

Commonwealth of Virginia
1332 State Innovation Waiver Application
to Establish a State Reinsurance Program



Virginia State Corporation Commission, Bureau of Insurance

Scott White, Commissioner

December 31, 2021

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1. Executive Overview

Request

Scott White, Virginia Insurance Commissioner, on behalf of the Commonwealth of Virginia, is submitting this application to the Centers for Medicare and Medicaid Services (CMS), a division of the United States Department of Health and Human Services (HHS), and to the United States Department of the Treasury, for a waiver of certain provisions of the Patient Protection and Affordable Care Act, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, together referred to as the Affordable Care Act (ACA), as authorized by section 1332 of that Act.

Virginia's Section 1332 waiver application seeks to waive section 1312(c)(1) of the ACA for the purpose of establishing a state-based, and state-administered reinsurance program. If approved, the Section 1332 waiver, as proposed, is targeted to be effective January 1, 2023, for an initial period of up to five years.

This waiver will not affect any other provision of the ACA but is expected to result in a lower market-wide index rate, thereby lowering premiums and reducing the federal cost of premium tax credits (PTC). With this Section 1332 waiver application, Virginia request that the Department of Treasury "pass-through" net savings to help fund its reinsurance program.

Basis for Request and Goal of Reinsurance Program

While Virginia's individual ACA market has stabilized over the last couple of years, and recently welcomed new issuers to the market and service area expansions of existing issuers, a stable market does not necessarily mean an affordable market. Virginia has experienced a steady decline in the number of unsubsidized enrollees, particularly during the period 2017 to 2020, due to large increases in the full cost of premiums. While approximately 137,000 individuals enrolled without premium assistance in 2017, only 47,000 did so in 2020.

Virginia believes that a sustainable, affordable Individual market for health insurance is important. While the enhanced and expanded subsidies recently provided under the American Rescue Plan Act (ARPA) have already helped to make coverage more affordable for thousands of Virginians in 2021, under current law these additional subsidies are scheduled to end after 2022. After studying the Commonwealth's market, population, and morbidity, Virginia believes that the creation of a state-based reinsurance program through a Section 1332 waiver will be an effective mechanism to further strengthen its individual ACA market by reducing rates, increasing enrollment, and improving the morbidity of the single risk pool.

By establishing a reinsurance program that reimburses issuers for a portion of higher cost claims, premiums would be reduced making individual health insurance coverage more affordable for those Virginians that do not receive PTCs. This would lead to a more stable membership base that would support the potential for increased competition among issuers in future years and, as a result, increased consumer choice. As membership in the Individual market increases, it would be expected that the potential for year-to-year volatility in both the claim costs owed by issuers and corresponding premium contributions made by consumers would be reduced. Additionally, as individuals who are currently uninsured enroll in the Individual market, costs associated with uncompensated care for health providers would be expected to be reduced. Through these efforts to drive increased stability in the individual ACA market and lower uninsured rates in the Commonwealth, Virginia's Section 1332 waiver would be expected to encourage more sustainable spending growth both in its individual ACA market and the overall health insurance market.

Operation, Funding, and Impact of the Virginia Reinsurance Program

House Bill 2332 (HB 2332) was signed into law on March 31, 2021 and authorizes the Virginia State Corporation Commission (the Commission) to submit a Section 1332 waiver application, as outlined in §38.2-6606. The Commonwealth Health Reinsurance Program and the securement of a funding source for the reinsurance program are established in §38.2-6602 and HB 2332, respectively. The Act creates the Commonwealth Health Reinsurance Program and establishes the Commonwealth Health Reinsurance Program Special Fund and assigns the Commission with the responsibility of administering the program in order to provide reinsurance to health insurance issuers that offer comprehensive individual health insurance coverage in Virginia.

The sources of funding for the proposed reinsurance program are expected to be as follows:

1. Federal pass-through funding provided in response to this Section 1332 waiver application
2. Funds appropriated by the Virginia General Assembly

Through this Section 1332 waiver application, Virginia is requesting that Treasury “pass-through” to its reinsurance program the cost savings from reduced federal outlays for PTCs resulting from the reduction in rates in the Individual market due to the reinsurance program.

The proposed reinsurance program will reimburse issuers who offer comprehensive coverage in Virginia’s individual ACA market for a percentage (coinsurance percentage) of the annual claims which they incur on a per member basis between a specified lower threshold (attachment point) and upper threshold (reinsurance cap), to be determined each year by the Virginia Bureau of Insurance (the Bureau). For the 2023 plan year, the State is anticipating a reinsurance program with an attachment point of \$40,000, a coinsurance rate of 70.0%, and a reinsurance cap of \$155,000. However, these parameters will be finalized after further analysis and consultation with key stakeholders in the spring of 2022.

At those parameters, the proposed reinsurance program is expected to lower issuer costs in Virginia’s individual ACA market by 15.0% and improve morbidity in the risk pool by as much as 0.6%, resulting in an overall reduction to premium rates (i.e., relative to if no reinsurance program were in place) equal to 15.6% and increasing enrollment in the individual ACA market by as much as 2.9%. In future years, the reinsurance program will be expected to reduce issuer costs in the individual ACA market by an average of 15.0% to 20.0%, depending on the level of funding expected to be available for each calendar year.

Compliance with Section 1332

Virginia’s Section 1332 waiver, if approved, would reduce premium contributions made by a number of individuals (e.g., those individuals who do not receive PTCs), making coverage more affordable. At lower premium rates, Virginia’s Section 1332 waiver is expected to increase the number of enrollees in the individual ACA market. The waiver will have no material impact on premiums, comprehensiveness, or enrollment in group coverage or public programs.

Virginia’s Section 1332 waiver would not require or encourage issuers to alter cost-sharing designs or network coverage. Virginia’s Section 1332 waiver also does not in any way seek to alter the requirements of coverage under state benefit mandates or under the ACA’s required coverages, including the essential health benefits requirement under section 2707 of the Public Health Service Act.

Finally, Virginia’s Section 1332 waiver, if implemented, would not increase the federal deficit. The reinsurance program proposed in Virginia’s Section 1332 waiver would seek pass-through funding that is equal to, but not greater than, the amount of money in PTCs that Treasury would otherwise pay without

a reinsurance program under a Section 1332 waiver, offset by the corresponding reduction in projected revenue from Exchange User Fees.¹

Commonwealth Contact

Bradley Marsh, Health Insurance Policy Advisor with the Bureau of Insurance, will serve as the Commonwealth's point of contact for the Section 1332 waiver application and is responsible for ensuring compliance with all Section 1332 waiver provisions, submitting required reports, and serving as the primary contact for all waiver-related issues and concerns.

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Title: Health Insurance Policy Advisor

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¹ The Virginia Health Benefit Exchange, Virginia's state-based marketplace, is expected to be fully operational beginning in 2024 and therefore a net reduction in user fees collected by the federal government when the reinsurance program is in place, relative to if no reinsurance program were in place, would only apply in 2023.

2. Virginia Section 1332 Waiver Request and Goals

As was the case across the country, Virginia’s individual insurance market has experienced significant changes since the Affordable Care Act (ACA) was implemented. Policy changes in recent years such as elimination of the individual mandate penalty, lack of funding for cost-sharing reduction payments, and expanded access to short-term limited duration insurance plans has led to uncertainty in the market. As a result, membership in Virginia’s individual ACA market has declined in recent years, in part driven by large rate increases in 2017 and 2018, noting that the decline in 2019 was largely individuals previously eligible for premium tax credits (PTC) exiting the individual market as a result of the Commonwealth’s decision to expand Medicaid.

2017	2018	2019	2020
418,000	344,000	268,000	249,000

In particular, Virginia’s individual ACA market has seen a steady decline in the number of enrollees over this period that are not eligible to receive PTCs. In 2017, roughly 137,000 of the total 418,000 enrollees in the individual ACA market enrolled without PTCs; that segment of enrollees decreased significantly in recent years. While 137,000 individuals enrolled without premium assistance in 2017, only 47,000 did so in 2020, with most of this decline occurring between 2017 and 2018. While the individual ACA market has experienced fluctuations since the implementation of the major market reforms of the ACA, Virginia has recently experienced some positive trends. In addition to several issuers filing rate decreases over the last three plan years (2020, 2021, and 2022), Virginia’s individual ACA market will see three new issuers offer coverage in 2022 and has seen existing issuers expand their service areas.

Virginia believes that a sustainable, affordable Individual market for health insurance is important. While the enhanced and expanded subsidies recently provided under the American Rescue Plan Act (ARPA) have already helped to make coverage more affordable for thousands of Virginians in 2021, under current law these additional subsidies are scheduled to end after 2022. By establishing a reinsurance program that reimburses issuers for a portion of the most expensive claims, premiums would be reduced making individual health insurance coverage more affordable for those Virginians that do not receive PTCs. This would lead to a more stable membership base that would support the potential for increased competition among issuers in future years and, as a result, increased consumer choice.

As a result, Commissioner Scott White, on behalf of the Commonwealth of Virginia, is submitting this application to the Centers for Medicare and Medicaid Services (CMS), a division of the United States Department of Health and Human Services (HHS), and to the United States Department of the Treasury, for a waiver of certain provisions of the ACA, as authorized by section 1332 of that Act.² Virginia’s Section 1332 waiver application seeks to waive section 1312(c)(1) of the ACA for the purpose of establishing a state-based, and state-administered reinsurance program.³ Section 1312(c)(1) requires “all enrollees in all health plans . . . offered by [an] issuer in the individual market . . . to be members of a single risk pool.” This application calls for waiving the single risk pool requirement to the extent it would otherwise require including expected state reinsurance payments when establishing the market-wide index rate. A lower index rate will result in lower premiums for Virginia’s second lowest cost silver plan (SLCSP)

² The Patient Protection and Affordable Care Act, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, are together referred to as the Affordable Care Act.

³ Section 1312(c)(1) states that a “health insurance issuer shall consider all enrollees in all health plans (other than grandfathered health plans) offered by such issuer in the non-group market, including those enrollees who do not enroll in such plans through the Exchange, to be members of a single risk pool.”

premium, resulting in a reduction in the overall PTCs that the federal government is obligated to pay for subsidy-eligible consumers in Virginia. The waiver does not request or require changes to any other provision of the ACA.

If approved, the Section 1332 waiver, as proposed, is targeted to be effective January 1, 2023, for an initial period of up to five years. After studying the State’s market, population, and morbidity, Virginia believes that a state-based reinsurance program is an effective mechanism to help stabilize its Individual market by reducing rates, increasing enrollment, and improving the morbidity of the single risk pool. The Commonwealth Health Reinsurance Program will be modeled largely on the Transitional Reinsurance Program that operated in the Individual market from 2014 through 2016 under section 1341 of the ACA; reinsurance payments will be made from the Commonwealth Health Reinsurance Program Special Fund.⁴

Relative to actuarial projections for the 2023 plan year if no reinsurance program were in effect, the proposed reinsurance program is expected to lower issuer costs in Virginia’s individual ACA market by 15.0% and improve morbidity in the risk pool by as much as 0.6%, resulting in an overall reduction to premium rates (i.e., relative to if no reinsurance program were in place) equal to 15.6%, and increase enrollment in the individual ACA market by as much as 2.9%. Table 1 shows that absent the waiver, 2023 federal PTC spending in Virginia is estimated to be \$1,163,300,000. After factoring in the waiver, total 2023 federal PTC spending is estimated to be \$933,100,000, a savings of \$230,200,000.

**Table 1: Summary of PTC Enrollment and PTC Payments
Baseline and Waiver Scenarios**

Year	Baseline			Waiver			Change
	PTC Enrollment	Avg PTC PMPM	Total PTCs (millions)	PTC Enrollment	Avg PTC PMPM	Total PTCs (millions)	Total PTCs (millions)
2022	256,200	\$458.4	\$1,409.3	256,200	\$458.4	\$1,409.3	\$0.0
2023	205,700	\$471.3	\$1,163.3	205,700	\$378.0	\$933.1	-\$230.2
2024	206,800	\$497.3	\$1,234.2	206,800	\$398.8	\$989.7	-\$244.5
2025	207,900	\$524.8	\$1,309.2	207,900	\$421.2	\$1,050.8	-\$258.4
2026	209,000	\$553.6	\$1,388.6	209,000	\$444.8	\$1,115.5	-\$273.1
2027	210,100	\$584.0	\$1,472.6	210,100	\$469.6	\$1,184.0	-\$288.6
2028	211,300	\$616.0	\$1,561.5	211,300	\$495.7	\$1,256.5	-\$305.0
2029	212,400	\$649.6	\$1,655.6	212,400	\$523.1	\$1,333.3	-\$322.3
2030	213,500	\$685.0	\$1,755.1	213,500	\$552.1	\$1,414.5	-\$340.6
2031	214,700	\$722.2	\$1,860.4	214,700	\$582.5	\$1,500.5	-\$359.9
2032	215,800	\$761.4	\$1,971.8	215,800	\$614.5	\$1,591.5	-\$380.3

Notes:

1. Enrollment volumes have been rounded to the nearest hundred and reflect average monthly enrollment levels
2. PMPM values have been rounded to the nearest ten cents
3. Total PTCs are in millions and have been rounded to the nearest hundred thousand

After accounting for expected reductions in exchange user fee revenue collected as a result of the lower premiums, net savings to the federal government in 2023 are estimated to be \$223,900,000. (See Table 2). Virginia Health Benefit Exchange, Virginia’s state-based marketplace, is expected to be fully operational beginning in 2024 and therefore Table 2 only includes a net reduction in user fees collected by the federal government when the reinsurance program is in place, relative to if no reinsurance program were in place, in 2023.

⁴ The Commonwealth Health Reinsurance Program Special Fund will be funded by appropriations of the General Assembly and pass through funding received from the federal government in accordance with 1332(a)(3) of the ACA.

**Table 2: Summary of Individual ACA Market Projections
Baseline and Waiver Scenarios**

Baseline											
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
Total Individual ACA Enrollment	282,900	276,400	277,900	279,400	280,900	282,400	283,900	285,400	286,900	288,500	290,000
ACA PTC Enrollment	256,200	205,700	206,800	207,900	209,000	210,100	211,300	212,400	213,500	214,700	215,800
ACA Non-PTC Enrollment	26,700	70,700	71,100	71,500	71,900	72,300	72,600	73,000	73,400	73,800	74,200
Aggregate ACA Premium (millions)	\$1,935.0	\$1,960.7	\$2,069.7	\$2,184.8	\$2,306.3	\$2,434.6	\$2,570.0	\$2,712.9	\$2,863.8	\$3,023.1	\$3,191.2
Average ACA Premium Rate PMPM	\$570	\$591	\$621	\$652	\$684	\$718	\$754	\$792	\$832	\$873	\$917
Aggregate APTCs (millions)	\$1,466.6	\$1,210.5	\$1,284.3	\$1,362.4	\$1,445.0	\$1,532.4	\$1,624.9	\$1,722.8	\$1,826.4	\$1,935.9	\$2,051.9
Aggregate PTCs (millions)	\$1,409.3	\$1,163.3	\$1,234.2	\$1,309.2	\$1,388.6	\$1,472.6	\$1,561.5	\$1,655.6	\$1,755.1	\$1,860.4	\$1,971.8
Average PTCs PMPM	\$458	\$471	\$497	\$525	\$554	\$584	\$616	\$650	\$685	\$722	\$761
Waiver											
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
Total Individual ACA Enrollment	282,900	284,500	286,000	287,600	289,100	290,700	292,200	293,800	295,300	296,900	298,500
ACA PTC Enrollment	256,200	206,000	207,000	208,000	209,000	210,000	211,000	212,000	214,000	215,000	216,000
ACA Non-PTC Enrollment	26,700	78,500	79,000	79,600	80,100	80,700	81,200	81,800	81,300	81,900	82,500
Aggregate ACA Premium (millions)	\$1,935.0	\$1,666.4	\$1,757.8	\$1,855.5	\$1,958.7	\$2,067.7	\$2,182.7	\$2,304.0	\$2,432.2	\$2,567.4	\$2,710.2
Average ACA Premium Rate PMPM	\$570	\$488	\$512	\$538	\$565	\$593	\$622	\$654	\$686	\$721	\$757
Aggregate APTCs (millions)	\$1,466.6	\$971.1	\$1,029.9	\$1,093.5	\$1,160.8	\$1,232.1	\$1,307.6	\$1,387.4	\$1,472.0	\$1,561.4	\$1,656.1
Aggregate PTCs (millions)	\$1,409.3	\$933.1	\$989.7	\$1,050.8	\$1,115.5	\$1,184.0	\$1,256.5	\$1,333.3	\$1,414.5	\$1,500.5	\$1,591.5
Average PTCs PMPM	\$458	\$378	\$399	\$421	\$445	\$470	\$496	\$523	\$552	\$583	\$615
Change - Baseline Scenario to Waiver Scenario											
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
Total Individual ACA Enrollment	0	8,100	8,100	8,200	8,200	8,300	8,300	8,400	8,400	8,400	8,500
Total Individual ACA Enrollment (%)	0.00%	2.93%	2.91%	2.93%	2.92%	2.94%	2.92%	2.94%	2.93%	2.91%	2.93%
Average ACA Premium Rate PMPM (%)	0.00%	-17.43%	-17.49%	-17.49%	-17.49%	-17.49%	-17.49%	-17.49%	-17.49%	-17.49%	-17.49%
Average PTCs PMPM (%)	0.00%	-19.80%	-19.81%	-19.74%	-19.65%	-19.59%	-19.53%	-19.47%	-19.40%	-19.34%	-19.29%
Demonstration of Deficit Neutrality Requirement (amounts shown in millions)											
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
Change in Total APTCs	\$0.00	-\$239.40	-\$254.40	-\$268.90	-\$284.20	-\$300.30	-\$317.30	-\$335.40	-\$354.40	-\$374.50	-\$395.80
Change in Total PTCs	\$0.00	-\$230.20	-\$244.50	-\$258.40	-\$273.10	-\$288.60	-\$305.00	-\$322.30	-\$340.60	-\$359.90	-\$380.30
Change in Other (e.g., User Fees)	\$0.00	-\$6.30	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Savings to Federal Government	\$0.00	-\$223.90	-\$244.50	-\$258.40	-\$273.10	-\$288.60	-\$305.00	-\$322.30	-\$340.60	-\$359.90	-\$380.30
Projected Reinsurance Program Cost and Funding Levels											
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
Cost of Reinsurance Program (millions)	\$0.0	\$292.5	\$308.5	\$325.7	\$343.8	\$362.9	\$383.1	\$404.4	\$426.9	\$450.6	\$475.7
Federal Pass Through Funding (millions)	\$0.0	\$223.9	\$244.5	\$258.4	\$273.1	\$288.6	\$305.0	\$322.3	\$340.6	\$359.9	\$380.3
State Funding (millions)	\$0.0	\$68.6	\$64.0	\$67.3	\$70.7	\$74.3	\$78.1	\$82.1	\$86.3	\$90.7	\$95.4

Notes:

1. Enrollment volumes have been rounded to the nearest hundred and reflect average monthly enrollment levels
2. Aggregate values are in millions and have been rounded to the nearest hundred thousand
3. PMPM values have been rounded to the nearest whole dollar
4. Average ACA premium rate change shown is not equal to 15.6% due to differences in member mix (e.g., demographics, plan mix) between the baseline and waiver scenarios
5. The ratio of PTCs to APTCs is assumed to be 0.961

To establish the Commonwealth Health Reinsurance Program, Virginia seeks federal pass-through funds in the amount of the federal savings for PTCs, subject to the cap imposed by the statutory deficit neutrality requirement. Table 2 above shows that Virginia requests pass-through funding of \$223,900,000 in 2023.

In future years, the reinsurance program will be expected to reduce issuer costs in the individual ACA market by an average of 15.0% to 20.0%, depending on the expected cost of the program and the level of funding expected to be available for each calendar year.

Enabling Legislation

House Bill 2332 (HB 2332) was signed into law on March 31, 2021 and authorizes the Virginia State Corporation Commission (the Commission) to submit a Section 1332 waiver application, as outlined in §38.2-6606. The Commonwealth Health Reinsurance Program and the securement of a funding source for the reinsurance program are established in §38.2-6602 and HB 2332, respectively.

HB 2332 assigns the Commission with the responsibility of administering the program in order to provide reinsurance to health insurance issuers that offer comprehensive individual health insurance coverage in Virginia. More specifically, the Commission is charged with the following responsibilities associated with the operation of the proposed reinsurance program:

1. Enter into contracts as necessary or proper to carry out the provisions and purposes of this chapter, including contracts for the administration of the Program, as well as other approved initiatives under the State Innovation Waiver, and with appropriate administrative staff, consultants, and legal counsel;
2. Take action as necessary to avoid the payment of improper claims under the Program;
3. Establish administrative and accounting procedures for the operation of the Program and other approved initiatives under the State Innovation Waiver;
4. Establish procedures and standards for eligible carriers to submit claims under the Program;
5. Establish or adjust the payment parameters in accordance with subdivision B2 of §38.2-6602 for each benefit year;
6. Apply for a State Innovation Waiver, federal funds, or both, in accordance with §38.2-6606, for the implementation and operation of the Program, as well as other initiatives designated by the established work group convened by the Secretary of Health and Human Resources;
7. Apply for, accept, administer, and expend gifts, grants, and donations and any federal funds that become available for the operation of the Program, as well as other initiatives designated by the established work group convened by the Secretary of Health and Human Resources; and
8. Adopt rules as necessary to implement, administer, and enforce this chapter, including rules necessary to align state law with any federal program; and
9. If the State Innovation Waiver is granted pursuant to §38.2-6606, the Commission, during implementation of the Program, shall evaluate the effect of the Program on access to affordable, high-value health insurance for consumers who are eligible for premium tax credit subsidies and cost-sharing reductions.

See Appendix A for a full copy of the legislation described above.

Reinsurance Program Structure

The Virginia reinsurance program will be modeled largely on the Transitional Reinsurance Program that operated in the Individual market from 2014 through 2016 under section 1341 of the ACA and will utilize an attachment-point based model of reinsurance. The program will reimburse issuers who offer comprehensive coverage in Virginia's individual ACA market for a percentage (coinsurance percentage) of the annual claims

which they incur on a per member basis between a specified lower threshold (attachment point) and upper threshold (reinsurance cap), to be determined each year by the Commission.

For the 2023 plan year, the State is anticipating a reinsurance program with an attachment point of \$40,000, a coinsurance rate of 70.0%, and a reinsurance cap of \$155,000. However, these parameters will be finalized after further analysis and consultation with key stakeholders in the spring of 2022. It is expected that Virginia Bureau of Insurance (the Bureau) will finalize the parameters to be used for the 2023 plan year by approximately May 1, 2022. Once finalized, the parameters to be used for determining eligible reinsurance payments for the 2023 plan year would not be expected to be modified for any reason. However, as directed by § 38.2-6602, if the Commission determines that all reinsurance payments for covered benefits requested under the Commonwealth Health Reinsurance Program are greater than the funding allocated to the program for that year, the Commission will adjust all calculated reinsurance payments by applying a pro rata adjustment such that the total payments to be made are equal to total funding available for payments.

The Virginia statute establishing the Commonwealth Health Reinsurance Program includes direction that parameters should be set that consider “transfers made under the federal risk adjustment program to eliminate double reimbursement for high-cost cases.” Specifically, § 38.2-6602 states that

D. The Commission or its designee shall calculate each reinsurance payment based on an eligible carrier's incurred claims costs for a covered person's covered benefits in the applicable benefit year net of transfers received for the same enrolled individual under the federal risk adjustment program.

While there are several elements of the risk adjustment program, only the high-cost risk pool makes payments for specific individuals based on their incurred cost. As these payments are only made for enrollees' annual claims cost over \$1 million, Virginia's proposed reinsurance cap of \$155,000 ensures that no double reimbursement will occur.

In utilizing the parameters described, as with the Transitional Reinsurance Program, it is expected that issuers will continue to have incentives to apply their care management practices even after a given member reaches the specified annual attachment point. This is because issuers will be reimbursed for only a portion of a given member's claim costs between the attachment point and reinsurance cap and costs over the cap will not be reimbursed.

Reinsurance Program Funding

The sources of funding for the proposed reinsurance program will be as follows:

1. Federal pass-through funding provided in response to this waiver application and;
2. Funds appropriated by the Virginia General Assembly

Through this Section 1332 waiver application, Virginia is requesting that Treasury “pass-through” to its reinsurance program the cost savings from reduced federal outlays for PTCs resulting from the reduction in rates in the Individual market due to the reinsurance program. Section 1332(a)(3) of the ACA authorizes pass-through funding in Section 1332 waiver applications.

Correspondingly, HB 2332 directs the General Assembly to annually appropriate “a sum sufficient” to ensure the operation of the Commonwealth Health Reinsurance Program in accordance with Chapter 480 of the 2021 Acts of the Assembly and the waiver, once approved.

Virginia will first exhaust the Federal Pass-Through Funds to make Reinsurance Payments, then will use the remainder of the Commonwealth Health Reinsurance Program Special Fund to cover any remaining Reinsurance Payments. The amounts due each issuer will be produced by the CMS Edge Reinsurance system by calculating reinsurance payments from the claims data received by the issuers and the reinsurance parameters

set by the Bureau. If the Reinsurance Fund is not sufficient to make Reinsurance Payments in the amounts calculated to be due each issuer, as noted above, payments will be recalculated and made on a pro rata basis. That is, the amount calculated to be due each issuer will be quantified as a percentage of the total amount due all issuers.

Once Reinsurance Payment amounts have been finalized, the BOI Deputy Commissioner of Life and Health will review and approve the transfers. Once approved those payments will be sent to BOI Revenue management for processing. Those calculated amounts will be transmitted to the Virginia Treasury for issuance of payment.

