Essential Plan. Any potential technical changes and proposed program changes that deviate from the State’s approved 1332 waiver application and Specific Terms and Conditions (STCs) will be provided to CMS for review and approval prior to implementation.

Essential Plan Expansion Implementation

Coordination with Insurers

The State has coordinated with and provided guidance to insurers throughout the development and implementation of the 1332 waiver. The 2024 NY State of Health Plan Invitation was released on May 5, 2023, guiding Essential Plan and QHP insurers on how to account for changes with the Essential Plan expansion. NY State of Health instructed all 2024 Essential Plan insurers to also include a new Essential Plan tier for consumers with incomes 200 – 250% of FPL (“EP 200 – 250”).

In March 2024, NY State of Health notified insurers of the strong recommendation of the State and CMS to transfer accumulator data for the migrating population (QHP to EP). The State identified members that transitioned between insurers during the Essential Plan program expansion and facilitated the secure transfer of accumulator file information. As of May 2024, this activity has been completed. All Essential Plan insurers have agreed to carry over consumer QHP spending in Q1 2024 to their EP maximum out-of-pocket responsibility.

IT System Updates

The State has an integrated eligibility and enrollment system for programs determining eligibility based on Modified Adjusted Gross Income (MAGI), including the on-Exchange QHP market, Essential Plan, Child Health Plus, and MAGI Medicaid. A new eligibility category was created for consumers 200 – 250% of the FPL, called EP 200 – 250. The State completed the system updates, including eligibility rule changes and notices, for EP 200 – 250 in March of 2024.

NY State of Health will complete changes for the eligibility system for DACA recipients in July 2024 ahead of the August 1, 2024 implementation.

Consumer Migration & Notification

In early March, the State re-ran eligibility for all active, QHP-eligible and enrolled individuals with incomes 200 – 250% of the FPL, auto enrolled them into EP 200 – 250 starting April 1, 2024, and sent notices and email and text reminders.

Where available, the State mapped QHP enrollees into their QHP insurer’s Essential Plan product. If the QHP insurer did not offer an Essential Plan, and the consumer did not select a plan within 10 days, the consumer was auto enrolled in an EP 200 – 250 plan, analogous to what is done when consumers transition to Medicaid Managed Care. Consumers received notices about the auto enrollment along with instructions on how to make changes to their plan. Consumers also received emails and text message reminders about their new eligibility and enrollment notices.

Additionally, associated certified enrollment assistors (or health plans for members without assistors) were provided lists and asked to perform outreach to their members who are eligible for Essential Plan expansion coverage but whose QHP insurer did not offer an Essential Plan and thus needed to select a plan or be auto assigned. Assistors were also provided reports and asked to perform outreach to consumers who completed a QHP application but did not enroll in coverage and may now be eligible for the Essential Plan to notify them of the expansion and offer assistance in applying.

Further, the State’s application process includes language informing QHP-eligible consumers who apply APTC towards reducing their monthly premiums of their obligation to reconcile APTC received when they file their tax return for the year of coverage. The State will issue these members a Form 1095-A in early 2025 (for the 2024 tax year) with a cover letter reiterating the requirement to reconcile any APTC received using IRS Form 8962. This is consistent with current operations when NY State of Health members move between public programs, like Medicaid or EP, and QHPs. All members who had at least one month of QHP coverage in a given Plan Year receive a Form 1095-A with a cover letter containing instructions.

Assistors and Customer Service Center Trainings

NY State of Health developed and sent pre-recorded trainings on the Essential Plan expansion to enrollment assistors. Assistors received these online training resources on March 4, 2024. Additionally, enrollment assistors connected to consumers’ accounts conducted outreach to their consumers who were migrating from the QHP market to EP 200 - 250. Four trainings were held throughout the month of March for the Customer Service Center to prepare them for questions regarding the new Essential Plan expansion and consumer transition.

