



**Department
of Health**

New York Draft Section 1332 Waiver Application

Tribal Consultation on February 28, 2023

Today's Agenda

Topic	Presenter
About the Public Hearing & Comment Instructions	Sonia Sekhar
About Section 1332 Waivers	Danielle Holahan
New York Draft 1332 Waiver Application	Sonia Sekhar
Open for Public Comments	Danielle Holahan
Closing Remarks	Danielle Holahan

About the Public Virtual Hearings and Tribal Consultation

In compliance with social distancing guidelines due to COVID-19 and in alignment with approved CMS exceptions to satisfy the public hearing requirements in 42 CFR § 431.420(c), the State is holding two virtual public hearings. The purpose of the public hearings are to solicit comments on New York's Section 1332 Draft Waiver Application.

A recording and transcription of this public hearing will be available on the NY State of Health 1332 Waiver Information website (<https://info.nystateofhealth.ny.gov/1332>) within 5 – 7 days following this hearing. Language translation will also be available upon request.

The public may submit comments online at <https://info.nystateofhealth.ny.gov/1332> or by mail through March 11, 2023. The State will consider all comments received before submitting a final 1332 Waiver Application the U.S. Departments of Health & Human Services and Treasury.

Instructions for Comment

1. If you have a question, **type your name and question into the Q&A.**
 - Questions will be answered throughout the presentation.
2. After the presentation, the line will be opened for comment.
 - If you want to speak, please **enter your name** into the Q&A.

About Section 1332 Waivers

1332 Waiver Overview

- Under Section 1332 of the Affordable Care Act (ACA), states may request to waive parts of the ACA to pursue **innovative strategies for providing residents with access to high quality, affordable health insurance while retaining the basic protections of the ACA** using a Section 1332 State Innovation Waiver.
- States submit 1332 Waiver Applications to the U.S. Department of Health & Human Services and U.S. Department of Treasury for review and approval.
- 1332 Waivers may be authorized for up to 5 years, with options to renew.
- States may request to redirect federal savings from the waiver to the state to administer the program (known as “**passthrough funding**”).
- 17 states currently have approved 1332 Waivers (AK, CO, DE, GA, HI, ME, MD, MN, MT, ND, NH, NJ, OR, PA, RI, WA, WI).

Section 1332 Guardrails

For HHS and Treasury to approve a 1332 Waiver, the State must demonstrate that any changes under the waiver comply with the following four statutory guardrails:

- **Comprehensiveness:** The waiver must provide coverage at least as comprehensive as absent the waiver.
- **Affordability:** The waiver must provide protections against excessive out of pocket spending and be at least as affordable for consumers as absent the waiver.
- **Coverage:** The waiver must offer coverage to at least a comparable number of residents as absent the waiver.
- **Deficit Neutrality:** The waiver cannot increase the federal deficit.

1332 Waiver Application Components

The following must be included as part of the State's 1332 Waiver Application:

1. Comprehensive description of the proposed program.
2. Evidence of enacted legislation and authority to implement the program.
3. List of provision(s) of the law that the State seeks to waive and the reasons.
4. Draft timeline for implementation.
5. An actuarial and economic analysis, including data and assumptions for 5- and 10-year projections which demonstrate compliance with the four statutory guardrails.
6. Additional information pertinent to the waiver.
7. Reporting targets.
8. Evidence of compliance with the public notice, comment, and Tribal consultation requirements.

New York Draft 1332 Waiver Application

Goals of the 1332 Waiver

1. Expand coverage of the Essential Plan to include residents with **incomes up to 250%** of the federal poverty level (FPL).
2. **Reduce the uninsured population in New York** by increasing access to high quality, affordable health insurance for low- and moderate-income individuals.
3. Be deficit neutral for the federal government with the federal savings from the 1332 Waiver returned to the State to fund the program.
4. Continue to use the Essential Plan Trust Fund surplus to fund the program for consumer benefit.