3. Compliance with Section 1332 Guardrails

The ACA contains provisions that encourage states to innovate regarding health insurance coverage and avoid situations where a one-size-fits-all approach implemented through federal regulation may have negative effects in specific states. The provision at the center of this Section 1332 waiver proposal is Section 1332 of the ACA, which allows states to modify or waive certain provisions of the ACA. However, there are certain “guardrails” in that regulation which place limitations how Section 1332 waivers can be used by states. The guardrails outlined in Section 1332 of the ACA are described in more detail in regulation published on September 27, 2021. In general, the guardrails are intended to ensure that at least as many individuals in a state would have comprehensive, affordable healthcare coverage as would absent a waiver, while not increasing the federal deficit.

Virginia’s waiver will reduce the cost of coverage in the individual ACA market. The lower cost of coverage will allow more Virginia residents to purchase or maintain coverage in the individual ACA market than without the waiver. As indicated in Table 1 enrollment in the individual ACA market is expected to increase by approximately 8,000 in 2023, with similar increases in later years. The waiver will have no material impact on the availability or affordability of other types of coverage, such as Medicaid, CHIP, and employer-based insurance, so no impact is expected on the number of individuals with those types of coverage.

3.1. Comprehensiveness of Coverage (1332(b)(1)(A))

The first of the four guardrails requires that any Section 1332 waiver must ensure coverage provided in the market after implementation of the waiver that is “at least as comprehensive” in covered benefits as defined in Section 1332(b) of the ACA that would be available without the implementation of a Section 1332 waiver.

The waiver will have no material effect on the comprehensiveness of coverage for Virginia residents as it in no way seeks to alter the requirements of coverage under state benefit mandates or under the ACA’s required coverages, including the essential health benefits requirement under section 2707 of the Public Health Service Act. Similarly, the scope of benefits provided by other types of coverage such as Medicaid, CHIP, and grandfathered plans will not be impacted. The waiver is expected to increase the number of individuals with health coverage. Individuals that newly gain health coverage under the waiver will have coverage for more comprehensive health benefits than they would absent the waiver.

3.2. Affordability of Coverage (1332(b)(1)(B))

A Section 1332 waiver must provide “coverage and cost-sharing protections against excessive out-of-pocket spending that are at least as affordable” for the state’s residents as would be available absent implementation of the Section 1332 waiver. Affordability is measured by comparing an individual’s net out-of-pocket spending, including premium contributions, cost-sharing, and spending on non-covered services.

Virginia’s Section 1332 waiver would not require or encourage issuers to alter cost-sharing designs or network coverage. In addition, by establishing a reinsurance program to lower rates, Virginia’s Section 1332 waiver would reduce premium contributions made by a number of individuals (e.g., those individuals who do not receive PTCs) and reduce the cost of comprehensive health insurance in the Individual market. Overall, if approved, this Section 1332 waiver is expected to make coverage more affordable in the Individual market. Moreover, protections against excessive out-of-pocket spending will remain within federal requirements, so the waiver will not have an impact on affordability in terms of cost-sharing. The waiver will not affect the

premiums or cost-sharing for coverage obtained through other means, such as Medicaid, CHIP, and employer-based coverage. Employer contributions and employee wages are not expected to be affected by the waiver.

3.3. Scope of Coverage (1332(b)(1)(C))

Section 1332 requires that states must provide coverage to “at least a comparable number of the state’s residents” as would have been covered without the waiver.

Virginia’s Section 1332 waiver is expected to increase the number of enrollees in the Individual market due to the reduction in rates resulting from the reinsurance program. Actuarial analyses and projections estimate that the number of Individual market enrollees would increase by approximately 2.9% over baseline assumptions for the 2023 plan year, with similar increases in later years. The waiver will have no material impact on the availability of other types of coverage, such as Medicaid, CHIP, and employer-based insurance, so no impact is expected on the number of individuals with those types of coverage. The waiver will have a positive impact on vulnerable populations who buy coverage in the individual market since gross premiums will be lower than they would be absent a reinsurance program.

3.4. Deficit Neutrality (1332(b)(1)(D))

Section 1332 requires that a waiver must not increase the federal deficit in each year of the waiver, and over a 10-year budget period. All changes in federal revenues and outlays resulting from an approved Section 1332 waiver must be considered.

Virginia’s Section 1332 waiver, if implemented, would not increase either the federal deficit or federal revenues or outlays. As stated above, the Commonwealth anticipates that individual ACA gross premiums, including premiums for the SLCSP, will be lower under the waiver by an average of 15.6% in 2023 and by average of 15.0% to 20.0% in later years, depending on the expected cost of the program and the level of funding expected to be available for each calendar year. Because federal PTC costs are tied to the SLCSP, these lower premiums will result in lower federal spending net of revenues in each year of the waiver. Combining these factors, the waiver is expected to produce net federal savings of approximately \$223,900,000 in 2023 and additional amounts in later years. As shown in Table 3 for selected time periods, granting pass-through funding in these amounts is not expected to result in the waiver increasing the federal deficit in any year, over the 5 years of the waiver, or over a 10-year budget window.

**Table 3: Impact to Federal Deficit Savings/Cost for Select Time Periods
(In \$ Millions)**

Category of Impact	2023	2023-2027	2028-2032
Net Savings	\$223.9	\$1,288.5	\$1,708.1
Requested Pass-Through Funds	\$223.9	\$1,288.5	\$1,708.1
Total Impact on Federal Deficit	\$0.0	\$0.0	\$0.0

The reinsurance program proposed in Virginia’s Section 1332 waiver would seek pass-through funding that is equal to, but not greater than, the amount of money in PTCs that Treasury would otherwise pay without a reinsurance program under a Section 1332 waiver, offset by the corresponding reduction in projected revenue from Exchange User Fees. In other words, federal expenditures would not be expected to change as a result of the waiver.

4. Draft Waiver Implementation Timeline

The Commission will be responsible for implementing the reinsurance program and will determine and adopt reinsurance terms, establish requirements for submission of claims, and promulgate regulations as may be necessary and appropriate to operate the program. The Commission will receive funding from the Commonwealth Health Reinsurance Program Special Fund to implement and administer the program.

Date	Activity
3/31/2021	HB 2332 was signed into law
10/1/2021	State Public Comment Period began (32 days total)
10/14/2021	First public hearing held at 10:00 a.m.
10/14/2021	Second public hearing held at 7:00 p.m.
11/1/2021	State public comment period ends
1/1/2022	The Section 1332 waiver application is submitted to the federal government
1/28/2022	Federal government determines waiver application is complete; Federal approval and public comment period begins
2/28/2022	Federal 30-day comment period closes
4/1/2022	Desired federal approval date
5/1/2022	Reinsurance parameters for the 2023 reinsurance program are finalized
5/2022	Issuers submit 2023 rates with reinsurance parameter impact included
8/2022	Bureau approves rates for the 2023 plan year
9/15/2022	Bureau submits pass-through report to federal government for the 2023 plan year
1/1/2023	Virginia's reinsurance program under the Section 1332 waiver commences operation, compliant with both state and federal law and regulations
3/1/2023	Bureau begins consultation with issuers and modeling for the 2024 reinsurance program parameters
Spring 2023	Federal government provides pass-through funds for the 2023 plan year to the Commonwealth Health Reinsurance Program Special Fund
4/15/2023	Commission submits its first quarterly report to the federal government.
4/30/2023	Issuers submit first quarter 2023 claims to the reinsurance program
5/1/2023	Reinsurance parameters for the 2024 reinsurance program are finalized
5/2023	Issuers submit 2024 rates with reinsurance parameter impact included
5/15/2023	Commission posts date, time, and location on Commission website announcing public forum to solicit comments
6/15/2023	Bureau holds six-month public forum required by 45 CFR 155.1320(c)
7/15/2023	Commission submits its second quarterly report to the federal government
7/30/2023	Issuers submit second quarter 2023 claims to the reinsurance program
8/2023	Bureau approves rates for the 2024 plan year
9/15/2023	Bureau submits pass-through report to federal government for the 2024 plan year

Date	Activity
10/15/2023	Commission submits its third quarterly report to the federal government
10/30/2023	Issuers submit third quarter 2023 claims to the reinsurance program
1/15/2024	Commission submits its fourth quarter report to the federal government
1/30/2024	Issuers submit fourth quarter 2023 claims to the reinsurance program
3/1/2024	Bureau of Insurance begins consultation with issuers and modeling for the 2025 reinsurance program parameters
3/15/2024	Commission submits its first annual report to the federal government as required by 45 CFR 155.1324(c)
4/1/2024	Federal government provides pass-through funds for the 2024 plan year to the Commonwealth Health Reinsurance Program Special Fund
4/15/2024	Commission submits its first quarterly report to the federal government for the 2024 plan year
4/30/2024	Issuers submit first quarter 2024 claims to the reinsurance program
4/30/2024	Final deadline for issuers to submit reinsurance claims for the 2023 plan year
5/1/2024	Reinsurance parameters for the 2025 reinsurance program are finalized
5/1/2024-9/30/2024	Calculation and review period for reinsurance claims incurred during the 2023 plan year
5/2024	Issuers submit 2025 rates with reinsurance parameter impact included
6/15/2024	Commission holds required annual public forum
10/1/2024-11/15/2024	Payment to issuers for reinsurance claims incurred during the 2023 plan year

5. Actuarial and Economic Analysis

The Virginia Bureau of Insurance retained Oliver Wyman Actuarial Consulting, Inc (Oliver Wyman) to address the actuarial analysis, actuarial certifications, economic analysis, data and assumptions requirements for the Section 1332 waiver. The supporting information required by 45 CFR 155.1208(f)(4)(i) – (iii), including the actuarial analyses and certifications, the economic analyses, the detailed deficit neutral 10-year budget plan, and the data and assumptions demonstrating that the proposed waiver is in compliance with 1332(b)(1)(A) – (B) can be found in Oliver Wyman’s report included in Appendix B.

6. Other Requirements and Additional Information

Administrative Burden

Virginia's Section 1332 waiver is expected to cause minimal administrative burden and expense to the Commonwealth and federal governments. The waiver will cause no additional administrative burden to employers and individual consumers because the reinsurance program proposed by Virginia in its Section 1332 waiver does not relate to the administrative functions or requirements typically undertaken by employers or individuals. The administrative burden to qualified individual health insurance issuers associated with submitting limited data to Virginia will be minimal.

The Commonwealth of Virginia will have the resources to conduct the administrative tasks required for a reinsurance program under a Section 1332 waiver:

1. Administration of the reinsurance program;
2. Collection and application for pass-through funding;
3. Monitoring of compliance with state and federal law;
4. Collection and analyses of data related to the Section 1332 waiver;
5. Performing reviews and implementation of the waiver;
6. Submitting any annual, quarterly, or other required reports to the Insurance Commissioner, CMS, and Treasury.

The Section 1332 waiver will require the federal government to perform the following administrative tasks, which are minimal in comparison to duties currently performed by the federal government:

1. Review documented complaints, if any, related to the Section 1332 waiver;
2. Review state reporting;
3. Evaluate the Commonwealth's Section 1332 waiver and reinsurance program;
4. Calculate and facilitate the transfer of pass-through funds;
5. Allow the use of the EDGE server to calculate reinsurance payments. If allowed, the Commission will provide the federal government with the applicable reinsurance parameters for each plan year through written communication, to be used for calculating issuer reimbursements under the reinsurance program.

Virginia believes that the above administrative tasks are similar to other administrative functions currently performed by the federal government, so that their impact will be minimal. Waiver of Section 1312(c)(1) does not necessitate any changes to the Federally-Facilitated Marketplace or to IRS operations and will not impact how PTC payments are calculated or paid.

Impact on Other ACA Provisions

The program will have no impact on other provisions of the ACA.

Impact on Access to Out-of-State Services

Because Virginia shares borders with Maryland, West Virginia, North Carolina, Kentucky, Tennessee and the District of Columbia, issuer service areas and networks that cover border counties generally contain providers in those states, especially in areas where the closest large hospital system is located in the border state. Granting this waiver request will not impact issuer networks or service areas that provide coverage for services performed by out-of-state providers.

Compliance, Fraud, Waste, and Abuse

The Bureau is responsible for monitoring and requiring carrier compliance with all applicable market conduct standards and for ensuring the solvency of all carriers through continual monitoring and analysis of carrier reporting. This includes the performance of market conduct analysis, exams, and investigations. The Bureau also provides consumer outreach and protection through response to consumer inquiries and complaints.

Under the proposed waiver, the Bureau will administer the reinsurance program in accordance with its existing compliance and auditing procedures. In addition, the Bureau will be responsible for establishing procedures for the handling and accounting of program assets and monies, as well as for annual fiscal reporting to the Governor and General Assembly.

The federal government is responsible for calculating the savings from this waiver and for ensuring that the waiver does not increase federal spending.

Provision of Information Necessary to Administer Waiver at Federal Level

In addition to providing the required reporting information (discussed in Section 8 which follows), if allowed to use the EDGE server to calculate reinsurance payments, the Bureau will provide the federal government with the applicable reinsurance parameters to be used for calculating issuer reimbursements under the reinsurance program for each plan year through written communication, and by no later than March 1st of the year following the applicable plan year.

Facilitated Enrollment Program

On March 18, 2021 HB 1884 was enacted into law which amends the duties of the Virginia Health Benefit Exchange as outlined in Chapter 162 to include procedures related to a facilitated enrollment program. Starting with the 2023 tax year, or as soon thereafter as practicable, the Department of Taxation will include space on individual income tax forms for voluntary inclusion of personal information (e.g., name, address, social security number, email address, gross income, dependent information, etc.) that will be transmitted to the Department of Medical Assistance, the Department of Social Services, and the Virginia Health Benefit Exchange for determining eligibility for certain programs when taxpayers consent to having such information shared by selecting the appropriate check box. Specific to the Exchange, this information will be used to determine whether the household is eligible for advance premium tax credits and notify the taxpayer of their eligibility and reach out to help those eligible enroll in coverage.

7. State Reporting Requirements and Targets

The Bureau be responsible for the reporting requirements of 45 CFR 155.1324, including the following:

1. Quarterly reports: The Bureau will be responsible for submitting quarterly reports, including reports of operational challenges, if any, and plans for and results of associated corrective actions, if applicable. As outlined in the timeline, it is expected that the first quarterly report would be submitted in April 2023.
2. Annual reports: The Bureau will be responsible for submitting annual reports, including the following:
 - a. The progress of the Section 1332 waiver.
 - b. Data on compliance with 1332(b)(1)(A) through (D) (i.e., the four Section 1332 guardrails) of the ACA, consistent with the data being used to support this application's finding as required under 45 CFR 155.1308(f)(4).
 - c. A summary of the annual post-award public forum, held in accordance with 45 CFR 155.1320(c), including all public comments received on the progress of the waiver and action taken in response to such concerns or comments.
 - d. Other information consistent with the Commonwealth's approved terms and conditions.
 - e. Any modifications from federal or state law (given there is no change to the provision of the ten Essential Health Benefits.)
3. Second Lowest Cost Silver Plan Premium: the Bureau will provide the actual Second Lowest Cost Silver Plan premium under the waiver and an estimate of the premium as it would have been without the waiver, for a representative consumer in each rating area, on an annual basis. As outlined in the timeline, this information is expected to be provided for the first time on September 15, 2022.

45 CFR 155.1324(c) indicates that a draft annual report must be submitted to the Secretary no later than 90 days after the end of each waiver year, or as specified in the waiver's terms and conditions. The Bureau is expected to submit the first annual report on March 15, 2024.

8. Public Comments and Hearings

Public Comments

On October 1, 2021, the Commission commenced public comment on this waiver request. The Commission posted notice of the Commonwealth's intent to submit a waiver application, the opportunity to submit public comment, and the dates and times for two public hearings on its website at <https://scc.virginia.gov/pages/Reinsurance-Waiver>. In accordance with Commission policy, all official documents related to the public comment process were posted to the SCC's case management system. Links to these documents, including the Order requesting public comment on the proposed waiver, federal approval of the modified public hearing process, and a draft of the proposed reinsurance waiver application were posted on the reinsurance waiver website. The Commission also issued notices for each public hearing to twenty local newspaper publications.⁵

On October 14, 2021, the Commission held two public hearings, one at 10:00 a.m. and one at 7:00 p.m. Due to the ongoing COVID-19 public health emergency, the Commission requested and received federal approval to conduct these hearings virtually. The Commission provided the public with opportunities to comment on the proposed waiver at these hearings, through the case management system, or by mail. One member of the public spoke at the public hearing and their comments can be found in the transcript of that meeting in the "Documents" tab in the Commission's case management system at <https://scc.virginia.gov/docketsearch#caseDetails/142376>.

Five organizations provided written comments which can be found in Appendix D.

Tribal Consultation

The Commonwealth of Virginia conducted meaningful consultation with each of the seven federally recognized tribes within Virginia's borders. The Commonwealth initiated the tribal consultation process by contacting representatives of each tribe via email to provide notice of the review and comment period. The Commission spoke to tribe representatives by phone and sent copies of the draft waiver for review. Representatives of one tribe (Chickahominy Tribe – Eastern Division) spoke with BOI staff to discuss the waiver application and afterwards provided an email indicating they took no issue with the proposal. Copies of the emails sent to the tribes and their comments are included as Appendix E.

The seven federally recognized tribes in Virginia are:

- Pamunkey Indian Tribe
- Chickahominy Indian Tribe
- Chickahominy Indian Tribe-Eastern Division
- Upper Mattaponi Tribe
- Rappahannock Tribe
- Monacan Indian Nation
- Nansemond Indian Tribe

⁵ See Appendix C for a copy of the Department's Order Inviting Comment and a copy of the press release

Appendix A. Enabling Legislation

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VIRGINIA ACTS OF ASSEMBLY -- 2021 SPECIAL SESSION I

CHAPTER 480

An Act to amend and reenact §§ 38.2-4214 and 38.2-4319 of the Code of Virginia and to amend the Code of Virginia by adding in Title 38.2 a chapter numbered 66, consisting of sections numbered 38.2-6600 through 38.2-6606, relating to the Commonwealth Health Reinsurance Program; established; special fund established; federal waiver application.

[H 2332]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.2-4214 and 38.2-4319 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 38.2 a chapter numbered 66, consisting of sections numbered 38.2-6600 through 38.2-6606, as follows:

§ 38.2-4214. Application of certain provisions of law.

No provision of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-218 through 38.2-225, 38.2-230, 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-322, 38.2-325, 38.2-326, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-629, 38.2-700 through 38.2-705, 38.2-900 through 38.2-904, 38.2-1017, 38.2-1018, 38.2-1038, and 38.2-1040 through 38.2-1044, Articles 1 (§ 38.2-1300 et seq.) and 2 (§ 38.2-1306.2 et seq.) of Chapter 13, §§ 38.2-1312, 38.2-1314, 38.2-1315.1, 38.2-1317 through 38.2-1328, 38.2-1334, 38.2-1340, 38.2-1400 through 38.2-1442, 38.2-1446, 38.2-1447, 38.2-1800 through 38.2-1836, 38.2-3400, 38.2-3401, 38.2-3404, 38.2-3405, 38.2-3405.1, 38.2-3406.1, 38.2-3406.2, 38.2-3407.1 through 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.20, 38.2-3409, 38.2-3411 through 38.2-3419.1, and 38.2-3430.1 through 38.2-3454, Articles 8 (§ 38.2-3461 et seq.) and 9 (§ 38.2-3465 et seq.) of Chapter 34, §§ 38.2-3501 and 38.2-3502, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1 and 38.2-3514.2, §§ 38.2-3516 through 38.2-3520 as they apply to Medicare supplement policies, §§ 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3541, 38.2-3541.2, 38.2-3542, and 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.), §§ 38.2-3600 through 38.2-3607 and 38.2-3610, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.), and Chapter 65 (§ 38.2-6500 et seq.), and Chapter 66 (§ 38.2-6600 et seq.) shall apply to the operation of a plan.

§ 38.2-4319. Statutory construction and relationship to other laws.

A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136, 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218 through 38.2-225, 38.2-229, 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-322, 38.2-325, 38.2-326, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-629, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, and 38.2-1306.1, Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, and Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et seq.), 5.1 (§ 38.2-1334.3 et seq.), and 5.2 (§ 38.2-1334.11 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14, Chapter 15 (§ 38.2-1500 et seq.), Chapter 17 (§ 38.2-1700 et seq.), §§ 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3405, 38.2-3405.1, 38.2-3406.1, 38.2-3407.2 through 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.20, 38.2-3411, 38.2-3411.2, 38.2-3411.3, 38.2-3411.4, 38.2-3412.1, 38.2-3414.1, 38.2-3418.1 through 38.2-3418.20, 38.2-3419.1, and 38.2-3430.1 through 38.2-3454, Articles 8 (§ 38.2-3461 et seq.) and 9 (§ 38.2-3465 et seq.) of Chapter 34, § 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, and 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.), § 38.2-3610, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.) and Chapter 65 (§ 38.2-6500 et seq.), and Chapter 66 (§ 38.2-6600 et seq.) shall be applicable to any health maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

B. For plans administered by the Department of Medical Assistance Services that provide benefits pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136, 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218 through 38.2-225, 38.2-229, 38.2-232, 38.2-322, 38.2-325, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, and 38.2-600 through 38.2-629, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057,

and 38.2-1306.1, Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et seq.), 5.1 (§ 38.2-1334.3 et seq.), and 5.2 (§ 38.2-1334.11 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14, §§ 38.2-3401, 38.2-3405, 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6, 38.2-3407.6:1, 38.2-3407.9, 38.2-3407.9:01, and 38.2-3407.9:02, subdivisions F 1, 2, and 3 of § 38.2-3407.10, §§ 38.2-3407.11, 38.2-3407.11:3, 38.2-3407.13, 38.2-3407.13:1, 38.2-3407.14, 38.2-3411.2, 38.2-3418.1, 38.2-3418.2, 38.2-3418.16, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, and 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, and 38.2-3543.2, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.), and Chapter 65 (§ 38.2-6500 et seq.) shall be applicable to any health maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

C. Solicitation of enrollees by a licensed health maintenance organization or by its representatives shall not be construed to violate any provisions of law relating to solicitation or advertising by health professionals.

D. A licensed health maintenance organization shall not be deemed to be engaged in the unlawful practice of medicine. All health care providers associated with a health maintenance organization shall be subject to all provisions of law.

E. Notwithstanding the definition of an eligible employee as set forth in § 38.2-3431, a health maintenance organization providing health care plans pursuant to § 38.2-3431 shall not be required to offer coverage to or accept applications from an employee who does not reside within the health maintenance organization's service area.

F. For purposes of applying this section, "insurer" when used in a section cited in subsections A and B shall be construed to mean and include "health maintenance organizations" unless the section cited clearly applies to health maintenance organizations without such construction.

CHAPTER 66.

COMMONWEALTH HEALTH REINSURANCE PROGRAM.

§ 38.2-6600. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Affordable Care Act" means the Patient Protection and Affordable Care Act, P.L. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, P.L. 111-152, and as it may be further amended.

"Attachment point" means the amount set by the Commission for claims costs incurred by an eligible carrier for a covered person's covered benefits in a benefit year, above which the claims costs for benefits are eligible for reinsurance payments under the Program.

"Benefit year" means the calendar year for which an eligible carrier provides coverage through an individual health benefit plan.

"Coinsurance rate" means the rate set by the Commission at which the Program will reimburse an eligible carrier for claims incurred for a covered person's covered benefits in a benefit year, which claims exceed the attachment point but are below the reinsurance cap.

"Covered benefits" has the same meaning as provided in § 38.2-3438.

"Covered person" means an individual covered under individual health insurance coverage that (i) is delivered or issued for delivery in the Commonwealth and (ii) is neither a grandfathered plan, student health insurance coverage, nor transitional coverage that the federal government allows under a nonenforcement policy.

"Eligible carrier" means a carrier that (i) offers individual health insurance coverage other than a grandfathered plan, student health insurance coverage, or transitional coverage that the federal government allows under a nonenforcement policy and (ii) incurs claims costs for a covered person's covered benefits in the applicable benefit year.

"Fund" means the Commonwealth Health Reinsurance Program Special Fund established by the Commission pursuant to § 38.2-6604.

"Grandfathered plan" has the same meaning as provided in § 38.2-3438.

"Group health insurance coverage" has the same meaning as provided in § 38.2-3438.

"Individual health insurance coverage" has the same meaning as provided in § 38.2-3438.

"Net written premiums" means premiums earned on individual and group health insurance coverage, including grandfathered plans, in the Commonwealth, less return premiums and dividends paid or credited to policy or contract holders on the health benefits plan business.

"Payment parameters" means the attachment point, reinsurance cap, and coinsurance rate for the Program.

"Program" means the Commonwealth Health Reinsurance Program established pursuant to this chapter.

"Reinsurance cap" means the amount set by the Commission for claims costs incurred by an eligible

carrier for a covered person's covered benefits in a benefit year, above which the claims costs for benefits are no longer eligible for reinsurance payments under the Program.

"Reinsurance payment" means an amount paid to an eligible carrier under the Program.

"State Innovation Waiver" means a waiver of one or more requirements of the Affordable Care Act authorized by § 1332 of the Affordable Care Act, 42 U.S.C. § 18052, and applicable federal regulations.

"Total amount paid by the eligible carrier for any eligible claim" means the amount paid by the eligible carrier based on the allowed amount less any deductible, coinsurance, or copayment, as of the time applicable data is submitted or made accessible under subdivision C 1 of § 38.2-6602.

§ 38.2-6601. Commission powers and duties; rules; report.

