

Summary of Massachusetts' 1332 Waiver Proposal to Establish a Premium Stabilization Fund

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This document summarizes the State Innovation Waiver proposal Massachusetts is developing to waive Cost-Sharing Reduction payments and create a premium stabilization fund. The specific dates and estimates in this document are subject to change, but the final figures are expected to be similar.

1. Key Massachusetts Facts

- Massachusetts has a State-Based Marketplace, the Health Connector.
- The Health Connector has a state subsidy program for enrollees up to 300% FPL, ConnectorCare, which wraps federal Advance Premium Tax Credits/Premium Tax Credits (APTC/PTC) and Cost-Sharing Reductions (CSRs) to meet a state affordability schedule that exceeds the federal affordability schedule. State funding for this program is held in a dedicated trust, the Commonwealth Care Trust Fund. State expenditures for this program receive federal financial participation (FFP) for eligible enrollees via a Medicaid 1115 waiver.
- Massachusetts has a quasi-merged market for nongroup and small group, regulated by the state Division of Insurance (DOI). Products are identical, except that ConnectorCare is available only in the nongroup market. Rates are typically filed jointly for the first quarter, with small group rates updated in subsequent quarters.
- The Health Connector has state legislative authority to apply to waive provisions of the Affordable Care Act under Section 1332, and to implement such a waiver if authorized. The DOI has state legislative authority to issue rate filing guidance and authorize the use of rates that apply for the duration of the plan year.
- Massachusetts carriers will be owed an estimated \$146M in federal CSR payments for PY 2018.
- In July 2017, Massachusetts carriers were required to submit rates assuming that CSRs would continue to be made.
- Rerating in the middle of 2018 in the event that CSR payments are not made would cause unacceptable operational and consumer disruption.
- Accordingly, given the risk of CSR payment termination and in keeping with the approaches of many other states, the Massachusetts DOI is considering announcing shortly that it is permitting carriers to re-rate their silver tier Qualified Health Plans (QHPs) to reflect no CSR payments being made. Based on information collected earlier from carriers, DOI anticipates that rates will increase by an average of about 18% for these products as a result (in addition to any rate changes for other reasons).
- This will increase federal APTC/PTC liability for subsidized enrollees by an estimated \$143M and cause disruption and churn for unsubsidized enrollees in the merged market.

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To prevent these negative outcomes, Massachusetts seeks to waive any potential CSR payments for 2018 and replace them with a state-administered program that would make equivalent payments and thereby allow premiums to hold steady. The key elements of the waiver proposal are as follows:

- CSR payments to Massachusetts carriers are waived (an estimated \$146M dollars in 2018 if paid).
- The state creates a premium stabilization program to make payments to carriers equivalent to those that would be made under federal CSR program (an estimated \$146M).
- Carriers are required to maintain product offerings (with the same enrollee cost-sharing) but lower their 2018 premiums back to July levels (as adjusted under rate review), saving the federal

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government an estimated \$148M (\$143M in APTC/PTC savings and \$5M in ConnectorCare matching payments).

- The state receives pass-through funding reflecting APTC/PTC savings due to reduced premiums (\$143M) and the waiver of CSR payments (\$146M, if such payments are made for all of 2018), but capped at the amount needed to make CSR-equivalent payments (\$146M). Thus the pass-through funding is somewhere between \$143M (if CSR payments are not made for any of 2018) and \$146M (if payments are made for all of 2018). The pass-through funding goes to the premium stabilization program, which will distribute funds to carriers to account for the costs of enrollee coverage. Enrollees will continue to receive coverage at the same CSR-enriched and state wrap-enriched level.
- Any excess pass-through funding beyond what is needed for state premium stabilization program (such as waived CSR payments if CSR payments otherwise continue) remains with the federal government. This will save the federal government about \$143M if CSR payments are in fact made, avoiding the risk of effectively double-paying that would occur without the waiver.
- Massachusetts requests an annual reconciliation as part of its waiver to account for differences in projected versus actual enrollment and costs.