Public Outreach and Education Campaigns

The State implemented outreach and education campaign plans to promote the Essential Plan expansion to eligible individuals. For the 2025 state fiscal year, NY State of Health has an advertising and outreach budget of \$16 million; approximately \$2.5 million of this budget has been allocated to promote this Essential Plan expansion inclusive of message development, paid advertising, and community outreach activities. The paid advertising campaign began in May 2024 and will continue through February 2025 to promote awareness of this new coverage option. Advertising will run across various platforms including digital and out-of-home. The outreach campaign, which will be ongoing, includes educational materials such as fact sheets, organic social media, targeted emails and text messages (also described in the Consumer Migration & Notification section), and awareness events statewide, to notify consumers of new coverage options.

Audits

The State contracts with an external firm to conduct an annual single state audit that will include the Essential Plan. CMS is reviewing whether this process under the BHP would continue to meet requirements for the program under the 1332 waiver with modifications to the sample size. The state is currently in the process of updating its contracts with the vendor for 2024 audits.

Minimum Essential Coverage (MEC) Designation

The State submitted an application to CMS on October 17, 2023 for the Essential Plan to be deemed as MEC. CMS completed its initial review on February 12, 2024. The State is working with CMS to respond to questions and provide additional detail for a final determination.

Insurer Reimbursement Implementation Plan

The Department of Financial Services (DFS) required insurers to file rates for 2024 assuming consumers 200 – 250% of FPL were still in the QHP market (“without waiver”) and rates assuming this population migrated out of the market (“with waiver”). This enabled the State to

identify and pay QHP insurers for the estimated premium impact of this relatively healthier population transitioning from the QHP market to the Essential Plan. QHP insurers will be reimbursed on a quarterly basis under the Insurer Reimbursement Implementation Plan (IRIP) to mitigate increases to premiums in the individual market. DFS approved the QHP 2024 “without waiver” rates in August 2023.

DFS and NY State of Health have updated the estimated IRIP payment for 2024 based on carrier enrollment estimates from their rate filings and approved premiums. DFS will collect premium data from insurers at the close of each quarter and share with NY State of Health. Quarterly payments will be made by NY State of Health using the State Financial System. For PY 2024, NY State of Health will reimburse insurers for the loss in premiums on a quarterly basis in July 2024, October 2024, January 2025, and April 2025. There will be a reconciliation after each quarter to account for any retroactive coverage terminations.

DFS has provided guidance to insurers to file 2025 rates assuming the “without waiver” scenario.

DACA Implementation

The State will implement the Essential Plan expansion for DACA recipients on August 1, 2024 under the 1332 waiver. The State will follow a similar process for the mid-year implementation of this population as with the implementation of the EP 200 – 250 on April 1, 2024. This will include auto enrolling consumers from state-funded Medicaid to an Essential Plan with the same insurer and an outreach approach that is tailored to this community and includes coordination with consumer groups serving immigrant communities.

The following implementation plan assumes that the State will be able to continue its planned implementation of the DACA expansion under the 1332 waiver on August 1, 2024. There are no changes to the implementation plan as a result of the [final federal rule](#) to expand eligibility for on-exchange QHP (with and without APTC) and BHP coverage to DACA recipients. NY State of Health will coordinate with CMS on necessary updates to the baseline data and passthrough calculations related to this federal rule change.

Coordination with Insurers

Insurers have been notified of the implementation. By August 2024, the State will auto enroll consumers who are enrolled in state-funded Medicaid to an Essential Plan with the same insurer.

IT System Updates

The necessary IT system changes will be implemented by July 31, 2024 to enable an August 1, 2024 effective date. This will involve changing the eligibility rules so that consumers who are DACA recipients up to 250% of the FPL are eligible for the Essential Plan.

Consumer Migration & Notification

In late July, the State will re-run eligibility for all DACA recipients with incomes up to 250% of the FPL, auto enroll them into the Essential Plan starting August 1, 2024, and send notices, email, and text reminders.

As part of implementation, the State will:

- Identify DACA recipients in Medicaid who are eligible for the Essential Plan expansion.
- Redetermine Medicaid members’ eligibility for Essential Plan, mapping current Medicaid members into their plan’s Essential Plan product, and send eligibility and enrollment notices to align with these changes.