A. The Commission shall have all the powers necessary to implement the provisions of this chapter and is specifically authorized to:

1. Enter into contracts as necessary or proper to carry out the provisions and purposes of this chapter, including contracts for the administration of the Program, as well as other approved initiatives under the State Innovation Waiver, and with appropriate administrative staff, consultants, and legal counsel;

2. Take action as necessary to avoid the payment of improper claims under the Program;

3. Establish administrative and accounting procedures for the operation of the Program and other approved initiatives under the State Innovation Waiver;

4. Establish procedures and standards for eligible carriers to submit claims under the Program;

5. Establish or adjust the payment parameters in accordance with subdivision B 2 of § 38.2-6602 for each benefit year;

6. Apply for a State Innovation Waiver, federal funds, or both, in accordance with § 38.2-6606, for the implementation and operation of the Program, as well as other initiatives designated by the established work group convened by the Secretary of Health and Human Resources;

7. Apply for, accept, administer, and expend gifts, grants, and donations and any federal funds that become available for the operation of the Program, as well as other initiatives designated by the established work group convened by the Secretary of Health and Human Resources; and

8. Adopt rules as necessary to implement, administer, and enforce this chapter, including rules necessary to align state law with any federal program.

B. If the State Innovation Waiver is granted pursuant to § 38.2-6606, the Commission, during implementation of the Program, shall evaluate the effect of the Program on access to affordable, high-value health insurance for consumers who are eligible for premium tax credit subsidies and cost-sharing reductions.

§ 38.2-6602. Commonwealth Health Reinsurance Program; established.

A. The Commission shall implement a reinsurance program, known as the Commonwealth Health Reinsurance Program. Implementation and operation of the Program is contingent upon approval of the State Innovation Waiver submitted by the Commission in accordance with § 38.2-6606. If the State Innovation Waiver and federal funding request submitted by the Commission pursuant to § 38.2-6606 are approved, the Commission shall implement and operate the Program in accordance with this section.

B. The Commission or its designee shall collect or access data from an eligible carrier as necessary to determine reinsurance payments, according to the data requirements under subdivision C 1.

1. Unless an eligible carrier is notified otherwise by the Commission, on a quarterly basis during the applicable benefit year, each eligible carrier shall report to the Commission its claims costs that exceed the attachment point for that benefit year. For each applicable benefit year, the Commission shall notify eligible carriers of reinsurance payments to be made for the applicable benefit year no later than September 30 of the year following the applicable benefit year. By November 15 of the year following the applicable benefit year, the Commission shall disburse all applicable reinsurance payments to an eligible carrier.

2. For the 2023 benefit year and each benefit year thereafter, the Commission shall establish and publish the payment parameters for the applicable benefit year by May 1 of the year immediately preceding the applicable benefit year. In setting the payment parameters under this subsection, the Commission shall consider the following factors: (i) stabilized or reduced premium rates in the individual market; (ii) increased participation in the individual market; (iii) improved access to health care services and their providers for enrolled individuals; (iv) mitigation of the impact high-risk individuals have on premium rates in the individual market; (v) transfers made under the federal risk adjustment program to eliminate double reimbursement for high-cost cases; (vi) the availability of any federal funding available for the Program; and (vii) the total amount available to fund the Program.

3. If the Commission determines that all reinsurance payments for a covered person's covered benefits requested under the Program by eligible carriers for a benefit year will not be equal to the amount of funding allocated to the Program, the Commission shall determine a uniform pro rata adjustment to be applied to all such requests for reinsurance payments.

C. A carrier that meets the requirement of this subsection and subsection D shall be eligible to request reinsurance payments from the Program. An eligible carrier shall make requests for reinsurance

payments in accordance with the requirements established by the Commission.

1. To receive reinsurance payments through the Program, an eligible carrier shall, by April 30 of the year following the benefit year for which reinsurance payments are requested, (i) provide the Commission with access to the data within the dedicated data environment established by the eligible carrier under the federal risk adjustment program under 42 U.S.C. § 18063 or access to other carrier-specific data if and where necessary and (ii) submit to the Commission an attestation that the carrier has complied with the dedicated data environments, data requirements, establishment and usage of masked enrollee identification numbers, and data submission deadlines.

2. An eligible carrier shall maintain documents and records sufficient to substantiate the requests for reinsurance payments made pursuant to this section for at least five years. An eligible carrier shall also make those documents and records available upon request from the Commission for purposes of verification, investigation, audit, or other review of reinsurance payment requests. The Commission may audit an eligible carrier to assess the carrier's compliance with this section. The eligible carrier shall ensure that its contractors, subcontractors, and agents cooperate with any audit under this section.

D. The Commission or its designee shall calculate each reinsurance payment based on an eligible carrier's incurred claims costs for a covered person's covered benefits in the applicable benefit year net of transfers received for the same enrolled individual under the federal risk adjustment program. If the net claims costs for a covered person's covered benefits in the applicable benefit year do not exceed the attachment point for the applicable benefit year, the carrier shall not be eligible for a reinsurance payment. If the claims costs exceed the attachment point for the applicable benefit year, the Commission shall calculate the reinsurance payment as the product of the coinsurance rate and the eligible carrier's claims costs up to the reinsurance cap. A carrier shall be ineligible for reinsurance payments for claims costs for a covered person's covered benefits in the applicable benefit year that exceed the reinsurance cap. The Commission shall ensure that reinsurance payments made to eligible carriers do not exceed the total amount paid by the eligible carrier for any eligible claim. An eligible carrier may request that the Commission reconsider a decision on the carrier's request for reinsurance payments within 21 days after notice of the Commission's decision.

E. The Commission shall require each eligible carrier that participates in the Program to file with the Commission, by a date and in a form and manner specified by the Commission by rule, the care management protocols the eligible carrier will use to manage claims within the payment parameters.

§ 38.2-6603. Accounting; reports.

A. The Commission shall keep an accounting for each benefit year of all:

1. Funds appropriated for reinsurance payments and administrative and operational expenses;
2. Requests for reinsurance payments received from eligible carriers;
3. Reinsurance payments made to eligible carriers; and
4. Administrative and operational expenses incurred for the Program.

B. By November 1 of each year, the Commission shall report to the House Committees on Labor and Commerce and Appropriations, the Senate Committees on Commerce and Labor and Finance and Appropriations, and the Governor on the operation of the Program. Such report shall be posted on the Commission's website and shall include, at a minimum, the following information for the relevant benefit year:

1. Amounts deposited into the Fund;
2. Requests for reinsurance payments received by eligible carriers;
3. Reinsurance payments made to eligible carriers;
4. Administrative and operational expenses incurred for the Program; and
5. Quantifiable impact of the Program on individual health insurance coverage rates.

§ 38.2-6604. Commonwealth Health Reinsurance Program Special Fund.

A. The Commission shall be authorized to fund the operations of the Program and to fund other purposes to implement the approved State Innovation Waiver through funds provided to the Commonwealth pursuant to the State Innovation Waiver requested pursuant to § 38.2-6606 and all funds appropriated for such purpose. All funds received under this section and paid into the state treasury shall be deposited to a special fund designated the "Commonwealth Health Reinsurance Program Special Fund State Corporation Commission." Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used for (i) the purposes of increasing affordability in the individual market through the Program with a goal of decreasing premiums by up to 20 percent, depending on available revenue and (ii) the establishment, operation, and administration of the Program in carrying out the purposes authorized under this chapter, to include additional purposes to implement an approved State Innovation Waiver with funds that remain following the payment of all applicable reinsurance requests for a benefit year.

B. The Commission shall not use any special fund revenues dedicated to its other functions and duties, including revenues from utility consumer taxes or fees from licensees regulated by the Commission, or fees paid to the office of the Clerk of the Commission, to fund any of the activities or

operating expenses of the Program. The Commission shall not pay any funds beyond the moneys in the Fund for the establishment, administration, or operation of the Program.

C. The provision of reinsurance payments shall not constitute an entitlement derived from the Commonwealth or a claim on any other money of the Commonwealth.

D. The Commission shall have no responsibility to make reinsurance payments that would be payable out of federal pass-through funding if such federal pass-through funding is insufficient to fully make such payments.

§ 38.2-6605. Confidentiality of data.

Data and information that an eligible carrier considers confidential proprietary information that is provided to the Commission pursuant to the provisions of this chapter shall be excluded from, and the Commission shall not be subject to, subpoena or public inspection with respect to such information.

§ 38.2-6606. State Innovation Waiver request.

A. The Commission shall apply to the appropriate federal agencies under 42 U.S.C. § 18052 for a State Innovation Waiver for benefit years beginning January 1, 2023, and future years, (i) to establish a reinsurance program, in accordance with the provisions of this chapter; (ii) to maximize federal pass-through funding for the reinsurance program; (iii) to be able to use remaining funds for other uses as recommended by a work group established by the Secretary of Health and Human Resources; and (iv) to waive any applicable provisions of the Affordable Care Act. An application for a State Innovation Waiver or for federal funds shall clearly state that operation of the Program is contingent on approval of the waiver or funding request. The Commission shall include in the application a request for pass-through of federal funding in accordance with § 1332(a)(3) of 42 U.S.C § 18052 to allow the Commonwealth to obtain and use, for purposes of helping finance the Program, any federal funds that would, absent the waiver, be used to pay advance payment tax credits and cost-sharing reductions authorized under the federal act. The Commission is authorized to apply for, accept, administer, and expend gifts, grants, and donations, and any federal funds that become available for the implementation of the Program, including the use of amounts necessary to develop and submit the State Innovation Waiver and request for federal funding.

B. The Commission shall submit the waiver application to the appropriate federal agencies by January 1, 2022. The Commission shall make a draft application available for public review and comment by October 1, 2021. The Commission may amend the waiver application as necessary to carry out the provisions of this chapter. The Commission shall promptly notify the Chairmen of the House Committees on Labor and Commerce and Appropriations and the Senate Committees on Commerce and Labor and Finance and Appropriations of any federal actions regarding the waiver request and of any amendment to the waiver application.

2. That the provisions of the first enactment of this act, except § 38.2-6606 of the Code of Virginia, as created by this act, shall become effective 30 days following the date the State Corporation Commission (the Commission) notifies the Governor and the Chairmen of the House Committees on Labor and Commerce and Appropriations and the Senate Committees on Commerce and Labor and Finance and Appropriations of federal approval of the State Innovation Waiver request required to be submitted by the Commission pursuant to § 38.2-6606 of the Code of Virginia, as created by this act.

3. That the Secretary of Health and Human Resources (the Secretary) shall convene a work group that includes representatives from the Bureau of Insurance of the State Corporation Commission (the Commission) and Virginia Health Benefit Exchange Division, the Department of Taxation, the House Committees on Labor and Commerce and Appropriations, the Senate Committees on Commerce and Labor and Finance and Appropriations, health plans, physicians, hospitals, agents and brokers, navigators, other consumer assisters, consumer advocates, including advocates for underinsured individuals, and other relevant stakeholders to develop (i) any other initiatives other than a reinsurance program to include in a request for a State Innovation Waiver and (ii) recommendations for developing a state-based subsidy program to increase affordability of health plans to individuals and to increase enrollment in the Virginia Health Benefit Exchange (the Exchange). The initiatives developed by the work group described in clause (i) shall be included in the request for a State Innovation Waiver application if completed and delivered to the Commission by the date indicated by the Commission. The work group shall make use of available data pertaining to Exchange enrollment and uninsured individuals to identify recommended options for providing subsidies. In doing so, the work group shall consider implications of a subsidy program on Exchange enrollment and the Commonwealth Health Reinsurance Program (§ 38.2-6600 et seq. of the Code of Virginia), as established by this act, possible tax consequences for individuals, and a feasible timeframe for implementing a subsidy program. The Secretary shall report to the Commission the initiatives described in clause (i) by the date indicated by the Commission and shall report the work group's recommendations for legislative consideration described in clause (ii) to the Governor, the Health Benefit Exchange Advisory Committee, and the General Assembly by September 15, 2021.

4. That after the second full year of operation of the Commonwealth Health Reinsurance Program

(§ 38.2-6600 et seq. of the Code of Virginia) (the Program), as established by this act, the State Corporation Commission (the Commission) shall complete a study that evaluates (i) the effects of the Program on access to affordable, high-value health insurance for consumers who are eligible for premium tax credit subsidies and cost-sharing reductions and (ii) health plan affordability, including cost sharing and premiums. The Commission shall issue a report of the study within 120 days after the end of the second full year of operation of the Program, post the report on the Virginia Health Benefit Exchange Division's website, and submit the report to the Governor, the Chairmen of the House Committees on Labor and Commerce and Appropriations and the Senate Committees on Commerce and Labor and Finance and Appropriations, for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports.

5. That the General Assembly shall appropriate a sum sufficient to ensure the operation of the Commonwealth Health Reinsurance Program (§ 38.2-6600 et seq. of the Code of Virginia), established by this act, in accordance with the provisions of this act and the State Innovation Waiver required by § 38.2-6606 of the Code of Virginia, as created by this act.

Appendix B. Actuarial Report

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VIRGINIA SECTION 1332 STATE INNOVATION WAIVER – INDIVIDUAL REINSURANCE PROGRAM

Actuarial Analysis

September 30, 2021

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1. Introduction

The Commonwealth of Virginia (the Commonwealth) is filing a State Innovation Waiver application under Section 1332 of the Affordable Care Act (Section 1332 Waiver) that seeks to waive §1312(c)(1)¹ of the Affordable Care Act for the purpose of establishing a state-based, and state-administered reinsurance program. If approved, the Section 1332 Waiver, as proposed, is targeted to be effective January 1, 2023, for an initial period of up to five years.

Oliver Wyman Actuarial Consulting, Inc. (Oliver Wyman), was retained by the Commonwealth of Virginia State Corporation Commission, Bureau of Insurance (the Bureau) to perform the actuarial and economic analysis related to the State's proposal to waive §1312(c)(1) of the Affordable Care Act. As directed under 45 CFR 155.1308(f)(4)(i)-(iii), the Centers for Medicare and Medicaid Services (CMS) regulations require that states include as part of a Section 1332 Waiver application actuarial and economic analyses, along with actuarial certifications and the data and assumptions used, to support estimates that the proposed Section 1332 Waiver will satisfy the following requirements:

- **Scope of Coverage:** Coverage under the Section 1332 Waiver will be provided to a comparable number of residents as would be provided absent the waiver
- **Affordability of Coverage:** The Section 1332 Waiver will provide coverage and cost sharing protections against excessive out-of-pocket spending that are at least as affordable as would be provided absent the waiver
- **Comprehensiveness of Coverage:** The Section 1332 Waiver will provide coverage that is at least as comprehensive as would be provided absent the waiver
- **Deficit Neutrality:** The Section 1332 Waiver will not increase the Federal deficit

This report provides the required actuarial and economic analyses, as well as the actuarial certifications, necessary to support that the proposed Section 1332 Waiver is expected to satisfy these requirements. Additionally, this report outlines the data, assumptions and methodology used to generate the actuarial and economic projections that result from our analysis. Any other use of this report may be inappropriate and is prohibited by Oliver Wyman.

¹ §1312(c)(1) states that "A health insurance issuer shall consider all enrollees in all health plans (other than grandfathered health plans) offered by such issuer in the individual market, including those enrollees who do not enroll in such plans through the Exchange, to be members of a single risk pool."

2. Overview of State-Based Reinsurance Program

The Commonwealth is submitting a Section 1332 Waiver application that seeks to implement a state-based and state-administered reinsurance program to help improve the affordability of premium rates in Virginia's individual ACA market. Under the proposed Section 1332 Waiver, a reinsurance program would be established for plan year 2023 and beyond with the objective of reducing gross premium rates (i.e., premium rates prior to the application of premium tax credits) in the individual ACA market by an average of 15.6%, relative to the premium rates which would otherwise be charged if no reinsurance program were in place.

In this section, focusing on plan year 2023, we provide the estimated cost of the reinsurance program, describe how the reinsurance program is expected to be funded, provide the parameters anticipated to be utilized to determine payments from the Commonwealth to issuers, and provide the impact the reinsurance program is expected to have on premium rates in the individual ACA market. As enrollment volumes, claim costs, and available funding amounts change over the time period during which the proposed Section 1332 Waiver will be in effect, it is expected that items such as the reinsurance parameters will be adjusted, as necessary, by the Commonwealth to ensure the reinsurance program remains fully funded (net of federal pass-through funding) and, to the extent possible, continues to target the Commonwealth's overall objective for each plan year (i.e., reducing gross premium rates in the individual ACA market by an average of 15.6% relative to the premium rates which would otherwise be charged if no reinsurance program were in place).

Cost and Funding of the State-Based Reinsurance Program in 2023

We estimate the total funding needed to support a reinsurance program that will accomplish Virginia's stated objective (i.e., reducing gross premium rates in the individual ACA market by an average of 15.6% relative to the premium rates which would otherwise be charged if no reinsurance program were in place) for 2023 is \$292.5 million. This estimate was developed based on projected enrollment, premium, claims, and non-benefit expenses in the individual ACA market in 2023. In developing the estimate, it was assumed that issuer claim expenses as a percentage of premium in 2023 will be equal to the statewide average target loss ratio filed by the issuers offering coverage in Virginia's individual ACA market in 2021 and 2022. Then, based on feedback received from each issuer offering coverage in Virginia's individual ACA market in 2021 and 2022 related to fixed non-benefit expenses and the reductions in claim expenses needed to drive various levels of premium rate changes, we estimated the reduction in issuer claim expenses that would be needed to accomplish Virginia's stated objective for 2023. Finally, accounting for the change in morbidity expected to occur in 2023 under the proposed Section 1332 Waiver (i.e., as a result of increased enrollment due to lower premium rates in 2023 with the reinsurance program in place), the total projected cost of the program was calculated as follows:

Projected 2023 Cost of Reinsurance Program = Projected 2023 Premium Volume x [Statewide Average Target Loss Ratio] x Target Reduction in Issuer Claim Expenses

Funding for the reinsurance program in 2023 is expected to come from the following sources:²

1. Federal pass-through funds received as a result of the Section 1332 Waiver
2. General funds as appropriated by the Virginia General Assembly

² <https://lis.virginia.gov/cgi-bin/legp604.exe?212+ful+CHAP0480+pdf> Chapter 480, signed into law by Governor Northam on March 31, 2021, indicates that the state-based reinsurance program may be funded through state general funds and federal pass-through funding.

Regarding the first item, through its Section 1332 Waiver application, Virginia is requesting that the U.S. Department of Treasury (Treasury) “pass-through” to its reinsurance program the cost savings from the reduction of federal outlays for premium tax credits (PTCs) resulting from the reduction in gross premium rates in the individual ACA market due to the reinsurance program. Section 1332(a)(3) of the ACA authorizes pass-through funding in Section 1332 Waiver applications.

Estimated 2023 Reinsurance Parameters and Payment Calculation

Consistent with the Federal Transitional Reinsurance Program that was in place from 2014 through 2016, Virginia’s reinsurance program will reimburse issuers for a portion of high dollar claim expenses occurring between a specified attachment point and reinsurance cap, while maintaining an incentive for issuers to continue applying their care management practices for their high cost claimants.

Table 1 provides preliminary reinsurance parameters expected to apply in 2023:

Table 1: 2023 Reinsurance Parameters

Parameter	Value
Attachment Point	\$40,000
Reinsurance Cap	\$155,000
Coinsurance %	70.0%

These parameters were estimated using issuer provided claims data from plan years 2019 and 2020, adjusted to reflect projected plan year 2023 cost levels and projected enrollment volumes, and to reflect a projected distribution of claim expenses consistent with assumed market-wide morbidity levels. Additionally, issuer feedback was obtained to assess the reasonability of the resulting parameters.

Utilizing the parameters outlined in Table 1, reinsurance payments will be calculated based on an issuer’s annual paid claim expenses³ for a given member as follows:

$$2023 \text{ Reinsurance Payment for ACA Member}_i = \text{Maximum} [\text{Minimum} [\text{Member}_i \text{ Annual Paid Claim Expense}, \$155,000] - \$40,000, \$0] \times 70.0\%$$

In Table 2 below, we provide a summary of the expected distribution of members and claims by annual claim size to which the parameters outlined in Table 1 are expected to apply:

Table 2: Projected Distribution of 2023 Individual ACA Incurred Claims Expenses

Annual Incurred Claims	% of Members	% of Claims	Average Claim Cost PMPY
\$0 to \$39,999	97.66%	40.79%	\$1,889
\$40,000 to \$154,999	1.95%	31.67%	\$73,566
\$155,000+	0.40%	27.54%	\$314,756

³ Paid by the insurer; includes medical and pharmacy claims

In utilizing the specified parameters, as with the Federal Transitional Reinsurance Program, it is expected that issuers will continue to have incentives to apply their care management practices even after a given member reaches the specified annual attachment point, since issuers will be reimbursed for only a portion of a given member's claim costs between the attachment point and reinsurance cap.

Estimated Premium Impact of State-Based Reinsurance Program in 2023

As noted earlier, the objective of the reinsurance program in 2023 is to reduce gross premium rates in the individual ACA market by an average of 15.6% relative to the premium rates which would otherwise be charged if no reinsurance program were in place. To the extent gross premium rates are reduced, enrollment levels in the individual ACA market are expected to increase, leading to an improvement in the overall morbidity of Virginia's individual ACA market. We estimate that the morbidity improvement as a result of the proposed Section 1332 Waiver will be 0.6% in 2023. This morbidity improvement is included in the estimated 15.6% premium reduction.

3. Actuarial and Economic Analyses

Actuarial analyses meeting the requirements under 45 CFR 155.1308(f)(4)(i) and other applicable information as required in the Checklist for Section 1332 Innovation Waiver Applications are provided in this section.⁴ Oliver Wyman’s Healthcare Reform Microsimulation Model (HRM Model) was utilized to estimate the expected impact of the proposed Section 1332 Waiver on the health insurance markets in Virginia, and in meeting each of the guardrails associated with Section 1332 Waivers as outlined in federal statute and regulation.

The HRM Model is an economic utility model that captures the flow of individuals across various markets and coverage options based on their economic purchasing decisions. It is integrated with actuarial modeling designed to assess the expected impact of various reforms on the health insurance markets. Appendix A provides additional information about the specifications and functionality underlying the HRM Model.

The projections produced by the HRM Model were analyzed to assess whether the following federal requirements are expected to be met under the proposed Section 1332 Waiver:

- **Scope of Coverage Requirement** – The Section 1332 Waiver will provide coverage to at least a comparable number of the Commonwealth’s residents as would be covered absent the waiver.
- **Affordability Requirement** – The Section 1332 Waiver will provide coverage and cost-sharing protections against excessive out-of-pocket spending that results in coverage which is at least as affordable for the Commonwealth’s residents as would be provided absent the waiver.
- **Comprehensiveness of Coverage Requirement** – The Section 1332 Waiver will provide coverage that is at least as comprehensive for the Commonwealth’s residents as would be provided absent the waiver.
- **Deficit Neutrality Requirement** – The Section 1332 Waiver will not increase the federal deficit.

Table 3 summarizes at a high level the expected impact of the proposed Section 1332 Waiver as it relates to these requirements. Our analyses show that the proposed Section 1332 Waiver is expected to meet these requirements in 2023 and each following year for the ten-year period ending in 2032. A more detailed discussion of the results as they relate to these requirements follows.

Table 3: Summarized Expected Impact of the Proposed Section 1332 Waiver

Requirement	Impact of Proposed Section 1332 Waiver
Scope of Coverage	The number of individuals covered in the Virginia health insurance markets is expected to increase
Affordability of Coverage	Gross premium rates in the individual ACA market are expected to decrease while other out-of-pocket expenses are not expected to change
Comprehensiveness of Coverage	Not impacted by the proposed Section 1332 Waiver
Deficit Neutrality	The federal deficit is not expected to increase

⁴ https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Downloads/Checklist-for-Section-1332-State-Relief-and_Empowerment-Waivers.pdf

Scope of Coverage

Under the scope of coverage requirement, a comparable number of residents must be expected to have coverage under the proposed Section 1332 Waiver as would have coverage absent the waiver.⁵ For this purpose, “coverage” refers to minimum essential coverage as defined in 26 U.S.C. 5000A(f) and 26 CFR 1.5000A-2, and health insurance coverage as defined in 45 CFR 144.103. In assessing this requirement, we estimate that the proposed Section 1332 Waiver will not have a material impact on the number of Virginians covered under employer-sponsored plans, Medicaid, Medicare, CHIP, other public programs, or individual plans which are not ACA-compliant (e.g., grandfathered individual plans).⁶ As a result, the focus of our analysis is on the impact of the proposed Section 1332 Waiver to Virginia’s individual ACA market.

