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Staff: Alyson Williams

POLICY ANALYSIS
PREPARED FOR THE BOARD OF DIRECTORS



SB18-132 1332 STATE WAIVER CATASTROPHIC HEALTH PLANS

Concerning a waiver of federal law to permit insurance carriers to offer catastrophic health plans to any individual residing in Colorado

Details

Bill Sponsors:	Senate – Smallwood (R) House – Kennedy (D)
Committee:	Senate Committee on Health and Human Services
Bill History:	2/27/2018- Senate Committee on Appropriations Refer Amended to Senate Committee of the Whole
Next Action:	Senate Floor Work

Bill Summary

This bill requires the Commissioner of Insurance to apply for a Section 1332 waiver, also known as a state innovation waiver, by January 1, 2019. This waiver would expand the populations that are allowed to enroll in catastrophic plans from just those meeting the age or hardship requirement to any Colorado resident.

Amendment L001 requires the Commissioner to conduct an actuarial analysis that has specific findings to proceed with the waiver process. Additionally, if the waiver process moves forward, the catastrophic plans may only be sold through the health benefit exchange (Connect for Health Colorado) and clarifies that these plans are not eligible for advanced premium tax credits.

Background

Insurance in Colorado

Each of the 64 counties in Colorado has at least one carrier providing insurance. According to the 2017 Colorado Health Access Survey (CHAS), 93.5 percent are Coloradans are insured.¹ In Larimer County, 59 percent of residents reported being somewhat or very worried about health insurance becoming so expensive that they will not be able to afford it.² Only 4 percent of residents within the boundaries of the Health District of Northern Larimer County reported having no health insurance in 2016.³ Additionally, 86 percent of Health District residents reported having continual health insurance during the preceding 3 years in the same survey.³ For those that are uninsured, 78.4 percent cited that the cost of the insurance was a barrier to purchasing coverage.¹ In 2017 insurance rates increased an average of 20.4 percent and were projected to increase by 27 percent in 2018.⁴ The mountain resort region of Summit, Pitkin, Eagle, and Garfield were found in 2014 to be the most expensive for insurance in the entire United States.⁵

Catastrophic Plans

Catastrophic plans have low premiums but high deductibles. For 2017, the deductible was \$7,150 for all catastrophic plans.⁶ These plans are not eligible for premium tax credits. Like other individual marketplace plans, catastrophic plans must cover essential health benefits, specified preventive care services, and three

¹ Colorado Health Institute (2017). *Colorado's New Normal: Findings from the 2017 Colorado Health Access Survey*. Retrieved from https://www.coloradohealthinstitute.org/sites/default/files/file_attachments/2017%20CHAS%20DESIGN%20FINAL%20for%20Web.pdf

² Larimer Health Tracker (2016). Retrieved from larimerhealthtracker.org.

³ 2016 Community Health Survey; note: 5 percent reported that they did not know if they had health insurance or not.

⁴ Colorado Health Institute (2017). *Insurance Prices*. Retrieved from <https://www.coloradohealthinstitute.org/research/insurance-prices>.

⁵ Rau, J. (Feb. 2 2014) *The 10 Most Expensive Insurance Markets in the United States*. Kaiser Health News. Retrieved from <https://khn.org/news/most-expensive-insurance-markets-obamacare/>.

⁶ U.S. Centers for Medicare and Medicaid Services [CMS] (2017). *How to pick a health insurance plan*. Retrieved from <https://www.healthcare.gov/choose-a-plan/plans-categories/>.

primary care visits before the deductible is met. Currently, these plans are limited to individuals under 30 or those that meet the hardship exemption (i.e. homelessness, domestic violence, bankruptcy, etc.).⁷

Section 1332 Waivers

Within the Affordable Care Act (ACA), section 1332 allows for states to implement elements of the ACA in alternative manners. Section 1332 waivers are limited as these novel approaches must be as successful in providing affordable, quality health coverage and cost the federal government either the same amount or less than the standard implementation. There are four specific limitations for this waiver, known colloquially as "guardrails." The innovation must:

1. Provide coverage that is the same or more comprehensive than the original;
2. Provide coverage that is at least as affordable;
3. Provide coverage for the same amount or more people; and
4. Not add to the federal deficit.

These guardrails were set forth in the statutory language, but can be interpreted differently by each administration. The Centers for Medicare and Medicaid Services (CMS) has created a detailed page guiding states through the 1332 waiver process. In the final submission, the state must include a variety of critical documents. Some of these documents include: an actuarial analysis, a 10-year budget demonstrating federal budget neutrality, any data or assumptions that help demonstrate satisfaction of the guardrails, and many other requirements for the innovative plan.⁸

Federal Legislation

Expanding the eligibility for catastrophic plans is already being discussed at the federal level. The bipartisan ACA stabilization deal, by Sens. Alexander (R-TN) and Murray (D-WA) addresses this issue. With promises made by Senate leadership to bring ACA stabilization bills to the floor this session, awaiting the movement by the federal government could save the state from expending resources.