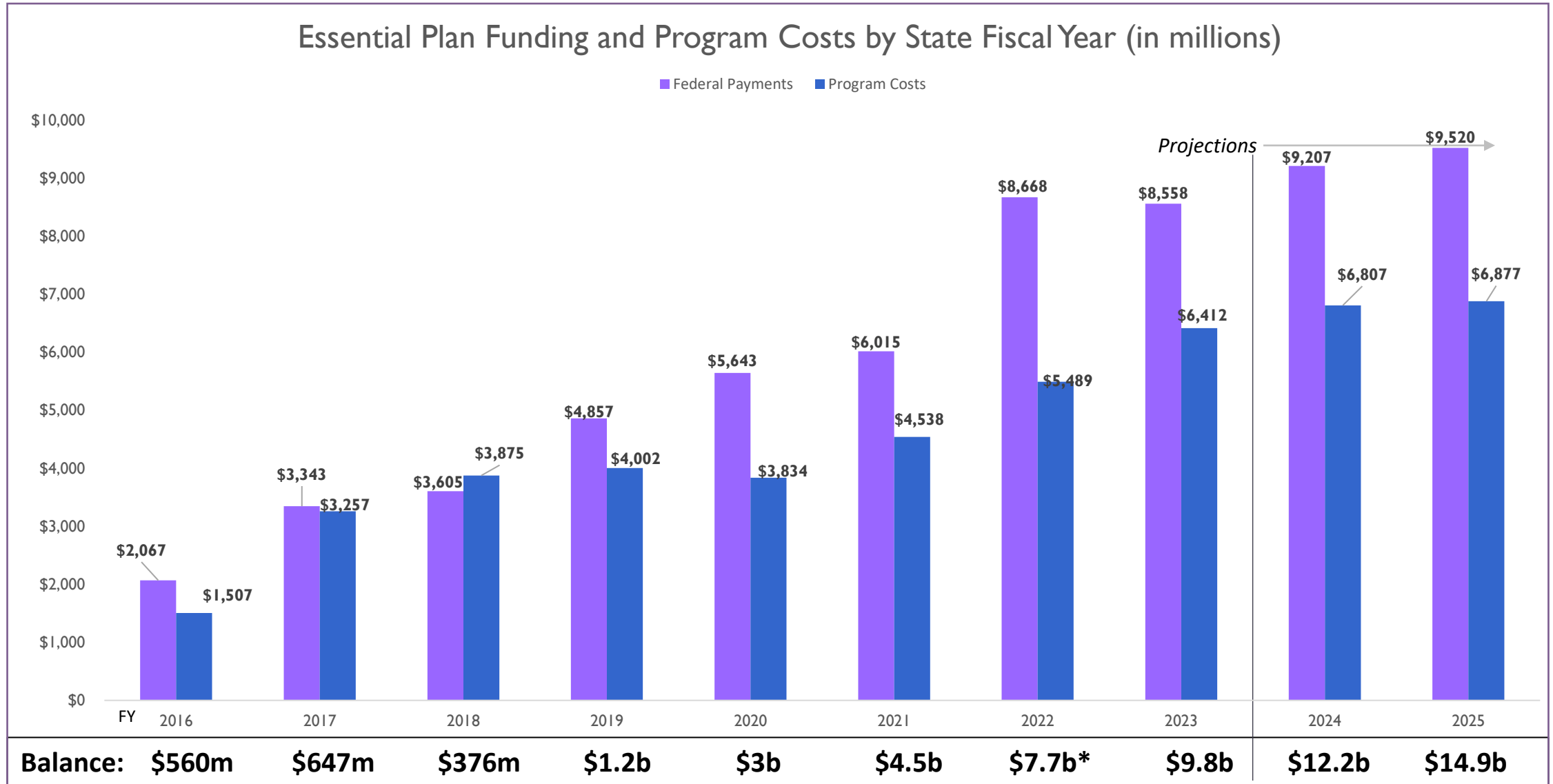
Legislative Authority for the 1332 Waiver

- The SFY 2023 Enacted Budget (passed through the NYS Assembly's Education, Labor and Family Assistance Bill on April 9, 2022) expanded eligibility up to 250% of the FPL, subject to federal approval.
- Legislation was introduced in the NYS SFY 2024 Executive Budget to expand eligibility of the Essential Plan to individuals up to 250% FPL under Section 1332 authority.

Background on the Essential Plan

- Currently, the Essential Plan is health insurance for residents up to 200% of FPL.
- Essential Plan members have comprehensive coverage with no premiums, no deductibles, and low cost-sharing.
- New York's Essential Plan is designated as a Basic Health Program (BHP) under Section 1331 of the Affordable Care Act (ACA); it provides an alternative to Qualified Health Plan (QHP) coverage for eligible consumers.
- As a BHP, New York receives annual federal funding for the program costs of the Essential Plan.
 - The Essential Plan program costs are fully funded by federal dollars through the Trust Fund.

Current Trajectory: Essential Plan Costs vs Funding



*Not yet certified.