Table 4 summarizes the projected average volume of individual ACA market enrollees and uninsured individuals in Virginia by year under the baseline and waiver scenarios, assuming gross premium rates in the individual ACA market are reduced by an average of approximately 15.6% under the waiver scenario (i.e., relative to the premium rates which would otherwise be charged if no reinsurance program were in place):

Table 4: Summary of Average Individual ACA Market Enrollment and Uninsured Volumes

Year	Individual ACA Market			Uninsured		
	Baseline	Waiver	Change vs. Baseline	Baseline	Waiver	Change vs. Baseline
2022	282,900	-	-	535,800	-	-
2023	276,400	284,500	2.93%	546,700	538,600	-1.48%
2024	277,900	286,000	2.91%	549,600	541,500	-1.47%
2025	279,400	287,600	2.93%	552,500	544,300	-1.48%
2026	280,900	289,100	2.92%	555,400	547,200	-1.48%
2027	282,400	290,700	2.94%	558,400	550,100	-1.49%
2028	283,900	292,200	2.92%	561,400	553,100	-1.48%
2029	285,400	293,800	2.94%	564,400	556,000	-1.49%
2030	286,900	295,300	2.93%	567,400	559,000	-1.48%
2031	288,500	296,900	2.91%	570,400	562,000	-1.47%
2032	290,000	298,500	2.93%	573,500	565,000	-1.48%

Note: Enrollment values shown have been rounded to the nearest hundred

Absent the proposed Section 1332 Waiver and corresponding reinsurance program, total enrollment volumes in the baseline scenario in Virginia’s individual ACA market are expected to decrease by approximately 2.3% between 2022 and 2023, due primarily to the scheduled termination of enhanced premium tax credits available under the American Rescue Plan Act (ARPA) and offset in part by the scheduled termination of transitional individual policies at the end of 2022 which is required under current law. Under the proposed Section 1332 Waiver, enrollment in the individual ACA market is expected to be approximately 2.9% higher than baseline enrollment levels each year over the time period of 2023 through 2032. The increase in enrollment under the proposed Section 1332 Waiver is driven primarily by uninsured individuals expected to enter the individual ACA market as a result of lower gross premium rates.⁷

⁵ 45 CFR 155.1308(f)(3)(iv)(C)

⁶ Through a data request issued to Virginia’s individual market issuers and other publicly available data sources (e.g., 2019 MLR reported data, 2020 summary of risk adjustment transfers), it is estimated that there were approximately 24,200 lives covered through grandfathered and transitional individual plans, on average, in 2020.

⁷ While there may be some migration of enrollees from the employer market to the individual ACA market, based on our modeling, we expect any migration from the employer market as a result of the waiver to be *de minimis*

Overall, our modeling shows it is expected that the new enrollees who enter the ACA market in 2023 and later due to the presence of the proposed reinsurance program will, on average, have slightly lower health expenses on a PMPM basis when compared to the individuals who would be expected to enroll in individual ACA plans regardless of the presence of the reinsurance program. As noted earlier, the impact of the new enrollees on the overall morbidity of Virginia's individual ACA market is expected to be approximately 0.6%.

Individual ACA Market Enrollment by Household Income

Table 4a presents projected enrollment levels in the individual ACA market by household income over the time period of 2022 through 2032 assuming gross premium rates in the individual ACA market are reduced by an average of approximately 15.6% under the waiver scenario relative to the premium rates which would otherwise be charged if no reinsurance program were in place. For this comparison, household income is measured as a percentage of the federal poverty level (FPL).

Table 4a: Summary of Average Individual ACA Market Enrollment by FPL

Baseline											
Income Range	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
< 100%	200	100	100	100	100	100	100	100	100	100	100
100% - 150%	56,300	55,900	56,200	56,500	56,800	57,100	57,400	57,800	58,100	58,400	58,700
151% - 200%	53,000	50,000	50,200	50,500	50,800	51,000	51,300	51,600	51,900	52,100	52,400
201% - 250%	44,200	42,900	43,200	43,400	43,600	43,900	44,100	44,300	44,600	44,800	45,000
251% - 300%	28,300	28,000	28,200	28,300	28,500	28,600	28,800	28,900	29,100	29,300	29,400
301% - 400%	30,600	30,500	30,700	30,800	31,000	31,200	31,300	31,500	31,700	31,800	32,000
401%+	70,300	69,000	69,300	69,700	70,100	70,500	70,800	71,200	71,600	72,000	72,400
Total ACA	282,900	276,400	277,900	279,400	280,900	282,400	283,900	285,400	286,900	288,500	290,000
Waiver											
Income Range	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
< 100%	200	100	100	100	100	100	100	100	100	100	100
100% - 150%	56,300	55,900	56,200	56,500	56,800	57,100	57,400	57,800	58,100	58,400	58,700
151% - 200%	53,000	50,000	50,200	50,500	50,800	51,000	51,300	51,600	51,900	52,100	52,400
201% - 250%	44,200	42,900	43,200	43,400	43,600	43,900	44,100	44,300	44,600	44,800	45,000
251% - 300%	28,300	28,000	28,200	28,300	28,500	28,600	28,800	28,900	29,100	29,300	29,400
301% - 400%	30,600	30,500	30,700	30,800	31,000	31,200	31,300	31,500	31,700	31,800	32,000
401%+	70,300	77,100	77,500	77,900	78,300	78,700	79,200	79,600	80,000	80,400	80,900
Total ACA	282,900	284,500	286,000	287,600	289,100	290,700	292,200	293,800	295,300	296,900	298,500
Change in Number of Enrollees - Baseline to Waiver											
Income Range	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
< 100%	0	0	0	0	0	0	0	0	0	0	0
100% - 150%	0	0	0	0	0	0	0	0	0	0	0
151% - 200%	0	0	0	0	0	0	0	0	0	0	0
201% - 250%	0	0	0	0	0	0	0	0	0	0	0
251% - 300%	0	0	0	0	0	0	0	0	0	0	0
301% - 400%	0	0	0	0	0	0	0	0	0	0	0
401%+	0	8,100	8,200	8,200	8,200	8,200	8,400	8,400	8,400	8,400	8,500
Total Change	0	8,100	8,100	8,200	8,200	8,300	8,300	8,400	8,400	8,400	8,500

Note: Values shown have been rounded to the nearest hundred; the sum within each column may not be equal to the total shown and the change in the number of enrollees may not equal the difference between the baseline and waiver membership shown due to rounding.

We estimate that there will be minimal change in enrollment between the baseline and waiver scenarios for individuals who receive PTCs. This is because, due to the way in which premium rates are calculated under the ACA for these individuals (i.e., maximum premium rates as a percentage of income, net of PTCs), their net out-of-pocket costs are expected to be mostly insulated, on average, from changes in gross premium rates.

Conversely, individuals who do not receive PTCs will experience favorable changes to their total out-of-pocket costs. For these individuals, the full impact of the reinsurance program is expected to be realized through reductions to their premium rates, resulting in an expected increase in enrollment for that segment of the population in 2023 and beyond.

Individual ACA Market Enrollment by Metal Level

Table 4b presents projected enrollment levels in the individual ACA market by metal level over the time period of 2022 through 2032 assuming gross premium rates in the individual ACA market are reduced by an average of approximately 15.6% under the waiver scenario relative to the premium rates which would otherwise be charged if no reinsurance program were in place.

Table 4b: Summary of Average Individual ACA Market Enrollment by Metal Level

Baseline											
Metal Level	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
Catastrophic	3,700	3,600	3,600	3,700	3,700	3,700	3,700	3,700	3,800	3,800	3,800
Bronze	82,400	91,000	91,400	91,900	92,400	92,900	93,400	93,900	94,400	94,900	95,400
Silver	88,700	101,500	102,100	102,600	103,200	103,700	104,300	104,800	105,400	106,000	106,500
Gold	106,000	78,300	78,700	79,100	79,500	80,000	80,400	80,900	81,200	81,700	82,200
Platinum	2,100	2,000	2,100	2,100	2,100	2,100	2,100	2,100	2,100	2,100	2,100
Total ACA	282,900	276,400	277,900	279,400	280,900	282,400	283,900	285,400	286,900	288,500	290,000
Waiver											
Metal Level	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
Catastrophic	3,700	4,000	4,100	4,100	4,100	4,100	4,100	4,200	4,200	4,200	4,200
Bronze	82,400	91,700	92,200	92,700	93,200	93,700	94,200	94,600	95,200	95,700	96,200
Silver	88,700	99,200	99,700	100,200	100,800	101,300	101,800	102,400	102,900	103,500	104,000
Gold	106,000	87,400	87,800	88,400	88,800	89,300	89,800	90,300	90,700	91,200	91,800
Platinum	2,100	2,200	2,200	2,200	2,200	2,300	2,300	2,300	2,300	2,300	2,300
Total ACA	282,900	284,500	286,000	287,600	289,100	290,700	292,200	293,800	295,300	296,900	298,500
Change in Number of Enrollees - Baseline to Waiver											
Metal Level	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
Catastrophic	0	400	500	400	400	400	400	500	400	400	400
Bronze	0	700	800	800	800	800	800	700	800	800	800
Silver	0	-2,300	-2,400	-2,400	-2,400	-2,400	-2,500	-2,400	-2,500	-2,500	-2,500
Gold	0	9,100	9,100	9,300	9,300	9,300	9,400	9,400	9,500	9,500	9,600
Platinum	0	200	100	100	100	200	200	200	200	200	200
Total ACA	0	8,100	8,100	8,200	8,200	8,300	8,300	8,400	8,400	8,400	8,500

Note: Values shown have been rounded to the nearest hundred; the sum of values within each column may not be equal to the total value shown and the change in the number of enrollees may not equal the difference between the baseline and waiver membership shown due to rounding.

As shown in Table 4b, at lower gross premium rates with the reinsurance program in place, it is expected that ACA enrollees will not seek out leaner benefit plans at the same rate as they would absent the reinsurance program.

Individual ACA Market Enrollment by Age

Table 4c presents projected enrollment levels in the individual ACA market by age over the time period of 2023 to 2032 assuming gross premium rates in the individual ACA market are reduced by an average of approximately 15.6% under the waiver scenario relative to the premium rates which would otherwise be charged if no reinsurance program were in place. Enrollment in the individual ACA market is expected to increase or stay flat across every age group and the distribution of individual ACA enrollment by age is not expected to shift significantly under the proposed Section 1332 Waiver.

Table 4c: Summary of Average Individual ACA Market Enrollment by Age

Baseline											
Age Range	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
0-18	41,200	41,100	41,300	41,600	41,800	42,000	42,200	42,400	42,700	42,900	43,100
18-25	28,300	27,400	27,600	27,700	27,900	28,000	28,200	28,300	28,500	28,600	28,800
26-34	40,200	39,500	39,700	39,900	40,100	40,300	40,500	40,700	41,000	41,200	41,400
35-44	42,800	42,100	42,400	42,600	42,800	43,100	43,300	43,500	43,700	44,000	44,200
45-54	49,800	48,700	48,900	49,200	49,500	49,700	50,000	50,300	50,500	50,800	51,100
55+	80,600	77,600	78,000	78,400	78,800	79,300	79,700	80,200	80,500	81,000	81,400
Total ACA	282,900	276,400	277,900	279,400	280,900	282,400	283,900	285,400	286,900	288,500	290,000
Waiver											
Age Range	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
0-18	41,200	42,300	42,500	42,800	43,000	43,200	43,500	43,700	43,900	44,200	44,400
18-25	28,300	28,200	28,400	28,500	28,700	28,800	29,000	29,200	29,300	29,500	29,600
26-34	40,200	40,600	40,800	41,100	41,300	41,500	41,700	41,900	42,200	42,400	42,600
35-44	42,800	43,400	43,600	43,800	44,100	44,300	44,600	44,800	45,000	45,300	45,500
45-54	49,800	50,100	50,400	50,600	50,900	51,200	51,400	51,700	52,000	52,200	52,600
55+	80,600	79,900	80,300	80,800	81,100	81,700	82,000	82,500	82,900	83,300	83,800
Total ACA	282,900	284,500	286,000	287,600	289,100	290,700	292,200	293,800	295,300	296,900	298,500
Change in Number of Enrollees - Baseline to Waiver											
Age Range	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
0-18	0	1,200	1,200	1,200	1,200	1,200	1,300	1,300	1,200	1,300	1,300
18-25	0	800	800	800	800	800	800	900	800	900	800
26-34	0	1,100	1,100	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200
35-44	0	1,300	1,200	1,200	1,300	1,200	1,300	1,300	1,300	1,300	1,300
45-54	0	1,400	1,500	1,400	1,400	1,500	1,400	1,400	1,500	1,400	1,500
55+	0	2,300	2,300	2,400	2,300	2,400	2,300	2,300	2,400	2,300	2,400
Total ACA	0	8,100	8,100	8,200	8,200	8,300	8,300	8,400	8,400	8,400	8,500

Note: Values shown have been rounded to the nearest hundred; the sum of values within each column may not be equal to the total value shown and the change in the number of enrollees may not equal the difference between the baseline and waiver membership shown due to rounding.

Affordability of Coverage

Under the affordability requirement, Virginians must retain health care coverage which is at least as affordable as would be absent the waiver.⁸ For this purpose, affordability refers to the ability of state residents to pay for health care and is measured by comparing their net out-of-pocket spending for health coverage and services to their incomes. Out-of-pocket expenses are assumed to include premium contributions and any plan level cost-sharing that is the responsibility of the individual.

⁸ 45 CFR 155.1308(f)(3)(iv)(B)

As with the scope of coverage requirement, in assessing this requirement, we estimate that the proposed Section 1332 Waiver will not have a material impact on the affordability of coverage for those individuals enrolled in employer-sponsored plans, individual plans which are not ACA-compliant, Medicaid, Medicare, CHIP or any other public programs. As a result, the focus of our analysis is again on the impact of the proposed Section 1332 Waiver on out-of-pocket expenses in Virginia's individual ACA market. Additionally, since the proposed Section 1332 Waiver does not directly impact member plan level cost-sharing (i.e., members will be able to purchase plans with comparable benefit cost sharing as those plans in which they are currently enrolled), the focus of the affordability requirement is further centered on changes in premium rates.

Under the proposed Section 1332 Waiver it is expected that gross premium rates in the individual ACA market will decrease. Total out-of-pocket costs for enrollees who receive PTCs under both the baseline and the Section 1332 Waiver, including those with high expected health care costs, will not change for the subsidy benchmark plan (i.e., the second lowest cost silver plan) as their premium rate for that plan will continue to be capped at the applicable maximum percentage of household income they are required to pay under the ACA.⁹ For enrollees who do not receive PTCs or for enrollees who currently receive PTCs but who would no longer receive PTCs under the proposed Section 1332 Waiver (due to their gross premium rates decreasing below what their premium rate net of PTCs would otherwise be), including those with high expected health care costs, the proposed reinsurance program will result in an improvement in the overall affordability of health coverage relative to the baseline scenario.

The gross premium rates for the second lowest cost silver plans in Virginia's individual ACA market are expected to decrease, on average, by approximately 15.8% in all years under the proposed Section 1332 Waiver (i.e., relative to the baseline). It is important to note, however, that while the statewide average decrease in premium rates relative to the baseline is expected to be equal to approximately 15.6%, the actual change in premium rates under the Section 1332 Waiver will vary by issuer, dependent on each issuer's specific claim cost distribution as well as fixed non-benefit expenses. As a result, the projected average rate changes are shown to vary by county and rating area.

Table 5a presents estimates of the average second lowest cost silver plan monthly premium rates offered through the Exchange for a single, 21-year-old, non-tobacco user in Virginia by rating area under both the baseline and waiver scenarios. The weighted average premium rates in Table 5a were calculated based on the anticipated second lowest cost silver plan gross premium rates offered through the Exchange in each county for each year, and the volume of each county's 2021 open enrollment plan selections through the Exchange. Tables 5b and 5c present estimates of the second lowest cost silver plan monthly premium rates offered through the Exchange for a single, 21-year-old, non-tobacco user in Virginia by county under the baseline and waiver scenarios, respectively. Table 5d presents estimates of the change in the second lowest cost silver plan monthly premium rates offered through the Exchange by county between the baseline and waiver scenarios. The values in these tables reflect the anticipated impact of the scheduled termination of enhanced premium tax credits available under ARPA after 2022.

⁹ For individuals who receive PTCs and purchase either the lowest-cost cost silver plan or another plan which is less expensive than the second lowest cost silver plan (e.g., a bronze plan), we estimate that their premium rates, net of PTCs, may increase slightly as a result of the proposed Section 1332 Waiver (relative to the baseline). This is because the proposed reinsurance program is expected to reduce the PTCs available to the member which can be applied to those lower cost plans by more than the premium rates for those plans are expected to decrease. However, as noted earlier, their out-of-pocket premium for the subsidy benchmark plan will not increase. Additionally, their premium rates net of PTCs for plans whose premium rates are greater than that of the second lowest cost silver plan (e.g., a gold plan) would be expected to decrease (relative to the baseline), improving the affordability of coverage for low income individuals enrolled in those plans.

**Table 5a: Estimated Second Lowest Cost Silver ACA Premium Rate by Rating Area
21-Year-Old, Non-Tobacco User**

Baseline											
Rating Area	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
1	\$414	\$435	\$456	\$479	\$503	\$528	\$555	\$582	\$612	\$642	\$674
2	\$385	\$404	\$425	\$446	\$468	\$491	\$516	\$542	\$569	\$597	\$627
3	\$365	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595
4	\$393	\$412	\$433	\$454	\$477	\$501	\$526	\$552	\$580	\$609	\$640
5	\$384	\$403	\$423	\$444	\$466	\$489	\$514	\$540	\$567	\$595	\$625
6	\$385	\$404	\$425	\$446	\$468	\$492	\$516	\$542	\$569	\$598	\$627
7	\$347	\$364	\$383	\$402	\$422	\$443	\$465	\$488	\$513	\$538	\$565
8	\$385	\$405	\$425	\$446	\$468	\$492	\$516	\$542	\$569	\$598	\$628
9	\$371	\$390	\$409	\$430	\$451	\$474	\$497	\$522	\$548	\$576	\$605
10	\$342	\$359	\$377	\$396	\$416	\$437	\$458	\$481	\$505	\$531	\$557
11	\$380	\$399	\$419	\$440	\$462	\$485	\$509	\$535	\$561	\$589	\$619
12	\$372	\$390	\$410	\$430	\$452	\$475	\$498	\$523	\$549	\$577	\$606

Waiver											
Rating Area	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
1	\$414	\$364	\$382	\$402	\$422	\$443	\$465	\$488	\$512	\$538	\$565
2	\$385	\$339	\$356	\$374	\$392	\$412	\$432	\$454	\$477	\$501	\$526
3	\$365	\$321	\$338	\$354	\$372	\$391	\$410	\$431	\$452	\$475	\$499
4	\$393	\$345	\$363	\$381	\$400	\$420	\$441	\$463	\$486	\$510	\$536
5	\$384	\$337	\$354	\$372	\$391	\$410	\$431	\$452	\$475	\$499	\$524
6	\$385	\$339	\$356	\$374	\$392	\$412	\$433	\$454	\$477	\$501	\$526
7	\$347	\$303	\$318	\$334	\$351	\$368	\$387	\$406	\$426	\$447	\$470
8	\$385	\$339	\$356	\$374	\$393	\$412	\$433	\$454	\$477	\$501	\$526
9	\$371	\$327	\$343	\$360	\$378	\$397	\$417	\$438	\$460	\$483	\$507
10	\$342	\$305	\$320	\$337	\$353	\$371	\$390	\$409	\$429	\$451	\$474
11	\$380	\$334	\$350	\$368	\$386	\$406	\$426	\$447	\$469	\$493	\$518
12	\$372	\$328	\$345	\$362	\$380	\$399	\$419	\$440	\$462	\$485	\$510

% Difference in Second Lowest Cost Silver Plan Premium PMPM - Baseline to Waiver											
Rating Area	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
1	0.00%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%
2	0.00%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%
3	0.00%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%
4	0.00%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%
5	0.00%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%
6	0.00%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%
7	0.00%	-16.87%	-16.87%	-16.87%	-16.87%	-16.87%	-16.87%	-16.87%	-16.87%	-16.87%	-16.87%
8	0.00%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%
9	0.00%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%	-16.20%
10	0.00%	-15.03%	-15.03%	-15.03%	-15.03%	-15.03%	-15.03%	-15.03%	-15.03%	-15.03%	-15.03%
11	0.00%	-16.37%	-16.37%	-16.37%	-16.37%	-16.37%	-16.37%	-16.37%	-16.37%	-16.37%	-16.37%
12	0.00%	-15.87%	-15.87%	-15.87%	-15.87%	-15.87%	-15.87%	-15.87%	-15.87%	-15.87%	-15.87%

Note: Values shown have been rounded to the nearest dollar

**Table 5b: Estimated Second Lowest Cost Silver ACA Premium Rate by County
21-Year-Old, Non-Tobacco User – Baseline Scenario**

Baseline											
County	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
Accomack	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595	\$625
Albemarle	\$385	\$404	\$425	\$446	\$468	\$491	\$516	\$542	\$569	\$597	\$627
Alexandria City	\$342	\$359	\$377	\$396	\$415	\$436	\$458	\$481	\$505	\$530	\$557
Alleghany	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595	\$625
Amelia	\$348	\$365	\$383	\$403	\$423	\$444	\$466	\$489	\$514	\$540	\$567
Amherst	\$385	\$404	\$425	\$446	\$468	\$492	\$516	\$542	\$569	\$598	\$627
Appomattox	\$385	\$404	\$425	\$446	\$468	\$492	\$516	\$542	\$569	\$598	\$627
Arlington	\$342	\$359	\$377	\$396	\$415	\$436	\$458	\$481	\$505	\$530	\$557
Augusta	\$365	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595
Bath	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595	\$625
Bedford	\$385	\$404	\$425	\$446	\$468	\$492	\$516	\$542	\$569	\$598	\$627
Bland	\$365	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595
Botetourt	\$385	\$405	\$425	\$446	\$468	\$492	\$516	\$542	\$569	\$598	\$628
Bristol City	\$384	\$403	\$423	\$444	\$466	\$489	\$514	\$540	\$567	\$595	\$625
Brunswick	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595	\$625
Buchanan	\$365	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595
Buckingham	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595	\$625
Buena Vista City	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595	\$625
Campbell	\$385	\$404	\$425	\$446	\$468	\$492	\$516	\$542	\$569	\$598	\$627
Caroline	\$342	\$359	\$377	\$396	\$415	\$436	\$458	\$481	\$505	\$530	\$557
Carroll	\$365	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595
Charles City	\$348	\$365	\$383	\$403	\$423	\$444	\$466	\$489	\$514	\$540	\$567
Charlotte	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595	\$625
Charlottesville City	\$385	\$404	\$425	\$446	\$468	\$491	\$516	\$542	\$569	\$597	\$627
Chesapeake City	\$371	\$390	\$409	\$430	\$451	\$474	\$497	\$522	\$548	\$576	\$605
Chesterfield	\$348	\$365	\$383	\$403	\$423	\$444	\$466	\$489	\$514	\$540	\$567
Clarke	\$353	\$370	\$389	\$408	\$429	\$450	\$473	\$496	\$521	\$547	\$575
Colonial Heights City	\$348	\$365	\$383	\$403	\$423	\$444	\$466	\$489	\$514	\$540	\$567
Covington City	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595	\$625
Craig	\$385	\$405	\$425	\$446	\$468	\$492	\$516	\$542	\$569	\$598	\$628
Culpeper	\$353	\$371	\$389	\$409	\$429	\$450	\$473	\$497	\$521	\$548	\$575
Cumberland	\$348	\$365	\$383	\$403	\$423	\$444	\$466	\$489	\$514	\$540	\$567
Danville City	\$365	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595
Dickenson	\$365	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595
Dinwiddie	\$348	\$365	\$383	\$403	\$423	\$444	\$466	\$489	\$514	\$540	\$567
Emporia City	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595	\$625
Essex	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595	\$625
Fairfax	\$342	\$359	\$377	\$396	\$415	\$436	\$458	\$481	\$505	\$530	\$557
Fairfax City	\$342	\$359	\$377	\$396	\$415	\$436	\$458	\$481	\$505	\$530	\$557
Falls Church City	\$342	\$359	\$377	\$396	\$415	\$436	\$458	\$481	\$505	\$530	\$557
Fauquier	\$342	\$359	\$377	\$396	\$415	\$436	\$458	\$481	\$505	\$530	\$557
Floyd	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595	\$625
Fluvanna	\$385	\$404	\$425	\$446	\$468	\$491	\$516	\$542	\$569	\$597	\$627
Franklin	\$385	\$405	\$425	\$446	\$468	\$492	\$516	\$542	\$569	\$598	\$628
Franklin City	\$370	\$389	\$408	\$428	\$450	\$472	\$496	\$521	\$547	\$574	\$603
Frederick	\$380	\$399	\$419	\$440	\$462	\$485	\$509	\$535	\$561	\$589	\$619
Fredericksburg City	\$342	\$359	\$377	\$396	\$415	\$436	\$458	\$481	\$505	\$530	\$557
Galax City	\$365	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595
Giles	\$414	\$435	\$456	\$479	\$503	\$528	\$555	\$582	\$612	\$642	\$674
Gloucester	\$371	\$390	\$409	\$430	\$451	\$474	\$497	\$522	\$548	\$576	\$605
Goochland	\$348	\$365	\$383	\$403	\$423	\$444	\$466	\$489	\$514	\$540	\$567
Grayson	\$365	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595
Greene	\$385	\$404	\$425	\$446	\$468	\$491	\$516	\$542	\$569	\$597	\$627
Greensville	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595	\$625
Halifax	\$370	\$389	\$408	\$428	\$450	\$472	\$496	\$521	\$547	\$574	\$603
Hampton City	\$371	\$390	\$409	\$430	\$451	\$474	\$497	\$522	\$548	\$576	\$605
Hanover	\$342	\$359	\$377	\$396	\$415	\$436	\$458	\$481	\$505	\$530	\$557
Harrisonburg City	\$393	\$412	\$433	\$454	\$477	\$501	\$526	\$552	\$580	\$609	\$640
Henrico	\$348	\$365	\$383	\$403	\$423	\$444	\$466	\$489	\$514	\$540	\$567
Henry	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595	\$625
Highland	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595	\$625
Hopewell City	\$348	\$365	\$383	\$403	\$423	\$444	\$466	\$489	\$514	\$540	\$567
Isle Of Wight	\$371	\$390	\$409	\$430	\$451	\$474	\$497	\$522	\$548	\$576	\$605
James City	\$371	\$390	\$409	\$430	\$451	\$474	\$497	\$522	\$548	\$576	\$605
King And Queen	\$348	\$365	\$383	\$403	\$423	\$444	\$466	\$489	\$514	\$540	\$567
King George	\$353	\$371	\$389	\$409	\$429	\$450	\$473	\$497	\$521	\$548	\$575
King William	\$348	\$365	\$383	\$403	\$423	\$444	\$466	\$489	\$514	\$540	\$567

