



**Department  
of Health**

# New York Updated Section 1332 Waiver Application

**Public Hearing on November 28, 2023 at 10:00AM Eastern Time**

Para la línea de interpretación en español, por favor marque  
+1-518-549-0500  
(Código de acceso: 161 066 1256  
884 97 746 desde teléfonos y sistemas de vídeo)

# Today's Agenda

#	Topic	Presenter
1	Hearing Logistics	Georgia Wohnsen
2	Summary of New York's 1332 Waiver Application	Danielle Holahan
3	Proposed Changes to the 1332 Waiver Application	Sonia Sekhar
4	Open for Public Comments	Georgia Wohnsen
5	Closing	Danielle Holahan

This public hearing is intended to solicit comments on the proposed changes to New York's 1332 Waiver Application.

# Hay Intérpretes de Español en Vivo También

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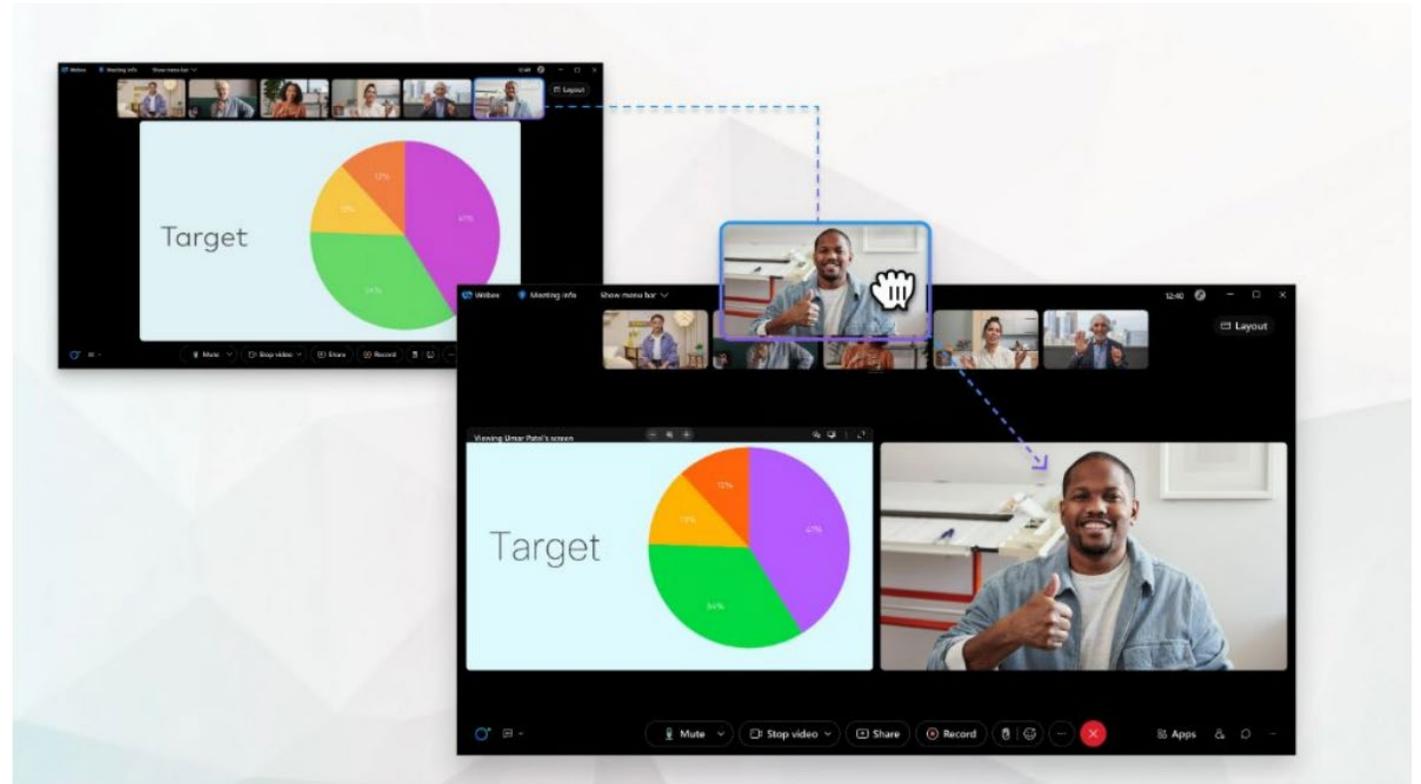
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# ASL Interpreters Are Available

To move an American Sign Language (ASL) interpreter to the WebEx presentation stage, please do the following:

1. Right click on the ASL interpreter's video icon.
2. Select "Move to Stage."



# Commenters

- For those that registered in advance and included “SPK” with their name, you are already on the speakers list.
- If you did not register in advance and want to provide comment or ask a question, please enter your name into the chat.
- After the presentation, the lines for speakers will be opened to provide comment.