**Please note SFY 24-25 Program Costs do not reflect Executive Budget Proposals that have not been approved by EP Trustees.

Essential Plan Under the Waiver

Current Essential Plan Types (Continuing Under the 1332 Waiver)

Essential Plan 1	151 – 200% of FPL	\$0 premium; \$0 deductible; \$2,000 max out of pocket
Essential Plan 2	139 - 150% of FPL	\$0 premium; \$0 deductible; \$200 max out of pocket
Essential Plan 3	100 - 138% of FPL	\$0 premium; \$0 deductible; \$200 max out of pocket
Essential Plan 4	< 100% of FPL	\$0 premium; \$0 deductible; \$200 max out of pocket

Additional Plan Type (New Under the 1332 Waiver)

Essential Plan 200-250	201 - 250% FPL	\$15 monthly premium; \$0 deductible; \$2,000 max out of pocket
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Projected Impact for Consumers

Current Essential Plan Consumers

- No changes for current members.

Consumers Between 201 – 250% of FPL

- Currently, these consumers are eligible to buy Qualified Health Plans (QHPs) on the Exchange. They are eligible for Advance Premium Tax Credits (APTCs) to make premiums more affordable; however, these plans have significant deductibles and large out-of-pocket maximums (\$1,625 - \$6,100+).
- Expected annual savings of \$3,400 - \$8,900. The average annual savings is \$4,183.

Current and New Consumers

- Expected to benefit from a series of program improvements, including Social Determinants of Health interventions, further reductions in cost sharing, and expanded access to services.

Projected Enrollment

- Under the 1332 Waiver, 69,010 consumers between 201 – 250% of FPL who would otherwise enroll in QHPs are expected to enroll in the Essential Plan for 2024.
- Under the 1332 Waiver, 20,087 new consumers who would otherwise be uninsured are expected to gain coverage for 2024.
- Overall, enrollment in the Essential Plan and individual market is expected to increase under the 1332 Waiver compared to without the waiver by:
 - 1.6% for 2024
 - 2.2% for 2025
 - 2.1% for 2026
 - 2.1% for 2027
 - 2.1% for 2028

Provisions the State is Seeking to Waive

- The State is requesting to suspend the current BHP for the duration of the waiver (2024 – 2028) and establish an identical Essential Plan under ACA Section 1332.
 - This is necessary because the State cannot expand the Essential Plan to new populations under ACA Section 1331.
 - Current Essential Plan consumers will not experience any cost increases or changes in their enrollment experience.
- The State is seeking to waive Section 36B(c)(2)(B) of the Internal Revenue Code (IRC) to allow the State to determine consumers between 0 – 250% of FPL eligible for the Essential Plan instead of for QHPs and APTCs on the Exchange.

Funding

- The State expects the Waiver to **be deficit neutral for the federal government**, while increasing the affordability of coverage and expanding coverage to additional New Yorkers.
- The State is requesting to use federal savings from forgone premium tax credits and federal spending on the current BHP to fund the Essential Plan under the 1332 Waiver.
- The State projects that federal funding will continue to fully fund the Essential Plan with the expanded eligibility for the 5 years of the waiver.
- The State would use any excess pass-through funding for program improvements, including Social Determinants of Health interventions, further reductions in cost sharing and expanded access to services.
- The State is also requesting continued access to the current Trust Fund balance for the Essential Plan.

Timeline

Activity	Date
Public Comment Period Begins	February 9, 2023
Public Hearing #1	February 22, 2023
Public Hearing #2	February 23, 2023
Tribal Consultation	February 28, 2023
Public Comment Period Ends	March 11, 2023
Target Submission of 1332 Waiver Application to HHS/Treasury	~April 7, 2023
Target Federal Waiver Approval	August 31, 2023
Target Implementation	January 1, 2024

**Open for Questions or
Comments**

Instructions to Ask Questions or Provide Comments

- If you want to speak, please **enter your name** into the Q&A

OR

- **Raise your hand** using this icon. 

Closing

Closing

- The Draft 1332 Waiver is available online at <https://info.nystateofhealth.ny.gov/1332>.
- All comments must be submitted by March 11, 2023 to be considered.
 - Comments may be submitted online at <https://info.nystateofhealth.ny.gov/1332>.
 - Comment letters and attachments may be emailed to nysoh@health.ny.gov.
 - Comments may be mailed to:

NY State of Health
Empire State Plaza
Corning Tower, Room 2580
Attention: 1332 Waiver
Albany, NY 12237

Mailed comments must be postmarked by March 11, 2023.