**Table 5b: Estimated Second Lowest Cost Silver ACA Premium Rate by County
21-Year-Old, Non-Tobacco User – Baseline Scenario**

Baseline											
County	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
Lancaster	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595	\$625
Lee	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595	\$625
Lexington City	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595	\$625
Loudoun	\$342	\$359	\$377	\$396	\$415	\$436	\$458	\$481	\$505	\$530	\$557
Louisa	\$342	\$359	\$377	\$396	\$415	\$436	\$458	\$481	\$505	\$530	\$557
Lunenburg	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595	\$625
Lynchburg City	\$385	\$404	\$425	\$446	\$468	\$492	\$516	\$542	\$569	\$598	\$627
Madison	\$357	\$375	\$394	\$414	\$434	\$456	\$479	\$503	\$528	\$554	\$582
Manassas City	\$342	\$359	\$377	\$396	\$415	\$436	\$458	\$481	\$505	\$530	\$557
Manassas Park City	\$342	\$359	\$377	\$396	\$415	\$436	\$458	\$481	\$505	\$530	\$557
Martinsville City	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595	\$625
Mathews	\$371	\$390	\$409	\$430	\$451	\$474	\$497	\$522	\$548	\$576	\$605
Mecklenburg	\$370	\$389	\$408	\$428	\$450	\$472	\$496	\$521	\$547	\$574	\$603
Middlesex	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595	\$625
Montgomery	\$414	\$435	\$456	\$479	\$503	\$528	\$555	\$582	\$612	\$642	\$674
Nelson	\$385	\$404	\$425	\$446	\$468	\$491	\$516	\$542	\$569	\$597	\$627
New Kent	\$348	\$365	\$383	\$403	\$423	\$444	\$466	\$489	\$514	\$540	\$567
Newport News City	\$371	\$390	\$409	\$430	\$451	\$474	\$497	\$522	\$548	\$576	\$605
Norfolk City	\$371	\$390	\$409	\$430	\$451	\$474	\$497	\$522	\$548	\$576	\$605
Northampton	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595	\$625
Northumberland	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595	\$625
Norton City	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595	\$625
Nottoway	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595	\$625
Orange	\$353	\$371	\$389	\$409	\$429	\$450	\$473	\$497	\$521	\$548	\$575
Page	\$370	\$389	\$408	\$428	\$450	\$472	\$496	\$521	\$547	\$574	\$603
Patrick	\$365	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595
Petersburg City	\$348	\$365	\$383	\$403	\$423	\$444	\$466	\$489	\$514	\$540	\$567
Pittsylvania	\$365	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595
Poquoson City	\$371	\$390	\$409	\$430	\$451	\$474	\$497	\$522	\$548	\$576	\$605
Portsmouth City	\$371	\$390	\$409	\$430	\$451	\$474	\$497	\$522	\$548	\$576	\$605
Powhatan	\$348	\$365	\$383	\$403	\$423	\$444	\$466	\$489	\$514	\$540	\$567
Prince Edward	\$365	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595
Prince George	\$348	\$365	\$383	\$403	\$423	\$444	\$466	\$489	\$514	\$540	\$567
Prince William	\$342	\$359	\$377	\$396	\$415	\$436	\$458	\$481	\$505	\$530	\$557
Pulaski	\$414	\$435	\$456	\$479	\$503	\$528	\$555	\$582	\$612	\$642	\$674
Radford	\$414	\$435	\$456	\$479	\$503	\$528	\$555	\$582	\$612	\$642	\$674
Rappahannock	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595	\$625
Richmond	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595	\$625
Richmond City	\$348	\$365	\$383	\$403	\$423	\$444	\$466	\$489	\$514	\$540	\$567
Roanoke	\$385	\$405	\$425	\$446	\$468	\$492	\$516	\$542	\$569	\$598	\$628
Roanoke City	\$385	\$405	\$425	\$446	\$468	\$492	\$516	\$542	\$569	\$598	\$628
Rockbridge	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595	\$625
Rockingham	\$393	\$412	\$433	\$454	\$477	\$501	\$526	\$552	\$580	\$609	\$640
Russell	\$365	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595
Salem	\$385	\$405	\$425	\$446	\$468	\$492	\$516	\$542	\$569	\$598	\$628
Scott	\$384	\$403	\$423	\$444	\$466	\$489	\$514	\$540	\$567	\$595	\$625
Shenandoah	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595	\$625
Smyth	\$365	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595
Southampton	\$370	\$389	\$408	\$428	\$450	\$472	\$496	\$521	\$547	\$574	\$603
Spotsylvania	\$342	\$359	\$377	\$396	\$415	\$436	\$458	\$481	\$505	\$530	\$557
Stafford	\$342	\$359	\$377	\$396	\$415	\$436	\$458	\$481	\$505	\$530	\$557
Staunton City	\$365	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595
Suffolk City	\$371	\$390	\$409	\$430	\$451	\$474	\$497	\$522	\$548	\$576	\$605
Surry	\$371	\$390	\$409	\$430	\$451	\$474	\$497	\$522	\$548	\$576	\$605
Sussex	\$348	\$365	\$383	\$403	\$423	\$444	\$466	\$489	\$514	\$540	\$567
Tazewell	\$365	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595
Virginia Beach City	\$371	\$390	\$409	\$430	\$451	\$474	\$497	\$522	\$548	\$576	\$605
Warren	\$366	\$384	\$403	\$424	\$445	\$467	\$490	\$515	\$541	\$568	\$596
Washington	\$384	\$403	\$423	\$444	\$466	\$489	\$514	\$540	\$567	\$595	\$625
Waynesboro City	\$365	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595
Westmoreland	\$353	\$371	\$389	\$409	\$429	\$450	\$473	\$497	\$521	\$548	\$575
Williamsburg City	\$371	\$390	\$409	\$430	\$451	\$474	\$497	\$522	\$548	\$576	\$605
Winchester City	\$380	\$399	\$419	\$440	\$462	\$485	\$509	\$535	\$561	\$589	\$619
Wise	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595	\$625
Wythe	\$365	\$384	\$403	\$423	\$444	\$466	\$490	\$514	\$540	\$567	\$595
York	\$371	\$390	\$409	\$430	\$451	\$474	\$497	\$522	\$548	\$576	\$605

**Table 5c: Estimated Second Lowest Cost Silver ACA Premium Rate by County
21-Year-Old, Non-Tobacco User – Waiver Scenario**

Waiver											
County	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
Accomack	\$384	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499	\$524
Albemarle	\$385	\$339	\$356	\$374	\$392	\$412	\$432	\$454	\$477	\$501	\$526
Alexandria City	\$342	\$305	\$320	\$336	\$353	\$371	\$389	\$409	\$429	\$451	\$473
Alleghany	\$384	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499	\$524
Amelia	\$348	\$303	\$318	\$334	\$351	\$368	\$387	\$406	\$426	\$447	\$470
Amherst	\$385	\$339	\$356	\$374	\$392	\$412	\$433	\$454	\$477	\$501	\$526
Appomattox	\$385	\$339	\$356	\$374	\$392	\$412	\$433	\$454	\$477	\$501	\$526
Arlington	\$342	\$305	\$320	\$336	\$353	\$371	\$389	\$409	\$429	\$451	\$473
Augusta	\$365	\$322	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499
Bath	\$384	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499	\$524
Bedford	\$385	\$339	\$356	\$374	\$392	\$412	\$433	\$454	\$477	\$501	\$526
Bland	\$365	\$322	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499
Botetourt	\$385	\$339	\$356	\$374	\$393	\$412	\$433	\$454	\$477	\$501	\$526
Bristol City	\$384	\$337	\$354	\$372	\$391	\$410	\$431	\$452	\$475	\$499	\$524
Brunswick	\$384	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499	\$524
Buchanan	\$365	\$322	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499
Buckingham	\$384	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499	\$524
Buena Vista City	\$384	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499	\$524
Campbell	\$385	\$339	\$356	\$374	\$392	\$412	\$433	\$454	\$477	\$501	\$526
Caroline	\$342	\$303	\$318	\$334	\$351	\$368	\$387	\$406	\$426	\$447	\$470
Carroll	\$365	\$322	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499
Charles City	\$348	\$303	\$318	\$334	\$351	\$368	\$387	\$406	\$426	\$447	\$470
Charlottesville City	\$385	\$339	\$356	\$374	\$392	\$412	\$432	\$454	\$477	\$501	\$526
Chesapeake City	\$371	\$327	\$343	\$360	\$378	\$397	\$417	\$438	\$460	\$483	\$507
Chesterfield	\$348	\$303	\$318	\$334	\$351	\$368	\$387	\$406	\$426	\$447	\$470
Clarke	\$353	\$305	\$320	\$336	\$353	\$371	\$389	\$409	\$429	\$451	\$473
Colonial Heights City	\$348	\$303	\$318	\$334	\$351	\$368	\$387	\$406	\$426	\$447	\$470
Covington City	\$384	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499	\$524
Craig	\$385	\$339	\$356	\$374	\$393	\$412	\$433	\$454	\$477	\$501	\$526
Culpeper	\$353	\$318	\$334	\$351	\$369	\$387	\$406	\$427	\$448	\$471	\$494
Cumberland	\$348	\$303	\$318	\$334	\$351	\$368	\$387	\$406	\$426	\$447	\$470
Danville City	\$365	\$321	\$338	\$354	\$372	\$391	\$410	\$431	\$452	\$475	\$499
Dickenson	\$365	\$322	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499
Dinwiddie	\$348	\$303	\$318	\$334	\$351	\$368	\$387	\$406	\$426	\$447	\$470
Emporia City	\$384	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499	\$524
Essex	\$384	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499	\$524
Fairfax	\$342	\$305	\$320	\$336	\$353	\$371	\$389	\$409	\$429	\$451	\$473
Fairfax City	\$342	\$305	\$320	\$336	\$353	\$371	\$389	\$409	\$429	\$451	\$473
Falls Church City	\$342	\$305	\$320	\$336	\$353	\$371	\$389	\$409	\$429	\$451	\$473
Fauquier	\$342	\$305	\$320	\$336	\$353	\$371	\$389	\$409	\$429	\$451	\$473
Floyd	\$384	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499	\$524
Fluvanna	\$385	\$339	\$356	\$374	\$392	\$412	\$432	\$454	\$477	\$501	\$526
Franklin	\$385	\$339	\$356	\$374	\$393	\$412	\$433	\$454	\$477	\$501	\$526
Franklin City	\$370	\$326	\$342	\$359	\$377	\$396	\$416	\$436	\$458	\$481	\$505
Frederick	\$380	\$334	\$350	\$368	\$386	\$406	\$426	\$447	\$469	\$493	\$518
Fredericksburg City	\$342	\$305	\$320	\$336	\$353	\$371	\$389	\$409	\$429	\$451	\$473
Galax City	\$365	\$322	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499
Giles	\$414	\$364	\$382	\$402	\$422	\$443	\$465	\$488	\$512	\$538	\$565
Gloucester	\$371	\$327	\$343	\$360	\$378	\$397	\$417	\$438	\$460	\$483	\$507
Goochland	\$348	\$303	\$318	\$334	\$351	\$368	\$387	\$406	\$426	\$447	\$470
Grayson	\$365	\$322	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499
Greene	\$385	\$339	\$356	\$374	\$392	\$412	\$432	\$454	\$477	\$501	\$526
Greensville	\$384	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499	\$524
Halifax	\$370	\$326	\$342	\$359	\$377	\$396	\$416	\$436	\$458	\$481	\$505
Hampton City	\$371	\$327	\$343	\$360	\$378	\$397	\$417	\$438	\$460	\$483	\$507
Hanover	\$342	\$303	\$318	\$334	\$351	\$368	\$387	\$406	\$426	\$447	\$470
Harrisonburg City	\$393	\$345	\$363	\$381	\$400	\$420	\$441	\$463	\$486	\$510	\$536
Henrico	\$348	\$303	\$318	\$334	\$351	\$368	\$387	\$406	\$426	\$447	\$470
Henry	\$384	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499	\$524
Highland	\$384	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499	\$524
Hopewell City	\$348	\$303	\$318	\$334	\$351	\$368	\$387	\$406	\$426	\$447	\$470
Isle Of Wight	\$371	\$327	\$343	\$360	\$378	\$397	\$417	\$438	\$460	\$483	\$507
James City	\$371	\$327	\$343	\$360	\$378	\$397	\$417	\$438	\$460	\$483	\$507
King And Queen	\$348	\$303	\$318	\$334	\$351	\$368	\$387	\$406	\$426	\$447	\$470
King George	\$353	\$322	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499
King William	\$348	\$303	\$318	\$334	\$351	\$368	\$387	\$406	\$426	\$447	\$470

**Table 5c: Estimated Second Lowest Cost Silver ACA Premium Rate by County
21-Year-Old, Non-Tobacco User – Waiver Scenario**

Waiver											
County	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
Lancaster	\$384	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499	\$524
Lee	\$384	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499	\$524
Lexington City	\$384	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499	\$524
Loudoun	\$342	\$305	\$320	\$336	\$353	\$371	\$389	\$409	\$429	\$451	\$473
Louisa	\$342	\$303	\$318	\$334	\$351	\$368	\$387	\$406	\$426	\$447	\$470
Lunenburg	\$384	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499	\$524
Lynchburg City	\$385	\$339	\$356	\$374	\$392	\$412	\$433	\$454	\$477	\$501	\$526
Madison	\$357	\$322	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499
Manassas City	\$342	\$305	\$320	\$336	\$353	\$371	\$389	\$409	\$429	\$451	\$473
Manassas Park City	\$342	\$305	\$320	\$336	\$353	\$371	\$389	\$409	\$429	\$451	\$473
Martinsville City	\$384	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499	\$524
Mathews	\$371	\$327	\$343	\$360	\$378	\$397	\$417	\$438	\$460	\$483	\$507
Mecklenburg	\$370	\$326	\$342	\$359	\$377	\$396	\$416	\$436	\$458	\$481	\$505
Middlesex	\$384	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499	\$524
Montgomery	\$414	\$364	\$382	\$402	\$422	\$443	\$465	\$488	\$512	\$538	\$565
Nelson	\$385	\$339	\$356	\$374	\$392	\$412	\$432	\$454	\$477	\$501	\$526
New Kent	\$348	\$303	\$318	\$334	\$351	\$368	\$387	\$406	\$426	\$447	\$470
Newport News City	\$371	\$327	\$343	\$360	\$378	\$397	\$417	\$438	\$460	\$483	\$507
Norfolk City	\$371	\$327	\$343	\$360	\$378	\$397	\$417	\$438	\$460	\$483	\$507
Northampton	\$384	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499	\$524
Northumberland	\$384	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499	\$524
Norton City	\$384	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499	\$524
Nottoway	\$384	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499	\$524
Orange	\$353	\$322	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499
Page	\$370	\$326	\$342	\$359	\$377	\$396	\$416	\$436	\$458	\$481	\$505
Patrick	\$365	\$322	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499
Petersburg City	\$348	\$303	\$318	\$334	\$351	\$368	\$387	\$406	\$426	\$447	\$470
Pittsylvania	\$365	\$321	\$338	\$354	\$372	\$391	\$410	\$431	\$452	\$475	\$499
Poquoson City	\$371	\$327	\$343	\$360	\$378	\$397	\$417	\$438	\$460	\$483	\$507
Portsmouth City	\$371	\$327	\$343	\$360	\$378	\$397	\$417	\$438	\$460	\$483	\$507
Powhatan	\$348	\$303	\$318	\$334	\$351	\$368	\$387	\$406	\$426	\$447	\$470
Prince Edward	\$365	\$322	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499
Prince George	\$348	\$303	\$318	\$334	\$351	\$368	\$387	\$406	\$426	\$447	\$470
Prince William	\$342	\$305	\$320	\$336	\$353	\$371	\$389	\$409	\$429	\$451	\$473
Pulaski	\$414	\$364	\$382	\$402	\$422	\$443	\$465	\$488	\$512	\$538	\$565
Radford	\$414	\$364	\$382	\$402	\$422	\$443	\$465	\$488	\$512	\$538	\$565
Rappahannock	\$384	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499	\$524
Richmond	\$384	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499	\$524
Richmond City	\$348	\$303	\$318	\$334	\$351	\$368	\$387	\$406	\$426	\$447	\$470
Roanoke	\$385	\$339	\$356	\$374	\$393	\$412	\$433	\$454	\$477	\$501	\$526
Roanoke City	\$385	\$339	\$356	\$374	\$393	\$412	\$433	\$454	\$477	\$501	\$526
Rockbridge	\$384	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499	\$524
Rockingham	\$393	\$345	\$363	\$381	\$400	\$420	\$441	\$463	\$486	\$510	\$536
Russell	\$365	\$322	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499
Salem	\$385	\$339	\$356	\$374	\$393	\$412	\$433	\$454	\$477	\$501	\$526
Scott	\$384	\$337	\$354	\$372	\$391	\$410	\$431	\$452	\$475	\$499	\$524
Shenandoah	\$384	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499	\$524
Smyth	\$365	\$322	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499
Southampton	\$370	\$326	\$342	\$359	\$377	\$396	\$416	\$436	\$458	\$481	\$505
Spotsylvania	\$342	\$305	\$320	\$336	\$353	\$371	\$389	\$409	\$429	\$451	\$473
Stafford	\$342	\$305	\$320	\$336	\$353	\$371	\$389	\$409	\$429	\$451	\$473
Staunton City	\$365	\$322	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499
Suffolk City	\$371	\$327	\$343	\$360	\$378	\$397	\$417	\$438	\$460	\$483	\$507
Surry	\$371	\$327	\$343	\$360	\$378	\$397	\$417	\$438	\$460	\$483	\$507
Sussex	\$348	\$303	\$318	\$334	\$351	\$368	\$387	\$406	\$426	\$447	\$470
Tazewell	\$365	\$322	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499
Virginia Beach City	\$371	\$327	\$343	\$360	\$378	\$397	\$417	\$438	\$460	\$483	\$507
Warren	\$366	\$322	\$338	\$355	\$373	\$391	\$411	\$431	\$453	\$476	\$499
Washington	\$384	\$337	\$354	\$372	\$391	\$410	\$431	\$452	\$475	\$499	\$524
Waynesboro City	\$365	\$322	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499
Westmoreland	\$353	\$322	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499
Williamsburg City	\$371	\$327	\$343	\$360	\$378	\$397	\$417	\$438	\$460	\$483	\$507
Winchester City	\$380	\$334	\$350	\$368	\$386	\$406	\$426	\$447	\$469	\$493	\$518
Wise	\$384	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499	\$524
Wythe	\$365	\$322	\$338	\$355	\$372	\$391	\$410	\$431	\$452	\$475	\$499
York	\$371	\$327	\$343	\$360	\$378	\$397	\$417	\$438	\$460	\$483	\$507

Due to the application of the specified age curve for ACA rating purposes, a similar percentage change would be expected to occur for all other ages, although all else equal, the premium difference would generally be expected to be greater than that shown above for enrollees who are older than 24 and less than that shown above for enrollees who are younger than 21.¹⁰

Comprehensiveness of Coverage Requirement

Under the comprehensiveness of coverage requirement, health care coverage under the proposed Section 1332 Waiver must be forecast to be at least as comprehensive overall for Virginia residents as coverage absent the waiver.¹¹ Comprehensiveness refers to coverage requirements for ACA essential health benefits (EHBs) and, as appropriate, Medicaid and CHIP standards. The proposed Section 1332 Waiver does not impact the scope of services covered by issuers in the commercial markets or the scope of services covered by the Medicaid or CHIP programs. Therefore, the proposed Section 1332 Waiver is expected to have no impact on the comprehensiveness of coverage available to Virginia residents.

Economic Analysis and Deficit Neutrality

Under the deficit neutrality requirement, projected federal spending, net of federal revenues, under the proposed Section 1332 Waiver must be equal to or lower than projected federal spending net of federal revenues in the absence of the waiver.¹²

The proposed Section 1332 Waiver was analyzed to determine its expected impact on costs associated with PTCs. Table 6 summarizes the expected impact of the proposed Section 1332 Waiver on the federal deficit for each year from 2022 through 2032 assuming gross premium rates in the individual ACA market are reduced by an average of approximately 15.6% (i.e., relative to the premium rates which would otherwise be charged if no reinsurance program were in place). A detailed discussion of these items, as well as a discussion of other items considered in determining the impact to the federal deficit, follows.

Table 6: Impact of the Proposed Section 1332 Waiver on the Federal Deficit

(Amounts shown in millions, rounded to nearest hundred thousand)

	A	B	C	D	A - B - C - D
Year	Change in PTCs	Change in User Fees	Change in Shared Responsibility Payments	Change in Health Insurance Provider Fees	Change in Federal Deficit
2022	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
2023	-\$230.2	-\$6.3	\$0.0	\$0.0	-\$223.9
2024	-\$244.5	\$0.0	\$0.0	\$0.0	-\$244.5
2025	-\$258.4	\$0.0	\$0.0	\$0.0	-\$258.4
2026	-\$273.1	\$0.0	\$0.0	\$0.0	-\$273.1
2027	-\$288.6	\$0.0	\$0.0	\$0.0	-\$288.6
2028	-\$305.0	\$0.0	\$0.0	\$0.0	-\$305.0
2029	-\$322.3	\$0.0	\$0.0	\$0.0	-\$322.3
2030	-\$340.6	\$0.0	\$0.0	\$0.0	-\$340.6
2031	-\$359.9	\$0.0	\$0.0	\$0.0	-\$359.9
2032	-\$380.3	\$0.0	\$0.0	\$0.0	-\$380.3

Note: PTCs are considered expenditures for the federal government whereas Exchange User Fees, Shared Responsibility Payments, and Health Insurance Providers Fees are considered revenue sources for the federal government. Therefore, a reduction in PTCs will decrease the federal deficit whereas a reduction in Exchange User Fees, Shared Responsibility Payments, or Health Insurance Provider Fees will increase the federal deficit.

¹⁰ <https://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Market-Reforms/Downloads/StateSpecAgeCrv053117.pdf>

¹¹ 45 CFR 155.1308(f)(3)(iv)(A)

¹² 45 CFR 155.1308(f)(3)(iv)(D)

A more detailed summary providing projected results over the ten-year budget period under both the baseline and Section 1332 Waiver scenarios, including all additional information requested in the “Checklist for Section 1332 State Innovation Waiver Applications” that has not already been presented (i.e., the projected volume of individual ACA market enrollees by PTC eligibility, the overall average individual ACA market premium rate PMPM, aggregate premium and PTC amounts, aggregate exchange user fees, and projected cost as well as funding levels of the proposed reinsurance arrangement) is shown in Appendix B.

Premium Tax Credits

Changes in premium for the second lowest cost silver plan and changes in subsidized enrollment have a direct impact on PTCs paid by the federal government. As shown in Table 7, assuming gross premium rates in the individual ACA market are reduced by an average of approximately 15.6% under the waiver scenario relative to the baseline scenario, the proposed Section 1332 Waiver is expected to significantly decrease the volume of PTCs paid by the federal government each year beginning in 2023.

**Table 7: Summary of PTC Enrollment and PTC Payments
Baseline and Waiver Scenarios**

Year	Baseline			Waiver			Change
	PTC Enrollment	Avg PTC PMPM	Total PTCs (millions)	PTC Enrollment	Avg PTC PMPM	Total PTCs (millions)	Total PTCs (millions)
2022	256,200	\$458.4	\$1,409.3	256,200	\$458.4	\$1,409.3	\$0.0
2023	205,700	\$471.3	\$1,163.3	205,700	\$378.0	\$933.1	-\$230.2
2024	206,800	\$497.3	\$1,234.2	206,800	\$398.8	\$989.7	-\$244.5
2025	207,900	\$524.8	\$1,309.2	207,900	\$421.2	\$1,050.8	-\$258.4
2026	209,000	\$553.6	\$1,388.6	209,000	\$444.8	\$1,115.5	-\$273.1
2027	210,100	\$584.0	\$1,472.6	210,100	\$469.6	\$1,184.0	-\$288.6
2028	211,300	\$616.0	\$1,561.5	211,300	\$495.7	\$1,256.5	-\$305.0
2029	212,400	\$649.6	\$1,655.6	212,400	\$523.1	\$1,333.3	-\$322.3
2030	213,500	\$685.0	\$1,755.1	213,500	\$552.1	\$1,414.5	-\$340.6
2031	214,700	\$722.2	\$1,860.4	214,700	\$582.5	\$1,500.5	-\$359.9
2032	215,800	\$761.4	\$1,971.8	215,800	\$614.5	\$1,591.5	-\$380.3

Notes:

1. Enrollment volumes have been rounded to the nearest hundred and reflect average monthly enrollment levels
2. PMPM values have been rounded to the nearest ten cents
3. Total PTCs are in millions and have been rounded to the nearest hundred thousand

The overall impact of the proposed Section 1332 Waiver on the volume of enrollees receiving PTCs is expected to be minimal. Therefore, the decrease in PTC payments shown is driven entirely by the expected decrease in gross premium rates as a result of the implementation of the reinsurance program in 2023 which reduces gross premium rates by approximately 15.6% (i.e., relative to the premium rates which would otherwise be charged if no reinsurance program were in place).