This Legislation

This bill would have the DOI commence the waiver application process to waive the eligibility requirements for catastrophic plans, with final submission on January 1, 2019. Furthermore, there will be state-level public comment from December 1, 2018 until the final submission. This timing means that these catastrophic plans would be available for purchase on the marketplace for plans starting January 1, 2020.

Amendment L001 requires the Commissioner to conduct an actuarial analysis to determine if expanding the populations that are allowed to enroll in catastrophic plans would reduce the amount of advanced premium tax credits received by residents or increase the average premiums of individual health plans in the state. If the actuarial analysis demonstrates that neither of these consequences occurs, then the 1332 waiver process can move forward. The amendment also clarifies that the waiver application must state:

- offering catastrophic plans to those that are not younger than 30 or meet the hardship requirement will only occur if the waiver is approved
- the plans will only be offered and sold on the health benefit exchange (i.e. Connect for Health Colorado)
- the plans are not eligible for advanced premium tax credits

Reasons to Support

⁷ A comprehensive list of hardship exemptions can be found here: <https://www.healthcare.gov/health-coverage-exemptions/hardship-exemptions/>

⁸ CMS (2017). *Section 1332: State Innovation Waivers*. Retrieved from https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section_1332_State_Innovation_Waivers-.html#About the 1332 State Innovation Waiver Application Process

Expanding the populations that can enroll in catastrophic plans could be a short-term way to address the high cost of insurance in certain regions of Colorado. As the federal government grapples with the future of different components of the ACA this waiver could create higher coverage in the mountain resort region and others. Some assert that having people covered with catastrophic insurance is better than them being uninsured due to the cost.

The actuarial analysis could demonstrate more about how increased access to/enrollment in catastrophic plans could affect the individual insurance market. This would create documentation on the effects of catastrophic health plans as the future of the Affordable Care Act is uncertain and states may be put more in charge of the health care system. Based on other research of catastrophic health plans it is possible that the analysis will demonstrate that the plans have a negative effect on advanced premium tax credits and premiums, thus the waiver process would not go forward.

Reasons to Oppose

There are several potential unintended consequences that are important to consider with this proposal. Although this waiver could increase coverage for some regions in Colorado, this could mean people switching from a 'metal' plan to a catastrophic plan. The people who switch from a 'metal plan' are more likely to be healthier individuals, which could result in 'adverse selection' – meaning that as healthy individuals leave plans, those left in the original plans are less healthy and have higher health care costs, so the prices will need to go up for those plans. This is a particular burden for those who are not healthy and must stay in a silver plan in order to qualify for a subsidy, and particularly for those who get little or no subsidy at all.

Catastrophic health plans work best for those who have relatively high incomes and can afford the high cost of deductibles. They are not a good solution for those with low to middle incomes because the deductibles make it difficult to afford care (including critical services like prescriptions and lab work). Additionally, people who cannot afford care often delay important care, or do not get it at all, leading to poorer health and greater risk of communicable disease affecting others in the community. Evidence is escalating that many people already cannot afford the deductibles and other cost sharing under current plans, let alone a catastrophic plan that has even higher deductibles and levels of cost sharing.

This change could have a significant destabilizing impact on the health care market, helping to create an increasing spiral - as prices grow, more people drop out of health insurance, and then prices grow even more. The underlying principle of insurance is to create pools of both healthy and unhealthy people, so that the costs balance out for everyone and so insurance is there for you when you need it. Over time, the change could contribute to a growing number of uninsured and growing prices for those who continue to be insured.

In addition, selecting an insurance plan is a complex process. Many individuals do not have sufficient health insurance literacy to comprehend what the change in plan means for their coverage, costs, and care. For navigators, like those employed by Larimer Health Connect, that could mean increased appointment times to explain the difference between these new plans.

How the current administration would interpret the four statutory guardrails could determine whether or not the waiver would be granted. Since no other state has applied to waive the eligibility requirements for catastrophic plans, it is unknown how the guardrails will be applied. The concept of affordability could be a sticking point, as the premiums may be lower but a high deductible could make accessing care unaffordable for many. Furthermore, catastrophic plans could be deemed not as comprehensive as the three "metal"

individual marketplace plans. Since these plans only cover three primary care visits before the deductible has been met, it could be determined that they are not as comprehensive as plans in the three other tiers. There is a possibility that the actuarial analysis would demonstrate no negative impacts on the advance premium tax credits or premiums and the waiver process would move forward and the aforementioned points against catastrophic health plans would be realized if the waiver was approved.

About this Document

This analysis was prepared by Health District of Northern Larimer County staff to assist the Health District Board of Directors in determining whether to take an official stand on various health-related issues. The Health District is a special district of the northern two-thirds of Larimer County, Colorado, supported by local property tax dollars and governed by a publicly elected five-member board. The Health District provides medical, mental health, dental, preventive and health planning services to the communities it serves. For more information about this summary or the Health District, please contact Alyson Williams, Policy Coordinator, at (970) 224-5209, or e-mail at awilliams@healthdistrict.org.