Assistors and Customer Service Center Trainings

Enrollment assistor and customer service staff will be trained in July on the DACA implementation to help consumers navigate the transition from Medicaid to the Essential Plan if they have questions and to enroll DACA recipients with income above Medicaid levels into the Essential Plan.

Public Outreach and Education Campaigns

The State’s outreach and education materials for 2024 will also include information on expanded eligibility to DACA recipients.

Passthrough Funding & Financial Payments

The State received interim passthrough funding on April 22, 2024. These funds will be used to cover monthly payments to Essential Plan insurers, administrative costs for operating the program, and quarterly payments to QHP insurers for the IRIP. The State anticipates receiving remaining 2024 passthrough funding in July 2024.

Implementation Timeline

The following outlines the key activities and milestones for implementation of the 1332 waiver. Please note, the timeline does not include ongoing operational activities.

Key Implementation Activities and Milestones	Target Date	Status
Coordination with Insurers		
Issue 2024 Plan Invitation	05/05/2023	Complete
Finalize 2024 EP rates with expansion population	08/30/2023	Complete
Complete implementation calls with insurers	02/26/2024	Complete
Distribute EP expansion guidance and Q&A	03/04/2024	Complete
Complete accumulator file transfers	04/10/2024	Complete
Release 2025 Plan Invitation	05/03/2024	Complete
Finalize EP 2025 rates	08/30/2024	In progress
Approve QHP 2025 rates	08/30/2024	In progress
IT System Updates		
Complete IT system changes for EP Expansion	03/05/2024	Complete
Identify eligible 1095-A population	04/01/2024	Complete
Consumer Migration & Notification		
Text consumers who will be moved to EP 4/1	03/07/2024	Complete
Email consumers who will be moved to EP 4/1	03/11/2024	Complete

Key Implementation Activities and Milestones	Target Date	Status
Auto enroll consumers into EP for 4/1 start	03/16/2024	Complete
Text consumers in QHP that need to pick an EP plan	03/18/2024	Complete
Email consumers who need to pick an EP plan	03/20/2024	Complete
Text consumer in QHP that need to pick an EP plan	04/01/2024	Complete
Email consumers who need to pick an EP plan	04/04/2024	Complete
Text consumers who completed QHP app but did not enroll	06/12/2024	Not Started
Email consumers who completed QHP app but did not enroll	06/19/2024	Not Started
Assistors		
Develop assistor training materials for EP expansion	02/12/2024	Complete
Facilitate assistor training	03/04/2024	Complete
Conduct assistor outreach to members	04/01/2024	Complete
Customer Service Center		
Develop customer service training materials	02/12/2024	Complete
Complete customer service trainings	03/25/2024	Complete
Public Outreach and Education Campaigns		
Finalize ad campaign script and visuals	03/15/2024	Complete
Develop ad distribution schedule and ad buys	03/30/2024	Complete
Launch ad campaign	05/17/2024	Complete
Audits		
Finalize contract changes for single EP audit	06/30/2024	In progress
Complete first audit	07/30/2025	Not started
MEC Application		
Submit MEC application	10/17/2024	Complete
Receive initial review and feedback	02/12/2024	Complete
Receive MEC approval	07/01/2024	In progress
IRIP		
Confirm IRIP estimates	03/15/2024	Complete
Issue 2024 Q1 IRIP Payment	07/31/2024	In progress
DACA Implementation		
Complete IT system changes for DACA	07/31/2024	In progress
Identify DACA recipients eligible for EP for 8/1 start	07/31/2024	Not started
Auto enroll DACA recipients into the EP for 8/1 start	07/31/2024	Not started
Email DACA consumers auto enrolled into EP for 8/1	07/31/2024	Not started
Text DACA consumers auto enrolled into EP for 8/1	07/31/2024	Not started
Complete assister trainings	07/17/2024	Not started
Complete customer service trainings	07/17/2024	Not started
Passthrough Funding & Financial Payments		
Receive 2024 Interim Passthrough Funding Amount	04/22/2024	Complete
Issue April payments for the Essential Plan Expansion	04/24/2024	Complete
Receive 2024 Balance of Passthrough Funding	07/31/2024	Not Started