Other Considerations Related to the Federal Deficit

Other items considered in estimating the impact of the Section 1332 Waiver on the federal deficit include the following:

- **Exchange User Fees** – Starting in 2024, Virginia will implement the Virginia Health Insurance Exchange, its state-based exchange, through which issuers will sell ACA insurance plans to individuals and families. Given that no Exchange User Fees are anticipated to be paid to the federal government in 2024 and later under either of the baseline or waiver scenarios, there is no impact on the federal deficit as a result of Virginia's Section 1332 Waiver in these years.
- **Federal Individual Mandate Penalty** – Under the ACA, most individuals are required to maintain a minimum level of health insurance coverage. However, under the Tax Cut and Jobs Act of 2017, the federal individual mandate penalty was reduced to \$0 starting in 2019. As a result, the proposed Section 1332 Waiver will have no impact on shared responsibility payments.
- **Cost-Sharing Reduction Payments** – Given that federal cost-sharing reduction (CSR) payments are not currently being funded and have been assumed to remain unfunded in the future, there is no expected change assumed in the volume of CSR payments between the baseline and waiver scenarios.
- **Health Insurance Providers Fee** – With respect to the Health Insurer Providers Fee, given that this fee was repealed starting in 2021, the proposed Section 1332 Waiver will have no impact on HIP Fee revenues.
- **Federal Income Taxes** – There is the potential for the proposed Section 1332 Waiver to impact the amount of federal income taxes paid by issuers. However, we considered the potential impact of this item and, in our opinion, believe it to be *de minimis*.

Sensitivity of Results

Significant uncertainty exists with respect to future enrollment and premiums in the individual ACA market. As a result, actual experience will likely differ from what is assumed in this analysis. We note that some of the key assumptions related to health insurance markets that we made in the development of our projections include the following: CSR subsidies will continue to be unfunded by the federal government and issuers will continue to load premiums for their on-Exchange silver plans by an amount estimated to be equal to the lost CSR payments, issuer plan and network offerings will be similar to those available to consumers in 2022, issuer pricing assumptions will be similar to those used in 2022 (except where explicitly stated), the enhanced premium tax credits made available under ARPA will end after 2022, there will be no significant issuer entries or exits, there will be no significant impact expected as a result of recent federal regulations around association health plans (AHPs) and short-term limited duration insurance (STLDI) plans, and there will be no additional significant legislative changes at either the state or federal level. To the extent these assumptions do not hold true in future years, we would expect that actual results would vary, potentially significantly, from those assumed in this analysis. Further, given that federal pass-through funding will ultimately be based on actual premium rates filed by issuers offering coverage in Virginia's individual ACA market and actual enrollment volumes, final funding amounts are likely to differ from the estimates provided in this report.

Given the level of uncertainty, we performed significant sensitivity testing of key assumptions and shared those results with the Bureau. Some of the key assumptions that were sensitivity tested include the following:

- Overall membership volumes
- Non-PTC membership volumes
- The change in the second lowest cost silver premium PMPM due to the reinsurance program
- The ratio of PTCs to APTCs
- The level of assumed morbidity improvement due to the reinsurance program

We note that in each of scenarios tested, while the changes made to the specified assumptions impacted the cost estimates of the reinsurance program and projected federal pass-through funding amounts, there were no cases in which any of the four federal requirements associated with Section 1332 Waivers was not expected to be met.

4. Data Sources and Methodology

The projections underlying our analysis are based on results from Oliver Wyman's HRM Model, which was utilized to examine the impact that the proposed Section 1332 Waiver is expected to have on the health insurance markets in Virginia, and in meeting the requirements associated with Section 1332 Waivers as outlined in federal statute and regulation. The HRM Model is an economic utility model that captures the flow of individuals across various markets and coverage options based on their economic purchasing decisions. It is integrated with actuarial modeling designed to assess the impact that various reforms are expected to have on the health insurance markets.

We estimate that the proposed Section 1332 Waiver will not have a material impact on the number of Virginians covered under employer-sponsored plans, Medicaid, Medicare, CHIP, or other public programs. As a result, we did not present detailed modeling results for those markets.

The primary basis for the population underlying the HRM Model is data from the 2019 American Community Survey (ACS). The ACS data provides detailed information for each individual in a surveyed household unit, including demographic, socioeconomic, geographic, and employment information. The data also provides information regarding health insurance coverage type. The ACS data was supplemented and synthesized with several other data sources, including information from an issuer data call, in order to develop a complete and comprehensive view of the current health insurance market in Virginia.

The Bureau issued a data call to the health insurance issuers expected to offer coverage in Virginia's individual ACA market in 2021 and 2022 to collect detailed information for that market to aid in calibrating the HRM Model. The data included premium, claims, and enrollment information from January 2019 through March 2021. The issuer provided data was further augmented with information from a number of other sources, including but not limited to:

- 2019 and 2020 statutory financial statements submitted by issuers in Virginia's health insurance markets
- 2017-2019 medical loss ratio (MLR) data
- 2018-2021 Marketplace enrollment public use files
- 2018-2021 effectuated enrollment reports
- U.S. Census Bureau data
- 2018-2020 summary reports on risk adjustment transfers
- 2018-2020 health insurance coverage estimates from the Kaiser Family Foundation
- National CPI and CMS Personal Health Care Price Index projections
- Available 2022 rate filing information (e.g., Unified Rate Review Template data)
- 2019-2022 individual and small group ACA market premium rates

These additional data sources were utilized to determine the overall average annual enrollment volumes in the health insurance market for each of 2018, 2019, 2020, and 2021, to validate the issuer data that was provided (e.g., average premiums PMPM), and to gather additional information utilized in our modeling but not captured through the issuer data call (e.g., the distribution of individuals enrolling through the FFM, including by income range).

Health status was assigned to various sub-populations within the HRM Model based on a statistical analysis of self-reported health status data obtained from the Current Population Survey (CPS). The CPS data provides the starting assumptions for the population morbidity, because the data includes a self-reported health status

indicator as well as fields classifying income, age, gender, geography, coverage type, and other categories. Respondents to the survey classify their health into one of five categories: excellent, very good, good, fair and poor. The model reflects these classifications numerically by assigning a morbidity load to each category.

Information from the Agency for Health Care Research and Quality's MEPS data was used to simulate the Virginia employer-based market. MEPS identifies key statistics for the employer-based market for every state by group size, including employer offer rates, employee take-up rates, and self-funding rates among employers. Individuals in the ACS data identified as working for private employers were categorized into employer group size segments (e.g., small employer groups) based on the distribution of employees by group size according to MEPS. The MEPS data was also used to determine the number of individuals enrolled in self-funded plans to estimate the total size of the employer-based market. MEPS data was further used to inform our estimates of employer offer rates and self-funding rates.

The utility functions underlying the HRM Model were then calibrated to replicate the number of individuals in each of the individual, employer-based, and uninsured markets in Virginia for 2018, 2019, 2020, and 2021. The various parameters of HRM Model's utility functions were then further adjusted until the model also projected individual ACA market enrollment in each of 2018, 2019, 2020, and 2021 that was consistent with key characteristics of the actual individual ACA market enrollment for each year (e.g., by age range, income range, geography, etc.).

The HRM Model assumes a "steady" state population beyond 2022. This means the overall distribution by income, health status, employer size, and family composition of the entire population being modeled is not expected to change significantly. Additional adjustments were applied to the modeled results to reflect anticipated population growth within Virginia. The population growth adjustments were developed based on population projections which are publicly available on the United States Census Bureau website.

Average claim costs were calibrated and adjusted on an overall basis using information provided in the issuer data call, statutory financial statements, and from other public data sources previously noted. Beyond 2022, claim costs within the HRM Model were trended forward assuming an average annual claims trend rate in the individual ACA market equal to approximately 5.0%. This assumption was developed based on a review of publicly available information from Virginia's individual ACA market rate filings for 2019, 2020, 2021 and 2022.

Member cost-sharing and incurred claims were calculated by the HRM Model, with the assumed annual limitation on cost-sharing indexed for inflation each year according to federal regulations using the most recent NHE data.

Actual lowest-cost bronze, silver, and gold premium rates and second-lowest cost silver premium rates for Virginia's individual ACA market in 2018, 2019, 2020, and 2021 were utilized in the HRM Model. The 2022 rates, as originally filed by issuers in the state were used for 2022. Premium rates for 2023 (the baseline scenario) were developed by trending the 2022 premium rates at 5.0% trend rate as was used for claims.

Premium rates in the individual ACA market for 2023 and beyond are assumed to increase by the assumed annual premium/claims trend rate of 5.0%. Premium rates in the small and large group markets are assumed to increase by an assumed trend rate of 7%.

Federal PTCs for eligible individual ACA market enrollees were assumed to change each year based on premium changes associated with the second lowest cost silver plan available changes in the Applicable Percentage Tables. The Applicable Percentage Tables, while known for 2018 through 2022, were adjusted each year beyond 2022 according to the methodology outlined by the 2022 Final Benefit and Payment Parameter Notice.¹³ Premium and income growth rates utilized in developing the Adjustment Ratio that was applied to the projected Applicable Percentage Tables were based on the most recent NHE projections published by CMS.

As noted earlier, additional key assumptions which were incorporated into the HRM Model include the following: CSR subsidies will continue to be unfunded by the federal government and issuers will continue to load premiums for their silver plans by an amount estimated to be equal to the lost CSR payments, issuer plan and network offerings will be similar to those available to consumers in 2022, issuer pricing assumptions will be similar to those used in 2022, the enhanced premium tax credits made available under ARPA will end after 2022, there will be no significant issuer entries or exits, there will be no significant impact expected as a result of recent federal regulations around association health plans (AHPs) and short-term limited duration insurance (STLDI) plans, and there will be no additional significant legislative changes at either the state or federal level.

¹³ <https://www.govinfo.gov/content/pkg/FR-2021-05-05/pdf/2021-09102.pdf>

5. Distribution and Use

Oliver Wyman prepared this report for the sole use of the Commonwealth. This report is not intended for general circulation or publication, nor is it to be used or distributed to others for any purposes other than those that may be set forth herein or in the definitive documentation pursuant to which this report was issued. Oliver Wyman understands that the report will be made public and used to support the Commonwealth's Section 1332 Waiver application. This report includes important considerations, assumptions, and limitations and, as a result, is intended to be read and used only as a whole. This report may not be separated into, or distributed, in parts. All decisions in connection with the implementation or use of advice or recommendations contained in this report are the sole responsibility of the Commonwealth.

Oliver Wyman's consent to any distribution of this report to parties other than the Commonwealth does not constitute advice by Oliver Wyman to any such third parties and shall be solely for informational purposes and not for purposes of reliance by any such third parties. Oliver Wyman assumes no liability related to third party use of this report or any actions taken or decisions made as a consequence of the results, advice or recommendations set forth herein. This report should not replace the due diligence on behalf of any such third party.

6. Disclosure and Limitations

Oliver Wyman Actuarial Consulting, Inc., was engaged by the Commonwealth of Virginia to assist in performing actuarial and economic analyses as part of its State Innovation Waiver application under Section 1332 of the Patient Protection and Affordable Care Act. The actuarial services provided consisted of analyses and forecasting to determine whether the proposed Section 1332 Waiver will satisfy the Section 1332 Waiver guardrail requirements.

Tammy Tomczyk, Corryn Brown, and Ryan Schultz, all Fellows of the Society of Actuaries are responsible for this actuarial communication. They are all Members of the American Academy of Actuaries and meet the requirements to issue this report.

For our analysis, we relied on a wide range of data and information as described throughout this report. This includes information received from the issuers currently offering coverage in the individual ACA market in Virginia. Though we have reviewed the data for reasonableness and consistency, we have not independently audited or otherwise verified this data. Our review of the data may not reveal errors or imperfections. We have assumed the data provided is both accurate and complete. The results of our analysis are dependent on this assumption. If this data or information are inaccurate or incomplete, our findings and conclusions may need to be revised. All projections are based on data and information available as of August 5, 2021, and the projections are not a guarantee of results which might be achieved.

The estimates included within are based on federal law, regulations issued by the United States Department of Health and Human Services and the Internal Revenue Service, and applicable laws and regulations of the Commonwealth of Virginia as of September 30, 2021. Further, our estimates assume that current law as it relates to the Affordable Care Act, and other statutes and regulations that impact the health insurance markets, will continue in the future years without material change that would impact the results included in this report.

In addition, the projections we show in this report are dependent upon a number of assumptions regarding the future economic environment, medical trend rates, issuer behavior, the behavior of individuals and employers in light of incentives and penalties, and a number of other factors. These assumptions are disclosed within the report and have been discussed with representatives from the Commonwealth of Virginia.

While this analysis complies with the applicable Actuarial Standards of Practice, in particular ASOP No. 23, Data Quality and ASOP No 41, Actuarial Communication, users of this analysis should recognize that our projections involve estimates of future events, and are subject to economic, statistical and other unforeseen variations from projected values. We have not anticipated any extraordinary changes to the legal, social, or economic environment that might affect our projections. For these reasons, no assurance can be given that the emerging experience will correspond to the projections in this analysis. To the extent future conditions are at variance with the assumptions we have made in developing these projections, actual results will vary from our projections, and the variance may be substantial.

Oliver Wyman is not engaged in the practice of law and this report, which may include commentary on legal issues and regulations, does not constitute, nor is it a substitute for, legal advice. Accordingly, Oliver Wyman recommends that the Commonwealth of Virginia secure the advice of competent legal counsel with respect to any legal matters related to this report or otherwise.

This report is intended to be read and used as a whole and not in parts. Separation or alteration of any section or page from the main body of this report is expressly forbidden and invalidates this report.

7. Actuarial Certification

I, Tammy Tomczyk, am a Partner with Oliver Wyman Actuarial Consulting, Inc. I am a Fellow in the Society of Actuaries, a Member of the American Academy of Actuaries, and am qualified to provide the following certification.

This actuarial certification applies to the Commonwealth of Virginia's application for a State Innovation Waiver under Section 1332 of the Patient Protection and Affordable Care Act. The State is seeking to waive §1312(c)(1) of the Affordable Care Act, which requires that all enrollees in all health plans offered by an issuer in the individual market be members of a single risk pool.

Reliance

In performing the analyses outlined in this report and arriving at my opinion, I used and relied on information provided by the Commonwealth of Virginia, information obtained from issuers currently offering coverage in the individual ACA market in Virginia, financial statement information, and additional information published by various agencies of the federal government.

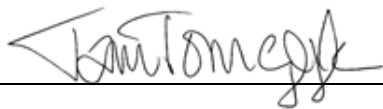
I used and relied on this information without independent investigation or audit. If this information is inaccurate, incomplete, or out of date, my findings and conclusions may need to be revised. While I have relied on the data provided without independent investigation or audit, I have reviewed the data for consistency and reasonableness. Where I found the data inconsistent or unreasonable, I requested clarification.

Actuarial Certification

In my opinion, the Commonwealth of Virginia's proposed Section 1332 Waiver application complies with the following requirements:

- **Scope of Coverage Requirement:** The Section 1332 Waiver will provide coverage to at least a comparable number of the State's residents as would be covered absent the waiver.
- **Affordability Requirement:** The Section 1332 Waiver will provide coverage and cost-sharing protections against excessive out-of-pocket spending that results in coverage which is at least as affordable for the State's residents as would be provided absent the waiver.
- **Comprehensiveness of Coverage Requirement:** The Section 1332 Waiver will provide coverage that is at least as comprehensive for the State's residents as would be provided absent the waiver.
- **Deficit Neutrality Requirement:** The Section 1332 Waiver will not increase the federal deficit.

This certification conforms to the applicable Actuarial Standards of Practice promulgated by the Actuarial Standards Board.



September 30, 2021

Appendix A. Overview of Oliver Wyman's Healthcare Reform Microsimulation Model

We utilized Oliver Wyman's HRM Model to assess the impact that the proposed Section 1332 Waiver is expected to have on the individual health insurance market and correspondingly the uninsured population in the Commonwealth of Virginia. The HRM Model is an economic utility model that captures the flow of individuals across various markets and coverage options based on their economic purchasing decisions and is integrated with actuarial modeling designed to assess the impact various reforms are expected to have on the health insurance markets. This model is a leading-edge tool for analyzing the impact of various healthcare reforms or proposed legislation.

The HRM Model projects the number of individuals expected to seek coverage under each health insurance coverage type using economic utility functions. The decision-making process for determining which health insurance coverage type is selected is made at the health insurance unit (HIU) level, where an HIU is defined as any grouping of family members where each person within the HIU might be eligible for coverage under the same policy. One exception to this is that individuals who are identified as being eligible for Medicare, Medicaid, CHIP, and other government sponsored coverage (e.g., government workers) are assumed to retain their government sponsored coverage, and the economic utility associated with employer-based coverage, individual market coverage or being uninsured is only evaluated by the HRM Model for the remaining individuals within an HIU.

HIUs are generally assumed to make economically rational decisions in selecting the health insurance option that maximizes the economic utility for the HIU. The HRM Model allows for some irrational behavior, including the principle of "inertia" in HIU decision making (i.e., people are unlikely to make significant changes in their situation for relatively small changes in utility) and the assumption that not all uninsured individuals will actually shop for health insurance coverage each year.

An HIU's decision to enroll in ACA coverage is based on the lowest cost bronze, silver, or gold plan available in each rating area (RA) which provides the greatest economic value. Both on-Exchange and off-Exchange plans are made available to each HIU, with PTCs applied to eligible HIUs. The economic utilities for all members of the HIU are aggregated to develop the corresponding utility for the HIU under each health insurance option.

Individuals identified as working for private employers are randomly categorized into synthetic employer groups of varying group sizes based on the distribution of group size from the Medical Expenditure Panel Survey (MEPS). An employer-based economic utility function, which takes into account items such as the expected costs which would be incurred as a result of not offering coverage (e.g., the penalty for not offering coverage) and the benefits that would be available to an employer's employees if they were to purchase coverage in the individual market (e.g., PTCs), determines whether a given employer will offer health insurance coverage to its employees and their dependents. If an employer offers coverage, all eligible employees and their dependents within each HIU (i.e., individuals who are not eligible for health insurance coverage through a government sponsored program) are assumed to evaluate the health insurance coverage options offered by the employer.

The decision as to whether an HIU will take up coverage in either the employer-based market, the individual market, or choose to be uninsured is based on the result from comparing two economic utility functions. The first economic utility function calculates the utility associated with taking up coverage in either the employer-based market or the individual market (depending on whether the employer of the primary or spouse within an HIU is modeled to offer coverage) and is a function of the premium the HIU would be expected to pay (net of employer subsidies or federal premium subsidies, respectively), any cost-sharing the HIU would be expected to pay out-of-pocket (net of any CSRs for applicable individual market coverage), and the risk aversion of the HIU. If multiple coverage options are available (e.g., employer coverage, individual market bronze-level coverage, individual market silver-level coverage), the utility of each coverage option is evaluated and the best option is selected. The second economic utility function calculates the utility associated with not taking coverage and remaining uninsured, and is a function of any tax penalty the HIU would be assessed, total allowed claim costs for the HIU (assuming a reduced level of utilization due to the lack of insurance coverage), and the risk aversion of the HIU. If the utility of being uninsured is greater than the utility associated with taking up health insurance coverage, the HIU is assumed to be uninsured. Otherwise, the HIU is assumed to take up coverage in either the employer-based market or the individual market for the coverage option that provides the maximum utility for the HIU.

Appendix B. Ten Year Budget Period Projections

Detailed Summary of Individual ACA Market Projections - Baseline and Waiver Scenarios

Baseline											
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
Total Individual ACA Enrollment	282,900	276,400	277,900	279,400	280,900	282,400	283,900	285,400	286,900	288,500	290,000
ACA PTC Enrollment	256,200	205,700	206,800	207,900	209,000	210,100	211,300	212,400	213,500	214,700	215,800
ACA Non-PTC Enrollment	26,700	70,700	71,100	71,500	71,900	72,300	72,600	73,000	73,400	73,800	74,200
Aggregate ACA Premium (millions)	\$1,935.0	\$1,960.7	\$2,069.7	\$2,184.8	\$2,306.3	\$2,434.6	\$2,570.0	\$2,712.9	\$2,863.8	\$3,023.1	\$3,191.2
Average ACA Premium Rate PMPM	\$570	\$591	\$621	\$652	\$684	\$718	\$754	\$792	\$832	\$873	\$917
Aggregate APTCs (millions)	\$1,466.6	\$1,210.5	\$1,284.3	\$1,362.4	\$1,445.0	\$1,532.4	\$1,624.9	\$1,722.8	\$1,826.4	\$1,935.9	\$2,051.9
Aggregate PTCs (millions)	\$1,409.3	\$1,163.3	\$1,234.2	\$1,309.2	\$1,388.6	\$1,472.6	\$1,561.5	\$1,655.6	\$1,755.1	\$1,860.4	\$1,971.8
Average PTCs PMPM	\$458	\$471	\$497	\$525	\$554	\$584	\$616	\$650	\$685	\$722	\$761
Waiver											
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
Total Individual ACA Enrollment	282,900	284,500	286,000	287,600	289,100	290,700	292,200	293,800	295,300	296,900	298,500
ACA PTC Enrollment	256,200	206,000	207,000	208,000	209,000	210,000	211,000	212,000	214,000	215,000	216,000
ACA Non-PTC Enrollment	26,700	78,500	79,000	79,600	80,100	80,700	81,200	81,800	81,300	81,900	82,500
Aggregate ACA Premium (millions)	\$1,935.0	\$1,666.4	\$1,757.8	\$1,855.5	\$1,958.7	\$2,067.7	\$2,182.7	\$2,304.0	\$2,432.2	\$2,567.4	\$2,710.2
Average ACA Premium Rate PMPM	\$570	\$488	\$512	\$538	\$565	\$593	\$622	\$654	\$686	\$721	\$757
Aggregate APTCs (millions)	\$1,466.6	\$971.1	\$1,029.9	\$1,093.5	\$1,160.8	\$1,232.1	\$1,307.6	\$1,387.4	\$1,472.0	\$1,561.4	\$1,656.1
Aggregate PTCs (millions)	\$1,409.3	\$933.1	\$989.7	\$1,050.8	\$1,115.5	\$1,184.0	\$1,256.5	\$1,333.3	\$1,414.5	\$1,500.5	\$1,591.5
Average PTCs PMPM	\$458	\$378	\$399	\$421	\$445	\$470	\$496	\$523	\$552	\$583	\$615
Change - Baseline Scenario to Waiver Scenario											
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
Total Individual ACA Enrollment	0	8,100	8,100	8,200	8,200	8,300	8,300	8,400	8,400	8,400	8,500
Total Individual ACA Enrollment (%)	0.00%	2.93%	2.91%	2.93%	2.92%	2.94%	2.92%	2.94%	2.93%	2.91%	2.93%
Average ACA Premium Rate PMPM (%)	0.00%	-17.43%	-17.49%	-17.49%	-17.49%	-17.49%	-17.49%	-17.49%	-17.49%	-17.49%	-17.49%
Average PTCs PMPM (%)	0.00%	-19.80%	-19.81%	-19.74%	-19.65%	-19.59%	-19.53%	-19.47%	-19.40%	-19.34%	-19.29%
Demonstration of Deficit Neutrality Requirement (amounts shown in millions)											
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
Change in Total APTCs	\$0.00	-\$239.40	-\$254.40	-\$268.90	-\$284.20	-\$300.30	-\$317.30	-\$335.40	-\$354.40	-\$374.50	-\$395.80
Change in Total PTCs	\$0.00	-\$230.20	-\$244.50	-\$258.40	-\$273.10	-\$288.60	-\$305.00	-\$322.30	-\$340.60	-\$359.90	-\$380.30
Change in Other (e.g., User Fees)	\$0.00	-\$6.30	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Net Savings to Federal Government	\$0.00	-\$223.90	-\$244.50	-\$258.40	-\$273.10	-\$288.60	-\$305.00	-\$322.30	-\$340.60	-\$359.90	-\$380.30
Projected Reinsurance Program Cost and Funding Levels											
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
Cost of Reinsurance Program (millions)	\$0.0	\$292.5	\$308.5	\$325.7	\$343.8	\$362.9	\$383.1	\$404.4	\$426.9	\$450.6	\$475.7
Federal Pass Through Funding (millions)	\$0.0	\$223.9	\$244.5	\$258.4	\$273.1	\$288.6	\$305.0	\$322.3	\$340.6	\$359.9	\$380.3
State Funding (millions)	\$0.0	\$68.6	\$64.0	\$67.3	\$70.7	\$74.3	\$78.1	\$82.1	\$86.3	\$90.7	\$95.4

Notes:

1. Enrollment volumes have been rounded to the nearest hundred and reflect average monthly enrollment levels
2. Aggregate values are in millions and have been rounded to the nearest hundred thousand
3. PMPM values have been rounded to the nearest whole dollar
4. Average ACA premium rate change shown is not equal to 15.6% due to differences in member mix (e.g., demographics, plan mix) between the baseline and waiver scenarios
5. The ratio of PTCs to APTCs is assumed to be 0.961



Oliver Wyman
411 East Wisconsin Avenue, Suite 1300
Milwaukee, WI 53202

Appendix C. Press Release Announcing Public Comment Period, Order Inviting Comment

The following notice was posted as a classified ad in these 20 Virginia daily newspapers:

Richmond Times Dispatch
Petersburg Progress-Index
Norfolk Virginian Pilot
Suffolk News-Herald
Newport News Daily Press
Washington Post (Virginia edition)
Northern Virginia Daily (Strasburg)
News Virginian (Waynesboro)
Winchester Star
Fredericksburg Free Lance-Star
Culpeper Star-Exponent
Harrisonburg Daily News-Record
News Leader (Staunton)
Charlottesville Daily Progress
Lynchburg News & Advance
Roanoke Times
Southwest Times (Pulaski)
Bristol Herald-Courier
Danville Register
Martinsville Bulletin

NOTICE TO THE PUBLIC

IMPLEMENTATION OF THE COMMONWEALTH OF VIRGINIA HEALTH REINSURANCE PROGRAM CASE NO. INS-2021-00110

The Virginia State Corporation Commission (SCC) is taking steps to create the Commonwealth Health Reinsurance Program beginning January 1, 2023. The program is designed to increase affordability in the individual health insurance market with a goal of decreasing premiums.