3. Massachusetts Premium Rating and 1332 Request Timeline

- 6/15/17 – Division of Insurance (DOI) issued guidance instructing carriers to:
 - File initial rates assuming CSR payment;
 - Provide rates assuming CSR non-payment to DOI via a special examination; and
 - Prepare for a rerate if instructed by the DOI.
- 7/5/17 – Carriers filed initial rates with DOI, assuming CSR payment.
- 7/20/17 – DOI and Health Connector determine continued market instability merits a rerate, with the assumption of CSR nonpayment, unless this risk is eliminated.
- 7/24/17 – Health Connector posts description of 1332 alternative to rerate for public comment.
- 8/4/17 and 8/15/17 – Health Connector holds public hearings on 1332 alternative to rerate.
- 8/9/17 – Health Connector holds tribal consultation on 1332 alternative to rerate.
- 8/25/17 – Health Connector will finish 30-day comment period for 1332 alternative to rerate.
- By early 9/17– DOI will issue regulatory guidance providing parameters for a rerate.
- By mid-9/17– DOI will instruct carriers to prepare rerate; Health Connector will submit 1332 waiver application.
- By late 9/17– Carriers will submit rerates to DOI, assuming CSR nonpayment.
- By late 9/17 – DOI will finish rerate review, placing rates on file.
 - If 1332 request is not approved, the Health Connector will use these higher rates for Plan Year 2018.
 - If the 1332 request is approved, the Health Connector will revert to the pre-9/17 rates (as adjusted after regulatory review) for Plan Year 2018.

3. Federal Spending With/Without Waiver

Unless the waiver is approved by the end of September, 2017, rates will increase irreversibly to assume CSR nonpayment. This will increase federal APTC/PTC liability, as well as federal Medicaid waiver liability for the state “wrap.” The following table summarizes estimated federal liability under the baseline and the waiver:

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Federal Spending for Massachusetts ¹	Without Waiver: Use Sept. Rerate for Silver QHPs	With Waiver: Use July Initial Rates for Silver QHPs	Change in Federal Expenditures under Waiver	Proposed Pass-through Funding and Remaining Federal Savings Under Waiver
Plan Year Total				
Federal APTC/PTC Spending	\$632M	\$490M	(\$143M)	\$143M pass-through requested.
Federal CSR Spending	<i>Between \$0 and \$146M, based on if CSRs are paid</i>	\$0 M	<i>(Between \$0 and -\$146M, based on if CSRs are paid)</i>	If CSRs paid: \$3M in pass-through requested; \$143M in federal savings.
Federal share of "match" for ConnectorCare state funds (1115 authority) ²	\$159M	\$154M	(\$5 M)	If CSRs paid: \$5M in federal savings.
Total	\$791 - \$937 M	\$643 M	(\$148 M - \$294 M)	If CSRs paid: \$146M in pass-through requested; \$148M in federal savings. If CSRs not paid, \$143M in pass-through requested; \$5M in federal savings.

¹ Projected costs use preliminary rate information available as of August 2017. Massachusetts requests an opportunity to amend these estimates once rate information prior to submission of the 1332 waiver and/or when rates are finalized by the DOI.

² Estimates reflect that ConnectorCare enrollees' contributions would be identical under all scenarios, based on its more generous "affordability schedule" (which is linked to the state's individual mandate). The ConnectorCare wrap would incur an estimated \$11M in additional spending without the waiver to account for the portion of the premium increases that would not be absorbed by APTC/PTC increases. For example, if the premium for a particular enrollee is currently (without the rerate) between the state expected contribution and the federal expected contribution, a premium increase could trigger an increase in the state premium wrap. Approximately 45% of these additional state costs for ConnectorCare would be eligible for federal matching under the state's Medicaid 1115 waiver. These federal costs would not occur under the waiver. While Massachusetts recognizes that these savings are not from Marketplace subsidies and therefore are not directly eligible for pass-through funding, these savings do affect the deficit neutrality calculation. Accordingly, they may offset reduced individual mandate payments or other costs to the federal government that would otherwise reduce pass-through payments due to the deficit-neutrality constraint.