



Department of Health

KATHY HOCHUL
Governor

JAMES V. McDONALD, M.D., M.P.H.
Commissioner

JOHANNE E. MORNE, M.S.
Executive Deputy Commissioner

April 26, 2024

The Honorable Janet Yellen
Secretary of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

The Honorable Xavier Becerra
Secretary of Health and Human Services
200 Independence Avenue, SW
Washington, D.C. 20201

Dear Secretary Yellen and Secretary Becerra,

The State of New York received approval for its Section 1332 State Innovation Waiver on March 1, 2024 which expanded eligibility of the State's Essential Plan to consumers up to 250% of the Federal Poverty Level (FPL). The State is seeking an amendment for the approved use of passthrough funding to further increase affordability and reduce the cost sharing burden for New Yorkers buying Qualified Health Plans (QHP) starting January 1, 2025 through the end of the waiver period on December 31, 2028. The amendment does not seek to waive additional provisions of the Affordable Care Act, change the approved waiver, nor impact 1332 waiver guardrails. The authority for this request is in the State Fiscal Year 2025 budget, section 268-c(26) of the New York Public Health Law (HMH SFY 25 Part J).

The State is proposing to implement three new initiatives on the Exchange: 1) Provision of a Cost Sharing Reduction (CSR) wrap for Individuals 250 – 400% of the FPL; 2) Provision of a CSR wrap for individuals seeking services to manage their Diabetes; and 3) Provision of a CSR wrap for individuals who are pregnant or postpartum.

Reduction in Cost Sharing for Individuals 250% - 400% of the FPL

The State is proposing to provide a CSR wrap to individuals with incomes up to 350% of FPL who are not Essential Plan eligible, by expanding eligibility for existing Silver CSR 87 plans to consumers eligible for Advance Premium Tax Credit (APTC) with incomes up to 350% of the FPL and eligibility for existing Silver CSR 73 plans to consumers with incomes above 350% up to 400% of the FPL. These changes are being proposed for several reasons. Cost sharing reductions will help increase access to care, address consumer complaints about high out-of-pocket costs, and reduce provider uncompensated care.

To negate potential premium impacts in the individual market, the State will use surplus passthrough funding to reimburse insurers' claims demonstrating the cost-sharing offset between the CSR Silver plans and the standard Silver plans for the newly eligible population, following a similar methodology used for federal cost-sharing reduction payments prior to 2017.

For consumers 250 – 400% of the FPL enrolled in Silver plans without CSR for 2024, the State will auto re-enroll consumers into the respective Silver CSR 87 and Silver CSR 73 variants which will be effective January 1, 2025. Consumers will receive a notice and will be able to change plans during OE. For consumers 250 – 400% of the FPL enrolled in other metal level plans for 2024, the State will auto re-enroll consumers into their same plans for 2025. These consumers will receive a notice about their eligibility for Silver CSR 87 and Silver CSR 73 variants and will need to take action to select to enroll in these plans for 2025.

The estimated cost of this proposed initiative is \$277 million in 2025 and a total of \$903 million over the remaining four years of the waiver (2025 – 2028).

Reduction in Cost-Sharing for Diabetes Services

The State is proposing to reduce cost-sharing for non-hospital-based diabetes-related services, supplies and prescription drugs, for all QHP consumers in all metal levels. Consumers will be able to remain in the plan of their choice to receive this cost sharing reduction. There will be no change to plan premiums, benefits, or actuarial values.

Consumers will have \$0 out-of-pocket costs for diabetes-related services. To negate potential premium impacts in the individual market, the State will use passthrough funding to reimburse insurers for the cost sharing they would have otherwise received from their consumers.

The estimated cost of this proposed initiative is \$22 million in 2025 and a total of \$95 million over the remaining four years of the waiver (2025 – 2028).

Reduction in Cost-Sharing for Pregnancy and Postpartum Care

The State is proposing to reduce cost-sharing for outpatient pregnancy and postpartum care, inclusive of mental health services, for all QHP members in all metal levels. Consumers will be able to remain in the plan of their choice to receive this cost sharing reduction. There will be no change to plan premiums, benefits, or actuarial values.

Currently, there is limited cost-sharing permitted for maternal health services in QHPs. The United States Preventive Services Task Force (USPSTF) broadly defines preventive pregnancy services to include office visits, prenatal vitamins, breast pumps, pre-eclampsia, and supplies. Examples of maternal health services that do still have cost-sharing include prescription drugs and postpartum mental health benefits.

Consumers will have \$0 out-of-pocket costs for all outpatient covered services, supplies, and prescription drugs during pregnancy and postpartum. To negate potential premium impacts in the individual market, NYSoH will use passthrough funding to reimburse insurers for the cost sharing they would have otherwise received from their consumers. Cost-sharing would continue to apply for delivery and hospital stays.

Due to the limited number of pregnant individuals that typically enroll in QHPs, the estimated cost of this proposed initiative is \$4 million in 2025 and a total of \$16 million over the remaining four years of the waiver (2025 – 2028).

The State understands that if the costs of these initiatives exceed the available federal passthrough payments, any excess costs would be the responsibility of the State.

New York respectfully requests the Departments grant approval for New York's proposed uses of surplus passthrough funding as outlined above so that consumers may benefit from these cost sharing reductions starting in 2025. We appreciate the Departments commitment and ongoing partnership in expanding access and affordability of healthcare coverage to more New Yorkers.

Sincerely,



James V. McDonald, M.D., M.P.H
Commissioner