Establishment of the program depends on Federal approval, under the Affordable Care Act, of an application request for a State Innovation Waiver. Under the waiver, insurance carriers will be reimbursed for a proportion of the claims of covered individuals with high annual costs. In addition to

these federal pass-through funds, the program will be funded through state general funds as authorized by the Virginia General Assembly.

The SCC's waiver request application to the U.S. Secretary of Health and Human Services is due by January 1, 2022. The Commission must provide for public notice of the program and the opportunity to comment on the waiver application.

Information about the program is available on the SCC website at:

<https://scc.virginia.gov/boi/reinsurance>

Two public hearings have been set for Thursday, October 14, 2021. One at 10:00 a.m. and the second at 7:00 p.m. The hearings will be webcast.

Due to the ongoing public health emergency related to the spread of the coronavirus, or COVID-19, the State Corporation Commission will hold telephonic hearings for the receipt of public comments. Public witnesses wishing to provide oral testimony must pre-register by October 12, 2021 in one of three ways:

- Completing a public witness form for case number INS-2021-00110 on the SCC's website at: <http://scc.virginia.gov/pages/Webcasting>
- E-mailing the same form (PDF version on the same website as above) to SCCInfo@scc.virginia.gov
- Calling the SCC at 804-371-9141 during normal business hours and providing their name and the phone number you wish the Commission to call to reach you during either hearing.

For those who prefer, there is an opportunity to provide comments in writing on the waiver application. Written comments may be submitted through the SCC's website by November 1, 2021, at

<https://scc.virginia.gov/casecomments/Submit-Public-Comments>

If unable to submit electronically, send comments by U.S. Mail to Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, VA 23218-2118 and refer to case number INS-2021-00110.

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, SEPTEMBER 9, 2021

SAC-CLERK'S OFFICE
COMMENT CONTROL CENTER

2021 SEP -9 P 12: 11

COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

CASE NO. INS-2021-00110

Ex Parte: In the matter of the
Implementation of the Commonwealth
Health Reinsurance Program

ORDER FOR NOTICE, COMMENT AND HEARING

During the 2021 Special Session I, the Virginia General Assembly enacted Chapter 480 (HB 2332) of the 2021 Virginia Acts of Assembly. This bill requires the State Corporation Commission ("Commission"), upon approval of a State Innovation Waiver request ("1332 waiver" or "waiver") submitted pursuant to § 1332 of The Patient Protection and Affordable Care Act, 124 Stat. 119, to establish the Commonwealth Health Reinsurance Program ("Program") beginning January 1, 2023.¹ This Order notices the instant proceeding, provides an opportunity for public comment on the 1332 waiver application, as well as schedules a hearing, as required under federal law prior to submission of the waiver application.

Pursuant to HB 2332, the Program will be funded through state general funds and federal pass-through funding provided under the waiver, and will reimburse carriers in the individual health insurance market for a proportion of the claims of covered individuals with high annual costs. The Program is intended to increase affordability of health insurance coverage in the individual market with a goal of decreasing premiums.

HB 2332 sets out the framework for the Program, including carrier eligibility, the basis for determining medical expenditures, and the process by which benefits will be applied for and

¹ Code of Virginia § 38.2-6606 A.

21092099

paid. The bill also requires the Virginia Secretary of Health and Human Resources ("Secretary") to convene a work group of relevant stakeholders ("Work Group") to consider initiatives, including a state-based subsidy program, to increase affordability of health plans to individuals and to increase enrollment in the Virginia Health Benefit Exchange. The provisions of the bill, other than the requirement that the Commission apply for the 1332 waiver, will become effective 30 days after notice of approval of the waiver request.

Under the guidance of the Secretary, the Virginia HB 2332 Work Group held six meetings during the summer of 2021 and received presentations from experts on the 1332 waiver program, other states' healthcare affordability initiatives, and Virginia's uninsured population. The Work Group recommended that the waiver application include only the Program and not any additional cost savings programs, such as premium subsidies.

Section 38.2-6606 A of the Code of Virginia ("Code") requires the Commission to submit a 1332 waiver application to the U.S. Secretary of Health and Human Services by January 1, 2022 and make a draft waiver application available for public review and comment by October 1, 2021.² Prior to submitting the waiver application, federal rules³ require that the Commission provide for a public notice and comment period sufficient to ensure a meaningful level of public input for a section 1332 waiver. Federal rules further require the public notice and comment period to include a separate process for meaningful consultation with all federally recognized Indian tribes⁴ within a state's borders. Finally, the Commission is required to conduct public

² Code of Virginia § 38.2-6606 B.

³ 31 CFR § 33.112 and 45 CFR § 155.1312.

⁴ The federally recognized tribes in Virginia include the following: Chickahominy, Eastern Chickahominy, Rappahannock, Upper Mattaponi, Monacan, Nansemond, and Pamunkey.

hearings that provide for the opportunity to learn about and comment on the contents of the waiver application.

NOW THE COMMISSION, upon consideration of this matter, notes that the waiver application process requires its prompt review and receipt of input from the public and interested persons, as well as comment from the federally recognized Indian tribes located in Virginia, before the waiver application is submitted. Therefore, the Commission is establishing this schedule in advance of the due date of the waiver application to receive timely input on this matter.

In inviting public comment and setting the hearings, the Commission takes judicial notice of the ongoing public health issues related to the spread of the coronavirus, or COVID-19. The Commission has taken certain actions, and may take additional actions going forward, that could impact procedures in this matter. The Commission has requested, and received approval for, modification to the federal requirements for in-person public hearing to allow these hearings to be held virtually because of the ongoing COVID-19 Public Health Emergency.

Accordingly, IT IS ORDERED THAT:

(1) This matter is docketed and assigned Case No. INS-2021-00110 for purposes of receiving input from the public and interested persons in this matter.

(2) The Bureau of Insurance ("Bureau") will establish a webpage on the Commission's website at: scc.virginia.gov/pages/Reinsurance-Waiver to inform the public and interested persons about the Program. The draft 1332 waiver application will be posted on the website on or before October 1, 2021.

(3) The Commission's Division of Information Resources is directed to post this Order on the Commission's website. On or before November 1, 2021, any interested person may

file written comments on the waiver application by following the instructions found on the Commission's website: scc.virginia.gov/casecomments/Submit-Public-Comments. Those unable, as a practical matter, to file comments electronically may file such comments by U.S. mail to the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. All comments shall refer to Case No. INS-2021-00110.

(4) The Commission's Division of Information Resources shall forward a copy of this Order to the Register of Regulations for publication in the *Virginia Register of Regulations*.

(5) The Division of Information Resources shall cause a notice for comment and public hearing to be published in classified advertising on one occasion by October 1, 2021 in newspapers of general circulation throughout the Commonwealth.

(6) The Bureau shall consult with the Secretary of the Commonwealth for assistance in contacting representatives from the seven federally recognized Indian tribes within Virginia's borders. The Bureau also shall provide information on the Program and the waiver application to the Indian tribes, extend an opportunity to meet with them, and request that the Indian tribes provide comment, either collectively or individually, regarding the waiver application.

(7) Due to the ongoing public health emergency related to the spread of the coronavirus, or COVID-19, the Commission hereby schedules telephonic hearings for the receipt of public comment from interested persons on the Program, as follows:

- a. Two public hearings will be conducted to receive oral comments from the public and interested persons regarding the Program under consideration in this matter. As provided by § 12.1-31 of the Code, the Office of Hearing Examiners is directed to conduct these public hearings on behalf of the Commission.
- b. These hearings shall occur on Thursday, October 14, 2021 at 10:00 am and on Thursday, October 14, 2021 at 7:00 pm.

- c. The Bureau is directed to provide an overview of the Program at the beginning of each public hearing so that participants have an opportunity to learn about and comment on the contents of waiver application.
- d. To promote fairness for all persons offering comments, each person will be allotted up to five minutes to provide their comments. This time may be adjusted by the Hearing Examiner as necessary.
- e. On or before October 12, 2021, any person desiring to offer comments in this matter shall provide to the Commission (a) their name, and (b) the telephone number that they wish the Commission to call during the hearing to receive their comments. This information may be provided to the Commission in three ways: (i) by filling out a form on the Commission's website at scc.virginia.gov/pages/Webcasting; (ii) by completing and emailing the PDF version of this form to SCCInfo@scc.virginia.gov; or (iii) by calling (804) 371-9141.
- f. After the Bureau presentations at 10:00 a.m. and 7:00 p.m. on October 14, 2021, the Commission will telephone sequentially each person who has signed up to speak as provided above.
- g. Each public hearing will be webcast at scc.virginia.gov/pages/Webcasting.

A COPY hereof shall be sent electronically by the Clerk of the Commission to the following members of the Virginia HB 2332 Work Group: Chris Pyle, chris.pyle@deltadentalva.com; Chris Renkar, cjrenkar@independentbenefits.net; Christopher E. West, Christopher.E.West@kp.org; Clark Barrineau, cbarrineau@msv.org; Corey Pleasants, corey.pleasants@governor.virginia.gov; Craig Connors, cconnors@vhha.com; Daniel Carey, Daniel.carey@governor.virginia.gov; David DeBiasi, ddebiasi@aarp.org; Deepak Medala, deepak@enroll-virginia.com; Jeion Ward, DeJWard@house.virginia.gov; Mark Sickles, DeMSickles@house.virginia.gov; Don Harris, don@marksickles.com; Douglas Gray, dgray@vahp.org; Erik Rison, E.rison@vachamber.com; Freddy Mejia, freddy@thecommonwealthinstitute.org; Holly Mortlock, holly.mortlock@governor.virginia.gov; Jeffrey Palmore, jpalmore@reedsmith.com; Julie Dime, jdime@vhha.com; Kathie Naylor, knaylor@integrumadvisors.com; Kenn Penn, kpenn@chambersolutions.com; Kristin Burhop,

k.burhop@vachamber.com; Kristin Collins, Kristin.collins@tax.virginia.gov; Lauryn Walker, lauryn.walker@dmas.virginia.gov; Lindsay Berry, Lindsay.berry@anthem.com; Martin Johnson, mjohnson@virginiarealtors.org; Matthew Huntley, matthew.huntley@tax.virginia.gov; Melissa Assalone, Melissa.assalone@governor.virginia.gov; Meredith Lee, Meredith.lee@dmas.virginia.gov; Mike Tweedy, mtweedy@sfc.virginia.gov; Nicole Riley, Nicole.riley@nfib.org; Sabrina Corlette, sc732@georgetown.edu; Sara Cariano, sara@vplc.org; George Barker, district39@senate.virginia.gov; Susan Massart, smassart@hac.virginia.gov; Tim Jost, jostt@wlu.edu. A copy also shall be sent to the Commission's Office of General Counsel and Bureau of Insurance Life & Health Division.

Virginia's Section 1332 Reinsurance Waiver

Virginia Bureau of Insurance
Virtual Public Hearing
October 14, 2021
10:00 am

1

Before we get started

- Bureau of Insurance will give a presentation on the proposed reinsurance program and the section 1332 waiver.
- Once the presentation has completed, registered commenters will be contacted via phone and given an opportunity to speak.

2

Background

- Reinsurance is a mechanism for spreading the costs of expensive claims by pooling them together and paying for them through a separate financing system so that insurers do not have to price those costs into their standard premiums.
- Originally, the Affordable Care Act included a federal reinsurance program to stabilize premiums in the individual market, but this program was discontinued after 2016.
- Since then, 15 states have received federal approval to use federal funds to establish state-based reinsurance programs modeled on the prior federal program.

What is Virginia proposing?

- Virginia is seeking to implement a state-based reinsurance program to increase affordability for individual health insurance coverage
- Virginia is seeking to utilize the Section 1332 program under the Affordable Care Act to apply for a State Innovation Waiver to permit and help fund the reinsurance program.
- The waiver application submitted by Virginia, if approved, will take effect in the 2023 plan year and will remain in effect for five years.

Authority for the Proposal

- During 2021, the Virginia General Assembly passed and the Governor signed into law HB 2332, the **Commonwealth Health Reinsurance Program** which directs the SCC to:
 - submit a section 1332 waiver application to the federal government specific to a reinsurance program beginning in 2023
 - establish a state-based reinsurance program (for up to 20% premium reduction)
 - maximize federal pass-through funding for that reinsurance program
- Directs the General Assembly to appropriate funds to ensure the operation of the state-based reinsurance program.

What is a Section 1332 Waiver?

- Named for section 1332 of the Affordable Care Act (ACA)
- Allows a state to modify ACA rules to pursue innovative programs to meet the unique needs of their markets and their residents.
- Proposal must meet statutory “guardrails” set forth under the ACA
- Importantly, a 1332 waiver allows states to receive federal “pass-through” funding for savings that the federal government may realize as a result of state initiatives.

How does Reinsurance Work?

Reinsurance Cap– Issuer is responsible for all claim costs over this amount

Coinsurance Rate – Issuer is paid a portion of claims cost within the Reinsurance band

Attachment point – Issuer is responsible for all claim costs up to this amount



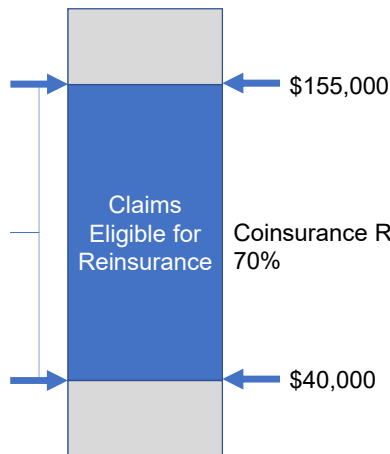
7

Payment Parameters in Current Proposal

Reinsurance Cap– Issuer is responsible for all claim costs over this amount

Coinsurance Rate – Issuer is paid a portion of claims cost within the Reinsurance band

Attachment point – Issuer is responsible for all claim costs up to this amount



Coinsurance Rate = 70%

These amounts are total annual medical expenditures on any covered individual for 2023

8

Projected Reinsurance Program Impact

- Lower claims cost for insurers is projected to reduce premium rates by 15.6%
- Subsidized individuals on the Exchange will see, on average, minimal difference in out of pocket because their premium tax credits (PTCs) will be reduced in line with the reduction in premium rates.
- Unsubsidized individuals who benefit from premium reduction are expected to move onto the Exchange (from off-exchange plans or being uninsured.)

Federal Pass-through Funding

- Allows states to take the federal dollars currently being expended for their residents through the ACA's premium tax credits (PTCs) and reallocate those funds to state-specific initiatives, such as reinsurance.
- Reducing baseline premium prices lowers the cost of these PTCs to the federal government
 - Savings provided to the State as a "pass-through"

ACA Statutory Guardrails

1. **Comprehensiveness of Coverage** – The waiver will not change the scope of benefits provided and will result in an increase in the number of individuals with coverage that meets the ACA's Essential Health Benefits requirements.
2. **Affordability of Coverage** – The waiver will reduce premiums and will not impact cost sharing.
3. **Scope of Coverage** – Under the waiver, more Virginians will enroll in coverage than would be covered absent the waiver.
4. **Federal Deficit** – The waiver will not result in increased spending or expenses to the federal government.

Projected Reinsurance Program Funding

	2022	2023	2024	2025	2026	2027
Cost of Reinsurance Program (millions)	\$0.00	\$292.50	\$308.50	\$325.70	\$343.80	\$362.90
Federal Pass Through Funding (millions)	\$0.00	\$223.90	\$244.50	\$258.40	\$273.10	\$288.60
State Funding (millions)	\$0.00	\$68.60	\$64.00	\$67.30	\$70.70	\$74.30

- State share of the program costs will be paid from State General Funds.
- Estimated state costs for 2023 range from \$60.8M-\$83.3M based on scenarios of how membership, premium price, and medical costs are impacted.
- These estimates assume that the enhanced premium subsidies under the American Rescue Plan Act (ARPA) expire at the end of the 2022 plan year.

Impact of Enhanced Federal Subsidies

- The American Rescue Plan Act (ARPA) increased the amount and number of PTCs available through 2022.
- If enhanced subsidies are funded past 2022, it would result in greater federal savings and substantially lower state costs to fund the reinsurance program.
- If federal action extends the enhanced PTCs, the Commonwealth anticipates adjusting its reinsurance program to target a 20% reduction in premium rate.

Timeline of Approval and Funding

Date	
3/31/2021	HB 2332 signed into law
10/1/2021 – 11/1/2021	Draft Waiver Application published for public comment
10/14/2021	Public Hearings on proposed reinsurance program (federal requirement)
1/1/2022	Section 1332 waiver application is submitted to the federal government
4/1/2022	Expected federal approval of waiver application
5/1/2022	Virginia finalizes 2023 reinsurance parameters
5/2022	Issuers submit 2023 rates including reinsurance impact
8/2022	BOI approves 2023 rates
1/1/2023	Reinsurance program begins
4/2023	Federal pass-through funding for 2023 awarded
4/30/2024	Final deadline for issuers to submit reinsurance claims for the 2023 plan year
9/30/2024	BOI notifies issuers of their reinsurance payment amount
11/15/2024	Payment to issuers for reinsurance claims incurred during the 2023 plan year

Public Comment Period and Hearings

- SCC is hosting 2 virtual public hearings to gather public input
 - October 14, 2021 at 10 am
 - October 14, 2021 at 7 pm
- We are accepting public comments on the 1332 Waiver Application for Reinsurance beginning October 1, 2021 and ending November 1, 2021
 - Comments can be submitted through an online form available at <https://scc.virginia.gov/casecomments/comment/INS-2021-00110>
 - Or by postal mail to:
 - Clerk of the State Corporation Commission
 - c/o Document Control Center
 - P.O. Box 2118, Richmond, Virginia 23218-2118
 - Refer to Case No. INS-2021-00110 in your comments

Resources

- Links to waiver documents, public notices and updates are posted on the SCC website – <https://scc.virginia.gov/pages/Reinsurance-Waiver>
- Please contact BOI at reinsurance.waiver@scc.virginia.gov with any questions you may have.

Public Comment

Appendix D. Submitted Public Comments

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901 E. Byrd Street, Suite 1005 | Richmond, VA 23219
1-866-542-8164 | Fax: 804-819-1923 | TTY: 1-877-434-7598
aarp.org/va | aarpva@aarp.org | twitter: @aarpva
facebook.com/AARPVirginia

October 12, 2021

Scott A. White
Commissioner
Virginia Bureau of Insurance

Electronic Submission Re: Case No. INS-2021-00110, Reinsurance Waiver Application

Dear Commissioner White:

AARP Virginia writes to express our support for Virginia's ACA Section 1332 State Innovation Waiver Application to establish the Commonwealth Health Reinsurance Program. AARP supported House Bill 2332 which requires the State Corporation Commission to submit this application for federal approval to establish a reinsurance program beginning January 1, 2023. This 1332 waiver will permit Virginia to operate a new reinsurance program which will help drive down health care premiums and expand access to more affordable, quality health insurance coverage throughout the state.

AARP supports the establishment of Affordable Care Act (ACA) Reinsurance Programs such as the one Virginia plans to launch. Over the last decade, reinsurance programs established in states across the country have driven down insurance premiums and out-of-pocket costs for millions of Americans. A report from Georgetown University¹ found that the reinsurance programs in Alaska, Minnesota and Oregon helped stabilize premiums, increase enrollment and maintain insurer participation in the individual market.

Another analysis² from the health care consulting firm Avalere found that states implementing reinsurance programs see an average 19.9 percent drop in individual market premiums within the first year. Older adults in these markets already pay premiums that are up to three times as high as the premiums younger adults pay for the same coverage, so reducing premiums by even a small percentage can make a significant difference for older adults.

¹ <http://chirblog.org/new-georgetown-report-assessing-effectiveness-state-based-reinsurance/>

² <https://avalere.com/press-releases/state-run-reinsurance-programs-reduce-aca-premiums-by-19-9-on-average>

We thank you for the opportunity to share our support for Virginia's 1332 waiver application and we look forward to continuing to work together in order to ensure affordable, quality health insurance coverage for all Virginians.

Sincerely,

A handwritten signature in black ink that reads "Jim Dau". The signature is written in a cursive, slightly slanted style.

Jim Dau
State Director



October 13, 2021

Bradley Marsh
Health Insurance Policy Advisor
Virginia Bureau of Insurance, State Corporation Commission
P.O. Box 1157
Richmond, Virginia 23218

SCC Case Number: INS-2021-00110

Submitted electronically via scc.virginia.gov/casecomments/comment/INS-2021-00110

Re: Anthem Comments on the Commonwealth of Virginia §1332 State Innovation Waiver Application

Dear Mr. Marsh:

Anthem Blue Cross and Blue Shield (Anthem) commends both Virginia policymakers for enacting the Commonwealth Health Reinsurance Program (HB 2332) and the Virginia Bureau of Insurance (BOI) for its work in developing the draft 1332 State Innovation Waiver (also referred to as a section 1332 waiver). Anthem fully supports the waiver application which will increase the stability of Virginia's individual market, reduce premiums, and increase the number of individuals with the protection and benefits of health insurance coverage.

Anthem also strongly supports the sustainable General Fund source as prescribed in HB 2332 for the state's portion of the costs of this program. It is critically important that the funding source be broad-based, not an assessment on any health insurance market that would only serve to make coverage in those markets less affordable. Any premium or provider taxes would simply result in higher premiums in those markets being assessed.

Bulleted below are Anthem's additional points of feedback on the draft Commonwealth of Virginia 1332 State Innovation Waiver application.

- Anthem supports the claims-based model (similar to the Affordable Care Act (ACA) transitional reinsurance program) that will reimburse issuer's offering individual market ACA coverage for a percentage of the annual claims which they incur on a per member basis between the attachment point and the reinsurance cap.
- Anthem supports the anticipated 2023 reinsurance parameters with an attachment point of \$40,000, a coinsurance rate of 70 percent, and a reinsurance cap of \$155,000. The coinsurance

rate will still incentivize issuers to apply care management programs, provider payment methodologies, and other programs to improve health outcomes and reduce unnecessary healthcare spending.

- In the draft waiver application, it states that the reinsurance program parameters for the 2023 benefit year would be finalized by 5/1/2022 and that the parameters for future years would be completed in May of the preceding year. This timing does not provide Anthem and other issuers with enough time to appropriately incorporate the reinsurance program payment parameters into our rate filings for the upcoming year. Anthem recommends that the BOI finalize the reinsurance payment parameters for the upcoming year by March 1 of the preceding year.

Anthem appreciates this opportunity to provide feedback and input related to the BOI's section 1332 waiver. Should you have any questions or wish to discuss our comments further, please contact me at Lindsay.Berry@anthem.com.

Sincerely,

A handwritten signature in black ink that reads "Lindsay Berry Winter". The signature is written in a cursive, flowing style.

Lindsay Berry Winter
Senior Director, Government Relations

October 29, 2021

Commissioner White,

CareFirst appreciates the opportunity to provide input on INS-2021-00110 "Commonwealth of Virginia 1332 State Innovation Waiver Application to Establish a State Reinsurance Program". CareFirst strongly supports the creation of a State Reinsurance Program and thanks the Virginia Bureau of Insurance (VBOI) and Oliver Wyman for their work to create the waiver application. However, we have a concern with the existing waiver application:

- 1) HB 2332 contains prescriptive language in Section 38.2-6602 D, which states reinsurance payments must be made "net of transfers received for the same enrolled individual under the federal risk adjustment program". There has been no accounting for the impact of this proposal in the application, which may impact the overall costs of the program and expected rate reductions. This may result in the Centers for Medicaid and Medicaid Services (CMS) deeming the application incomplete. More broadly, CareFirst has concerns that this approach cannot be operationalized because risk adjustment payments are not made at the individual level.

CareFirst looks forward to working with the VBOI to ensure that the 1332 State Innovation Waiver can be approved by CMS and appropriately implemented for the 2023 benefit year. Thank you for your consideration of our comments.

Sincerely,



Ann Harbour
Director, Government Affairs-Virginia



Mid-Atlantic Permanente Medical Group, P.C.
Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc.

November 1, 2021

Honorable Jehmal Hudson
Honorable Judith Williams Jagdmann
Honorable Angela Navarro
Virginia State Corporation Commission
1300 E. Main Street
Richmond, VA 23219

Submitting electronically via scc.virginia.gov/casecomments/comment/INS-2021-00110

RE: Virginia's ACA Section 1332 State Innovation Waiver Application
(Case No. INS-2021-00110)

Dear Commissioners:

Kaiser Permanente offers the following comments in response to Virginia's Draft 1332 Waiver Application. Kaiser Permanente is the largest private integrated health care delivery system in the United States, delivering care to 12.2 million members in eight states and the District of Columbia. Kaiser Permanente of the Mid-Atlantic States provides and coordinates complete health care services for over 756,000 members through 34 medical office buildings in the District of Columbia, Maryland, and Virginia.

Kaiser Permanente appreciates the Bureau of Insurance's commitment to stabilizing Virginia's individual market and supports the Bureau's goals of reducing rates, increasing enrollment, and improving the overall morbidity of the individual market risk pool. Kaiser Permanente has significant experience with helping develop and implement state-based reinsurance programs: three jurisdictions within our service area have operating programs (Colorado, Maryland, and Oregon) and two more are in the process of implementing one (Georgia and Virginia).