# Summary of New York's 1332 Waiver Application

# Background

- The SFY 2023 Enacted Budget expanded eligibility of New York's Essential Plan from 200% of the Federal Poverty Level (FPL) up to 250% of FPL.
- The Essential Plan is currently governed by the federal Basic Health Program (BHP) regulations which limits eligibility up to 200% of FPL.
- Legislation was introduced in the SFY 2024 Executive Budget to expand eligibility of the Essential Plan to individuals up to 250% FPL using a Section 1332 Waiver.
- 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.
- States submit 1332 Waiver Applications to the U.S. Department of Health & Human Services and U.S. Department of Treasury ("the Departments") for review and approval.

# 1332 Waiver Impact – Original Version Submitted May 12<sup>th</sup>

- **Current Essential Plan Members:** Current members and those eligible up to 200% of FPL will experience no change with the transition of the Essential Plan from federal Basic Health Program (BHP) to the 1332 Waiver.
- **Consumers between 200 – 250% of FPL:** These consumers are currently eligible for Qualified Health Plans (QHPs) with Advance Premium Tax Credits (APTCs). Under the 1332 Waiver, they will instead be eligible for the Essential Plan. The original waiver included a \$15 monthly premium for these members.
- **Consumers > 250% of FPL:** In the original waiver, premiums in the individual market were estimated to increase due to the migration of the 200 – 250% of FPL group out of the market, potentially increasing out-of-pocket costs for those consumers remaining in the market.
- **Implementation Date:** The original waiver application proposed a January 1, 2024 implementation date.

# 1332 Waiver Funding

- The waiver is estimated to be deficit neutral for the federal government.
- New York is requesting federal savings from forgone premium tax credits in the individual market for consumers with income between 200 - 250% of FPL and federal spending on the BHP to fund the Essential Plan under the 1332 Waiver.
- It is estimated that the federal funding will continue to fully fund the Essential Plan with the expanded eligibility up to 250% of FPL for the 5 years of the waiver.

# 1332 Waiver Application Timeline

- **February 9 – March 11, 2023:** DOH released a draft 1332 Waiver Application and held a 30-day state public comment period, inclusive of two hearings and a tribal consultation.
- **May 12, 2023:** DOH updated the application based on comments received and submitted the 1332 Waiver Application to the Departments.
- **June 6, 2023:** The Departments sent New York a 1332 Waiver Completeness Letter.
- **June 6 – July 5, 2023:** The Departments held a 30-day federal public comment period.
- **August 23 – 30, 2023:** The Departments held a 7-day federal public comment period on the State's proposed Insurer Reimbursement Implementation Plan (IRIP) to negate the premium increases in the individual market under the waiver.
- **September 29, 2023:** DOH sent a letter requesting the Departments to pause review of the 1332 Waiver so the State could submit an updated application.
- **November 14, 2023:** DOH submitted the Waiver Addendum and BHP Suspension Application.

# Proposed Changes to the 1332 Waiver Application

# Policy Changes to the 1332 Waiver Application

Based on public comments received and federal review, New York has decided to update its 1332 Waiver Application with three policy changes:

1. Insurer Reimbursement Implementation Plan (*submitted August 23, 2023*)
2. Elimination of the \$15 Monthly Premium (*submitted November 14, 2023*)
3. April 1, 2024 Implementation Date (*submitted November 14, 2023*)

The application also includes updates to assumptions and data that have changed since the initial application was submitted in May 2023.

# Insurer Reimbursement Implementation Plan (IRIP)

New York will implement the IRIP to mitigate premium increases in the individual market with the implementation of the 1332 Waiver.

