



THE SECRETARY OF HEALTH AND HUMAN SERVICES  
WASHINGTON, D.C. 20201

JUL 28 2016

The Honorable David Y. Ige  
Governor of Hawai'i  
Honolulu, Hawai'i 96813

Dear Governor Ige,

Thank you for your submission on June 16, 2016, of Hawai'i's application for a Section 1332 State Innovation Waiver under the Affordable Care Act (ACA). Hawai'i is seeking to waive the ACA requirement that a Small Business Health Options Program (SHOP) operate in the state of Hawai'i. The Department of Health and Human Services (HHS) and the Department of the Treasury (the Departments) appreciate the careful consideration and thoughtful analyses that you and your team have provided to assist us in the evaluation of your waiver application.

The Departments have completed a preliminary review of the application in accordance with 45 CFR 155.1308(c). Pursuant to 45 CFR 155.1308(c)(2), I am writing to inform you that while the application meets many of the requirements for a 1332 State Innovation Waiver application, we have determined that the application is incomplete. We are providing you with notice that the following elements are missing or incomplete:

- 1) Analyses and assumptions to support the state's actuarial analysis that the proposed waiver will comply with section 1332's comprehensive coverage requirement, affordability requirement, scope of coverage requirement, and federal deficit requirement. (45 CFR 155.1308(f)(3)(iv)). Hawai'i's application includes an actuarial certification that the implementation of the proposed waiver would not have an effect on the number of individuals with health coverage or the type or cost of that coverage. However, the application also includes statements that are in conflict with that analysis. For example, page 18 of the application states "if small employers used the federal SHOP exchange, Hawai'i could expect the number of small employers providing employee coverage to decline." Similarly, page 15 of the application states "the waiver will enhance rather than reduce coverage...." If so, there would likely be federal revenue effects associated with changes in employer sponsored coverage and in penalties for failure to have coverage. A complete application should contain a clear statement about whether the proposed waiver will or will not have an effect, either positive or negative, on the scope, affordability or comprehensiveness of coverage. If Hawai'i concludes that the waiver would have an effect on those requirements then the actuarial analysis should be revised to reflect those changes and any associated effects on the federal deficit. If Hawai'i instead concludes that coverage is unchanged by the waiver because employer sponsored coverage is mandated by the Prepaid Health Care Act with or without the waiver, then the application should consistently and clearly state this.

- 2) Economic analyses to support the State's estimates that the proposed waiver will comply with section 1332's federal deficit requirement (45 CFR 155.1308(f)(4)(ii)). Hawai'i's application provides a forecast and assessment that the proposed waiver would not have an effect on federal revenues and spending. The analysis requires further clarification in regard to Hawai'i's assumptions about the Prepaid Health Care Act's interplay with the proposed waiver. First, as noted above, Hawai'i's application should be clear and consistent regarding the effect of the waiver on coverage and the resulting effect on the deficit. In addition, with regard to the 10-year effect on federal spending, the application specifies that "Hawai'i's Prepaid Health Care Act logically saves federal expenditures because low-wage workers, who might otherwise get federal benefits, are covered by employer-sponsored insurance." This statement suggests that the proposed waiver will result in changes in the number of individuals receiving employer coverage and federal benefits. If Hawai'i is making that assertion, then a complete application would include estimates of the expected impact on federal revenues associated with such changes in employer-sponsored coverage and other federal benefits.
- 3) Reporting targets (45 CFR 155.1308(f)(4)(vi)). Hawai'i's application provides a description for how Hawai'i proposes to satisfy the reporting requirements of a section 1332 waiver, but it does not fully meet the requirement to specify quarterly, annual, and cumulative targets for each of the guardrails. For example, the application does not include annual deficit targets, but these could be provided, drawing from the deficit estimates provided in Attachment 3 of the application. The application should also address quarterly targets. Note that failure to meet these targets would not automatically mean that the state failed to materially comply with the requirements specified by the section 1332 State Innovation Waiver.

Please provide additional clarity on these points. HHS and Treasury welcome Hawai'i's submission of a revised section 1332 State Innovation Waiver application that provides the additional clarity identified above. Upon receipt of an application, the Departments will conduct a preliminary review within 45 days to determine if the application is complete. If you or your staff have questions, please contact Emily Barson, Director, Office of Intergovernmental and External Affairs, at (202) 690-6060.

Sincerely,



Sylvia M. Burwell

Cc: The Honorable Jacob J. Lew