The Waiver Application indicates the proposed reinsurance program would reimburse issuers offering comprehensive coverage in the individual market for 70% of the annual claims incurred on a per member basis between \$40,000 and \$155,000 in plan year 2023. These payment parameters will be finalized in the spring of 2022 after further analyses and stakeholder input and established annually thereafter. With these proposed parameters, the Bureau anticipates an overall 15.6% reduction in premium rates and up to a 2.9% increase in enrollment in 2023. The Waiver Application acknowledges that future premium rate reductions and enrollment increases will vary depending upon program parameters and available funding.

To ensure the greatest number of consumers realize benefits from Virginia's reinsurance program, the Bureau should include the following specific elements in its program parameters and final Waiver Application:

1. Acknowledgment of and preparation for potential significant federal policy changes that could impact the state's reinsurance program.
2. Description of the Bureau's intent to ensure the federal risk adjustment program and the Virginia reinsurance program do not duplicate payments for the same high-risk membership.

We discuss these requests below.

Federal Uncertainty and Potential Impacts to Virginia's Reinsurance Program

State-based reinsurance programs gained popularity starting in 2017 for a few reasons. First, the transitional federal reinsurance program expired at the end of 2016. The following year, 1332 waivers became available offering states flexibility to explore new programs and concepts while providing access to federal funding and without running afoul of the ACA statutory and regulatory framework. During this timeframe, individual market premiums were rising in many geographic areas and states began exploring a range of policies to make individual market coverage more affordable and lower premium rates. Reinsurance programs offered states an opportunity to mitigate the impact of high-cost claims and thereby limit premium increases for consumers amidst the rising rates, and 1332 waivers allowed states to recapture any federal savings through pass-through funding. At the start of 2021, twelve states had fully implemented reinsurance programs, and more states are in the process of implementing or considering the policy.

Since that time, the federal policy landscape has changed significantly. Earlier this year, Congress passed, and the President signed, the American Rescue Plan Act (ARPA) which increased ACA premium subsidies for those already eligible and expanded eligibility by extending subsidies above 400% of FPL – giving many more consumers access to low-cost or even zero-dollar coverage in the individual market. The subsidy expansions currently expire after the 2022 plan year, but Congress is actively considering extending or making permanent these provisions. There remains considerable uncertainty about the future of the federal premium subsidy landscape, something that could affect the overall consumer impact of Virginia's reinsurance program and projected pass-through funding.

The Waiver Application and associated actuarial and economic analyses are based upon current law and regulations. It assumes the federal premium subsidy expansions will terminate after plan year 2022. Oliver Wyman identified the expiration of expanded premium subsidies as a key assumption in the actuarial and economic analyses. Another key assumption is that “there will be no significant legislative changes at either the state or federal level.”

Kaiser Permanente understands the need to base the Waiver Application upon current law. However, we consider potential extension of expanded federal premium subsidies a critical factor in assessing the impact of the proposed reinsurance program in Virginia. We recommend including specific steps the Bureau will take if these federal policy changes take place, including revising the Waiver Application and updating associated actuarial and economic analyses.

We also encourage the Bureau to continue assessing how federal or state policy changes might affect the program and whether other policies could serve Virginia residents. For example, Kaiser Family Foundation estimates that over 117,000 uninsured Virginia residents are currently eligible for free coverage after passage of ARPA.¹ If the subsidy expansions are extended or made permanent, we encourage the state to invest in targeted education and outreach efforts, helping uninsured individuals assess their eligibility for and enroll in subsidized individual market coverage. In addition, the end of the public health emergency will bring about Medicaid redeterminations in all fifty states. As individuals are likely to transition from Medicaid to other job-based or exchange-based coverage, this outreach and education effort is even more critical to keep people covered. The state might also consider policy changes such as state-based premium or cost-sharing subsidies, policies that will be easier to implement once the state transitions to a state-based marketplace in 2024. We also encourage Virginia to assess potential policy solutions aimed at stabilizing the fully insured small group market. This market has received far less attention from federal and state policymakers but is critical for many small business owners.

Federal Risk Adjustment and Virginia Reinsurance Overlap

The federal risk adjustment program compensates carriers for high-risk members by transferring money among carriers based on their enrollment of individuals with certain high-cost diagnoses. CMS has long recognized that the scale of such transfers plays a crucial role in issuer decisions to participate in the individual market.

Actuarial experts recognize reinsurance-level adjustments for risk adjustment as sound policy. Milliman notes that “the current federal risk adjustment methodology does not account for payments from a state-based reinsurance program and can result in double compensation for high-risk members, both from the reinsurance program and from risk adjustment. This finding may be important to many other states considering reinsurance-like proposals under Section 1332 to help stabilize their markets. Specifically, if appropriate changes to risk-adjustment are not made, a reinsurance program could lead to pricing inefficiencies and distortions that negatively impact the market and could work against the goals of the reinsurance program overall.”²

The enabling legislation for Virginia’s reinsurance program requires that program transfers account for payments made under the federal risk adjustment program. The Bureau has acknowledged the overlap issue and the statutory requirement to account for it and we understand the Bureau is assessing options to address the overlap. However, aside from attaching the enabling legislation, the Waiver Application does not include a discussion of this issue or an analysis of the potential impact of double compensation for the same high-risk claims.

¹ Kaiser Family Foundation, A Closer Look at the Uninsured Marketplace Eligible Population Following the American Rescue Plan Act (May 2021), <https://www.kff.org/private-insurance/issue-brief/a-closer-look-at-the-uninsured-marketplace-eligible-population-following-the-american-rescue-plan-act/>.

² Milliman, Paring Risk Adjustment to Support State 1332 Waiver Activities (Aug. 2017), <http://www.milliman.com/uploadedFiles/insight/2017/risk-adjustment-state-1332-waiver-activities.pdf>. See also American Academy of Actuaries, How Changes to Health Insurance Market Rules Would Affect Risk Adjustment (May 2017), <http://www.actuary.org/content/how-changes-health-insurance-market-rules-would-affect-risk-adjustment>.

We recommend the Bureau request actuarial analyses to determine the extent of the overlap and continue reviewing methodologies to correct for the overlap. This analysis will help inform 2023 individual market rates, as issuers will need to set rates that reflect expected reinsurance recoveries after the correction of the overlap. Failure to address this issue in the first year of the program not only creates equity issues among carriers but could also cause disruption to consumers in the form of abrupt premium changes in future years because of a delay in addressing the overlap.

We appreciate your attention to this request and are happy to provide additional information. Please feel free to contact Christopher West at Christopher.E.West@kp.org or (804) 525-8105 with questions.

Sincerely,

A handwritten signature in black ink that reads "Ruth E. Williams-Brinkley". The signature is written in a cursive, flowing style.

Ruth E. Williams-Brinkley, FACHE
President, Kaiser Foundation Health Plan of Mid-Atlantic States, Inc.

SCC Case Number **INS-2021-00110**

Submitted electronically via <https://scc.virginia.gov/casecomments/comment/INS-2021-00110>

October 29, 2021

Commissioner Scott A. White
State Corporation Commission, Bureau of Insurance
P.O. Box 1157
Richmond, Virginia 23218

**Re: VHHA Comments on Commonwealth of Virginia 1332 State Innovation Waiver
Application to Establish a State Reinsurance Program**

Dear Commissioner White:

On behalf of the Virginia Hospital & Healthcare Association's (VHHA) 26 member health systems – with 110 community, psychiatric, rehabilitation, and specialty hospitals – thank you for the opportunity to provide comments to the to the State Corporation Commission (SCC) on the draft application to establish a state reinsurance program in Virginia.

Affordable, accessible financial coverage for health care services is foundational to a thriving society and economy. Despite myriad private and public efforts to make coverage more affordable, about 8% of Virginians are still uninsured. For most Virginians who have coverage, premiums continue to rise at rates that are unsustainable. Amid these rising premiums, ever-increasing deductibles, copays, and coinsurance amounts are shifting an even greater portion of the costs of care onto consumers. Many Virginians spend thousands of dollars out-of-pocket before their coverage plan provides any benefits. These higher costs result in less choice, delayed or foregone care, and, potentially, consumers dropping coverage altogether.

A reinsurance program is not a singular solution to the cost of coverage dilemma, but it is an important and substantial backstop that can reduce premium rates. VHHA and its members fully support the establishment of a state-based reinsurance program and commend the SCC and other stakeholders for their work preparing the program application.

The laudable goal of 15% - 20% reduction in premiums will help stabilize the individual market and provide a more affordable option for Virginia citizens in need of health care coverage. In order to ensure the continued success and public support for the reinsurance program into the future, we encourage the SCC to facilitate a rigorous oversight process for monitoring the cost and effectiveness of the program. If actual expenditures and premium experience diverge from the forecast, there should be a mechanism in place to respond and adjust program parameters and funding in a timely manner. As the cost of the program can be expected to change over time, we likewise urge the SCC to work with stakeholders and the General Assembly to explore options

for sustainable funding over the long term so that the program's viability is not jeopardized in future years should the funding liability exceed expectations.

Again, VHHA and its members support the establishment of the reinsurance program and appreciate the opportunity to comment on the application. We look forward to continuing our collaboration on this important work. You can reach me at (804) 297-3194 and cconnors@vhha.com.

Sincerely,

A handwritten signature in black ink that reads "Craig Connors". The signature is written in a cursive, flowing style.

Craig Connors
Senior Director, Payor Relations
Virginia Hospital and Healthcare Association

Appendix E. Tribal Contact and Responses

Below are copies of the emails sent to the tribes to solicit their input on the waiver application. They were sent with the draft waiver as an attachment. SCC reached out to the Virginia Secretary of the Commonwealth to obtain official email addresses for each tribe and subsequently confirmed those emails with the tribes. In addition to the notification emails, we have included response emails from the Chickahominy – Eastern Division.

From: [Bradley Marsh](#)
To: debra.hansen@pamunkey.org; pamunkeytribe@pamunkey.org
Subject: Consultation with Tribe on Federal Waiver for Health Reinsurance
Date: Tuesday, October 5, 2021 5:00:00 PM
Attachments: [Draft Reinsurance Waiver Application for Public Comment.pdf](#)

Greetings-

The Virginia Bureau of Insurance wants to ensure that the Pamunkey Tribe has an opportunity to review and comment on our proposed federal waiver application. During 2021, the Virginia General Assembly passed [HB 2332](#), the Commonwealth Health Reinsurance Program, which requires the State Corporation Commission to submit a waiver request for federal approval to establish a reinsurance program beginning January 1, 2023. The goal of the proposed program is to increase affordability in the individual health insurance market by lowering premiums. It will accomplish this goal by reimbursing carriers for a proportion of the claims of covered individuals with high annual costs.

As a part of the public notice and comment process for this waiver application, 31 CFR § 33.112 requires that “Such public notice and comment period shall include, for a State with one or more Federally-recognized Indian tribes within its borders, a separate process for meaningful consultation with such tribes.” We have attached a copy of the draft waiver application to this email and additional information is available at <https://www.scc.virginia.gov/pages/Reinsurance-Waiver>.

Our public comment period runs until November 1, 2021. We are open to receiving written comments, meeting over the phone, or holding a virtual meeting to receive any comments that you all have during this period. We will also be conducting virtual hearings for the general public on October 14, 2021 at 10 am and 7 pm at which we will provide an overview of the waiver and receive comments.

Please don't hesitate to email or call me at (804)225-3484 if you have any questions or would like to discuss the process. Thanks

Bradley Marsh
Health Insurance Policy Advisor
Virginia Bureau of Insurance
Bradley.marsh@scc.virginia.gov
(804)225-3484

Bradley Marsh

From: Bradley Marsh
Sent: Tuesday, October 5, 2021 4:42 PM
To: info@chickahominytribe.org
Subject: Consultation with Tribe on Federal Waiver for Health Reinsurance
Attachments: Draft Reinsurance Waiver Application for Public Comment.pdf

Greetings-

The Virginia Bureau of Insurance wants to ensure that the Chickahominy Tribe has an opportunity to review and comment on our proposed federal waiver application. During 2021, the Virginia General Assembly passed [HB 2332](#), the Commonwealth Health Reinsurance Program, which requires the State Corporation Commission to submit a waiver request for federal approval to establish a reinsurance program beginning January 1, 2023. The goal of the proposed program is to increase affordability in the individual health insurance market by lowering premiums. It will accomplish this goal by reimbursing carriers for a proportion of the claims of covered individuals with high annual costs.

As a part of the public notice and comment process for this waiver application, 31 CFR § 33.112 requires that “Such public notice and comment period shall include, for a State with one or more Federally-recognized Indian tribes within its borders, a separate process for meaningful consultation with such tribes.” We have attached a copy of the draft waiver application to this email and additional information is available at <https://www.scc.virginia.gov/pages/Reinsurance-Waiver>.

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Please don't hesitate to email or call me at (804)225-3484 if you have any questions or would like to discuss the process. Thanks

Bradley Marsh
Health Insurance Policy Advisor
Virginia Bureau of Insurance
Bradley.marsh@scc.virginia.gov
(804)225-3484

Bradley Marsh

From: Bradley Marsh
Sent: Tuesday, October 5, 2021 4:43 PM
To: penny.wynn@cit-ed.org
Subject: Consultation with the Tribe on Federal Waiver for Health Reinsurance
Attachments: Draft Reinsurance Waiver Application for Public Comment.pdf

Greetings-

The Virginia Bureau of Insurance wants to ensure that the Eastern Chickahominy Tribe has an opportunity to review and comment on our proposed federal waiver application. During 2021, the Virginia General Assembly passed [HB 2332](#), the Commonwealth Health Reinsurance Program, which requires the State Corporation Commission to submit a waiver request for federal approval to establish a reinsurance program beginning January 1, 2023. The goal of the proposed program is to increase affordability in the individual health insurance market by lowering premiums. It will accomplish this goal by reimbursing carriers for a proportion of the claims of covered individuals with high annual costs.

As a part of the public notice and comment process for this waiver application, 31 CFR § 33.112 requires that “Such public notice and comment period shall include, for a State with one or more Federally-recognized Indian tribes within its borders, a separate process for meaningful consultation with such tribes.” We have attached a copy of the draft waiver application to this email and additional information is available at <https://www.scc.virginia.gov/pages/Reinsurance-Waiver>.

Our public comment period runs until November 1, 2021. We are open to receiving written comments, meeting over the phone, or holding a virtual meeting to receive any comments that you all have during this period. We will also be conducting virtual hearings for the general public on October 14, 2021 at 10 am and 7 pm at which we will provide an overview of the waiver and receive comments.

Please don't hesitate to email or call me at (804)225-3484 if you have any questions or would like to discuss the process. Thanks

Bradley Marsh
Health Insurance Policy Advisor
Virginia Bureau of Insurance
Bradley.marsh@scc.virginia.gov
(804)225-3484

From: [Bradley Marsh](#)
To: Admin@umitribe.org; chief@umitribe.org; lance.johnson@umithealth.com
Subject: Consultation with Tribe on Federal Waiver for Health Reinsurance
Date: Tuesday, October 5, 2021 4:49:00 PM
Attachments: [Draft Reinsurance Waiver Application for Public Comment.pdf](#)

Greetings-

The Virginia Bureau of Insurance wants to ensure that the Upper Mattaponi Tribe has an opportunity to review and comment on our proposed federal waiver application. During 2021, the Virginia General Assembly passed [HB 2332](#), the Commonwealth Health Reinsurance Program, which requires the State Corporation Commission to submit a waiver request for federal approval to establish a reinsurance program beginning January 1, 2023. The goal of the proposed program is to increase affordability in the individual health insurance market by lowering premiums. It will accomplish this goal by reimbursing carriers for a proportion of the claims of covered individuals with high annual costs.

As a part of the public notice and comment process for this waiver application, 31 CFR § 33.112 requires that “Such public notice and comment period shall include, for a State with one or more Federally-recognized Indian tribes within its borders, a separate process for meaningful consultation with such tribes.” We have attached a copy of the draft waiver application to this email and additional information is available at <https://www.scc.virginia.gov/pages/Reinsurance-Waiver>.

Our public comment period runs until November 1, 2021. We are open to receiving written comments, meeting over the phone, or holding a virtual meeting to receive any comments that you all have during this period. We will also be conducting virtual hearings for the general public on October 14, 2021 at 10 am and 7 pm at which we will provide an overview of the waiver and receive comments.

Please don't hesitate to email or call me at (804)225-3484 if you have any questions or would like to discuss the process. Thanks

Bradley Marsh
Health Insurance Policy Advisor
Virginia Bureau of Insurance
Bradley.marsh@scc.virginia.gov
(804)225-3484

From: [Bradley Marsh](#)
To: arichardson@rappahannocktribe.org; icoleman@rappahannocktribe.org
Subject: Consultation with the Tribe on Federal Waiver for Health Reinsurance
Date: Tuesday, October 5, 2021 4:45:00 PM
Attachments: [Draft Reinsurance Waiver Application for Public Comment.pdf](#)

Greetings-

The Virginia Bureau of Insurance wants to ensure that the Rappahannock Tribe has an opportunity to review and comment on our proposed federal waiver application. During 2021, the Virginia General Assembly passed [HB 2332](#), the Commonwealth Health Reinsurance Program, which requires the State Corporation Commission to submit a waiver request for federal approval to establish a reinsurance program beginning January 1, 2023. The goal of the proposed program is to increase affordability in the individual health insurance market by lowering premiums. It will accomplish this goal by reimbursing carriers for a proportion of the claims of covered individuals with high annual costs.

As a part of the public notice and comment process for this waiver application, 31 CFR § 33.112 requires that “Such public notice and comment period shall include, for a State with one or more Federally-recognized Indian tribes within its borders, a separate process for meaningful consultation with such tribes.” We have attached a copy of the draft waiver application to this email and additional information is available at <https://www.scc.virginia.gov/pages/Reinsurance-Waiver>.

Our public comment period runs until November 1, 2021. We are open to receiving written comments, meeting over the phone, or holding a virtual meeting to receive any comments that you all have during this period. We will also be conducting virtual hearings for the general public on October 14, 2021 at 10 am and 7 pm at which we will provide an overview of the waiver and receive comments.

Please don't hesitate to email or call me at (804)225-3484 if you have any questions or would like to discuss the process. Thanks

Bradley Marsh
Health Insurance Policy Advisor
Virginia Bureau of Insurance
Bradley.marsh@scc.virginia.gov
(804)225-3484

From: [Bradley Marsh](#)
To: tribaladmin@monacannation.com
Subject: Consultation with Tribe on Federal Waiver for Health Reinsurance
Date: Tuesday, October 5, 2021 4:50:00 PM
Attachments: [Draft Reinsurance Waiver Application for Public Comment.pdf](#)

Greetings-

The Virginia Bureau of Insurance wants to ensure that the Monacan Tribe has an opportunity to review and comment on our proposed federal waiver application. During 2021, the Virginia General Assembly passed [HB 2332](#), the Commonwealth Health Reinsurance Program, which requires the State Corporation Commission to submit a waiver request for federal approval to establish a reinsurance program beginning January 1, 2023. The goal of the proposed program is to increase affordability in the individual health insurance market by lowering premiums. It will accomplish this goal by reimbursing carriers for a proportion of the claims of covered individuals with high annual costs.

As a part of the public notice and comment process for this waiver application, 31 CFR § 33.112 requires that “Such public notice and comment period shall include, for a State with one or more Federally-recognized Indian tribes within its borders, a separate process for meaningful consultation with such tribes.” We have attached a copy of the draft waiver application to this email and additional information is available at <https://www.scc.virginia.gov/pages/Reinsurance-Waiver>.

Our public comment period runs until November 1, 2021. We are open to receiving written comments, meeting over the phone, or holding a virtual meeting to receive any comments that you all have during this period. We will also be conducting virtual hearings for the general public on October 14, 2021 at 10 am and 7 pm at which we will provide an overview of the waiver and receive comments.

Please don't hesitate to email or call me at (804)225-3484 if you have any questions or would like to discuss the process. Thanks

Bradley Marsh
Health Insurance Policy Advisor
Virginia Bureau of Insurance
Bradley.marsh@scc.virginia.gov
(804)225-3484

From: [Bradley Marsh](#)
To: Administrator@nansemond.org; chief@nansemond.org
Subject: Consultation with Tribe on Federal Waiver for Health Reinsurance
Date: Tuesday, October 5, 2021 4:57:52 PM
Attachments: [Draft Reinsurance Waiver Application for Public Comment.pdf](#)

Greetings-

The Virginia Bureau of Insurance wants to ensure that the Nansemond Tribe has an opportunity to review and comment on our proposed federal waiver application. During 2021, the Virginia General Assembly passed [HB 2332](#), the Commonwealth Health Reinsurance Program, which requires the State Corporation Commission to submit a waiver request for federal approval to establish a reinsurance program beginning January 1, 2023. The goal of the proposed program is to increase affordability in the individual health insurance market by lowering premiums. It will accomplish this goal by reimbursing carriers for a proportion of the claims of covered individuals with high annual costs.

As a part of the public notice and comment process for this waiver application, 31 CFR § 33.112 requires that “Such public notice and comment period shall include, for a State with one or more Federally-recognized Indian tribes within its borders, a separate process for meaningful consultation with such tribes.” We have attached a copy of the draft waiver application to this email and additional information is available at <https://www.scc.virginia.gov/pages/Reinsurance-Waiver>.

Our public comment period runs until November 1, 2021. We are open to receiving written comments, meeting over the phone, or holding a virtual meeting to receive any comments that you all have during this period. We will also be conducting virtual hearings for the general public on October 14, 2021 at 10 am and 7 pm at which we will provide an overview of the waiver and receive comments.

Please don't hesitate to email or call me at (804)225-3484 if you have any questions or would like to discuss the process. Thanks

Bradley Marsh
Health Insurance Policy Advisor
Virginia Bureau of Insurance
Bradley.marsh@scc.virginia.gov
(804)225-3484

From: [Olga Symeonoglou](#)
To: [Bradley Marsh](#)
Subject: SCC reinsurance waiver - impact on tribes
Date: Thursday, October 28, 2021 11:13:54 AM

Dear Mr. Marsh,

Our firm represents the Chickahominy Indian Tribe - Eastern Division. I wanted to see if you have a few minutes today (or tomorrow) to discuss the SCC reinsurance waiver as it applies to the Tribe. Let me know a good time for you, or feel free to call me anytime at (202) 812-4075.

Many thanks,
Olga

--

Olga Symeonoglou
Attorney at Law
Cultural Heritage Partners, PLLC
Direct: 202-812-4075
Office: 202-567-7594
www.culturalheritagepartners.com

This email message and any attachments are being sent by Cultural Heritage Partners, PLLC, are confidential, and may be privileged. If you are not the intended recipient, please notify us immediately -- by replying to this message or by sending an email to olga@culturalheritagepartners.com -- and destroy all copies of this message and any attachments. Thank you.

From: [Penny Wynn](#)
To: [Bradley Marsh](#)
Subject: RE: [EXTERNAL]Consultation with the Tribe on Federal Waiver
Date: Thursday, October 28, 2021 11:58:44 AM

Bradley,

We do not see any issues with the waiver – let me know if you need anything else from us. Thanks!

Sincerely,

Penny Wynn
Tribal Administrator

Chickahominy Indian Tribe - Eastern Division

2895 Mt. Pleasant Road

Providence Forge, VA 23140

Office: 804-966-7815 ext 1001

Direct: 804-348-2784

Fax: 804-234-4016

penny.wynn@cit-ed.org



CONFIDENTIALITY NOTICE

This message and the accompanying documents contain information that belongs to the sender and may contain information that is privileged, confidential, or exempt from disclosure under applicable law. If the reader of this e-mail is not the intended recipient, you are hereby notified that you are strictly prohibited from reading, disseminating, distributing, copying, or taking action in reliance on the content of this communication. If you have received this e-mail in error, please notify the sender immediately and destroy the original transmission. Thank you.

From: Bradley Marsh <Bradley.Marsh@scc.virginia.gov>
Sent: Tuesday, September 7, 2021 11:21 AM
To: Penny Wynn <Penny.Wynn@cied.org>
Subject: [EXTERNAL]Consultation with the Tribe on Federal Waiver

Greetings Penny-

I am reaching out to confirm that this is the appropriate email through which to contact the Eastern Chickahominy Tribe. I received this contact information through Courtney Wynn in the Secretary of the Commonwealth's office.

We want to ensure that you all have an opportunity to review and comment on a federal waiver application that is being developed by the State Corporation Commission. During 2021, the Virginia General Assembly passed [HB 2332](#), the Commonwealth Health Reinsurance Program, which requires

the State Corporation Commission to submit a waiver request for federal approval to establish a reinsurance program beginning January 1, 2023. As a part of the public notice and comment process for this waiver application, 31 CFR § 33.112 requires that “Such public notice and comment period shall include, for a State with one or more Federally-recognized Indian tribes within its borders, a separate process for meaningful consultation with such tribes.” We are open to receiving written comments, meeting over the phone, or holding a virtual meeting to receive any comments that you all have. We will also be conducting virtual hearings for the general public on October 14, 2021 at 10 am and 7 pm at which we will provide an overview of the waiver and receive comments.

We are currently drafting this waiver application and it will be ready for review on October 1, 2021. Some information about the waiver is currently available at <https://www.scc.virginia.gov/pages/Reinsurance-Waiver> and we will continue to update that site as more information becomes available. If you could let me know if this is the correct contact person and whether an emailed pdf of the waiver application would work for you, that would be great. Please don't hesitate to call me at 804-366-8265 if you have any questions or would like to discuss the process. Thanks

Bradley Marsh
Health Insurance Policy Advisor
Virginia Bureau of Insurance
Bradley.marsh@scc.virginia.gov
(804)366-8265