## Approach

- In May 2023, the Department of Financial Services (DFS) requested insurers to submit two sets of rates for 2024, assuming the waiver was/was not implemented for 2024. DFS did this because:
  - Individual market enrollees in the 200 – 250% of FPL group are healthier (i.e., lower cost) than those above 250% of FPL.
  - Therefore, the 2024 premium rates will be insufficient because they are based on an average cost that includes the healthier 200 – 250% of FPL group, which will move to the Essential Plan if the waiver was approved.
- DFS approved the lower rates, which assumed the 200 – 250% of FPL group remained in the individual market for the full 2024 plan year

# Insurer Reimbursement Implementation Plan (IRIP) Continued

New York will implement the IRIP to mitigate premium increases in the individual market with the implementation of the 1332 Waiver.

## Approach Continued

- DFS will calculate the impact of the premium loss for insurers on a quarterly basis associated with the migration of the 200 – 250% of FPL group from the individual market to the Essential Plan starting in 2024.
- New York will use a portion of the federal passthrough funding to “make insurers whole” by reimbursing them for the higher premiums they would have otherwise charged with the waiver.
- The IRIP is estimated to be \$45 million for 2024 and ~\$60 million/year thereafter.

# Elimination of the \$15 Monthly Premium

New York will not implement a \$15 monthly premium for the new consumers 200 – 250% of FPL, consistent with the other Essential Plan groups.

## Current Essential Plan Types (Continuing Under the 1332 Waiver)

Essential Plan 1	151 – 200% of FPL	\$0 premium; \$0 deductible; \$360 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	\$0 monthly premium; \$0 deductible; \$2,000 max out of pocket
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# Implementation Date of April 1, 2024

The implementation of the waiver has been delayed by three months due to the timing of federal regulations permitting BHP suspension (42 CFR Part 600).

## Enrollment & Noticing

- Individuals with incomes 200 - 250% of FPL with active Qualified Health Plan (QHP) eligibility determinations through NYSOH will be identified as eligible for the Essential Plan expansion and auto-enrolled.
- Consumers will receive a notice by March 2, 2024 of their enrollment into the Essential Plan.
- Current QHP enrollees will be mapped to an Essential Plan with their same issuer; a small number of enrollees will be auto-assigned if their issuer does not offer an Essential Plan.

## Training

- NYSOH will send pre-recorded trainings to enrollment assistors and customer service that will focus on eligibility results and new Essential Plan product and benefits.

## Outreach

- The State will implement an outreach and education campaign to promote the Essential Plan expansion to eligible individuals (approximately \$2.5 million).

# Projected Impact

## 1332 Guardrail

## Estimated Impact

### Comprehensiveness (Consumer Benefits)

- Consumers 200–250% of the FPL will experience increased benefits with coverage under the Essential Plan.

### Affordability (Consumer Savings)

- Consumers 200–250% of the FPL will experience an average annual savings of \$4,700 under the Waiver (\$2,300 in premiums and \$2,400 in out-of-pocket spend). This represents approximately 12% of income.

### Coverage (Enrollment)

- 68,600 consumers between 200 – 250% of FPL are expected to transition from QHPs to the EP for 2024.
- 21,380 new consumers who would otherwise be uninsured are expected to gain coverage for 2024.
- Overall enrollment is expected to increase by:
  - 1.3% for 2024
  - 3.0% for 2025
  - 3.1% for 2026
  - 3.0% for 2027
  - 3.0% for 2028

### Deficit Neutrality (Federal Savings)

- The federal spend under the Waiver is estimated to decrease.
- The State is requesting \$65.8 billion in the federal savings be passed through to New York to fund the Essential Plan with the expansion under the 1332 Waiver over the 5-year Waiver period.

# Key Dates

Activity	Date
Submit 1332 Waiver Application Updates	November 14, 2023
Open federal comment period	November 17, 2023
Hold Public Hearing #1	November 17, 2023
Hold Public Hearing #2 (Virtual Only)	November 28, 2023
Close federal comment period	December 2, 2023
Receive Federal Waiver Approval (target)	January 31, 2024
<b>Implement Essential Plan Expansion</b>	<b>April 1, 2024</b>

# Instructions for Public Comment

1. Commenters will be **limited to five minutes.**
2. We will start with commenters who registered ahead of time.
3. We will then open the line to others who want give comment. Please enter your name in the chat if you want to give a comment or ask a question.

# Closing

## Written Public Comments

**You may also submit a written comment on New York's proposed 1332 Waiver changes to the federal government at [stateinnovationwaivers@cms.hhs.gov](mailto:stateinnovationwaivers@cms.hhs.gov).  
Comments will be accepted through December 2, 2023.**

**The proposed changes to the 1332 Waiver Application is available online at <https://info.nystateofhealth.ny.gov/1332>.**