NORTH DAKOTA 1332 WAIVER APPLICATION

May 10, 2019

North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
JON GODFREAD, COMMISSIONER

North Dakota Insurance Department
600 East Boulevard Avenue, Dept. 401
Bismarck, ND 58505-0320

Table of Contents

Table of Contents Page i

Overview 1

Operation, Funding, Parameters and Impact of the Reinsurance Association of North Dakota 2

I. North Dakota 1332 Waiver Request 4

II. Compliance with Section 1332 8
- A. Comprehensive Coverage Requirement (1332(b)(1)(A))
- B. Affordability Requirement (1332(b)(1)(B))
- C. Scope of Coverage Requirement (1332(b)(1)(C))
- D. Federal Deficit Requirement (1332 (b)(1)(D))

III. The RAND and Federal Pass Through Funding 10

IV. Implementation Timeline 11

V. Additional Information and Reporting 13
- A. Administrative Burden
- B. Impact on Residents Who Need to Obtain Healthcare Services Out-of-State
- C. Ensuring Compliance, Waste. Fraud, and Abuse
- D. State Reporting Requirements and Targets

VI. Supporting Information and Miscellaneous 15
- A. 45 CFR 155.1308(f)(4)(i)-(iii)

VII. Alignment with Section 1332 Principles 16

VIII. Public Comment and Tribal Consultation 18
- A. Public Comment
- B. Tribal Consultation
- C. Public Hearings

Attachment 1 19

Attachment 2 26

Attachment 3 75

Attachment 4 76

Attachment 5 78

Attachment 6 80

Attachment 7 82

Attachment 8 83

Attachment 9 85

Attachment 10 87

Attachment 11 88

Attachment 12 122

Attachment 13 123

Attachment 14 145

Overview

The state of North Dakota, through its North Dakota Insurance Department (NDID), hereby submits this 1332 State Innovation Waiver request to the United States Department of the Treasury (Treasury) and to the Centers for Medicare and Medicaid Services (CMS), a division of the United States Department of Health and Human Services (HHS). This request seeks waiver of Section 1312 (c)(1) under Section 1332 of the Affordable Care Act (ACA) for a period of five years beginning with the 2020 plan year to develop and implement the Reinsurance Association of North Dakota (RAND), a state-based reinsurance program. This waiver will not affect any other provision of the ACA but will result in a lower market wide index rate for the individual health insurance market, thereby lowering premiums and reducing federal payment of advance premium tax credits (APTC).

Prior to the ACA, North Dakota had a competitive and stable individual health insurance market. Consumers had choices from different health insurers and robust competition amongst the insurance companies. Prior to the ACA being enacted, approximately 8% of North Dakota's population was uninsured. Five years after the ACA was enacted, approximately 8% of North Dakota's population is uninsured.

During the 2018 plan year, only one insurer offered individual health insurance plans in all of North Dakota's counties. One insurer dropped out of the market completely, and the other insurer offered plans in only five of the state's fifty-three counties.

Rates for the individual market have skyrocketed since the enactment of the ACA. Rates for the individual market have, on average, experienced double digit increases each year since the ACA began operation in 2014. Some rate increases have ranged as high as 94.5%, illustrating the volatility that is present in North Dakota's individual market.

Establishing a state reinsurance plan through a 1332 waiver that would cover a large portion of claims falling within a defined dollar range would be a significant step toward bringing certainty and stability back into North Dakota's individual market.

North Dakota's state-based reinsurance plan will:

- Assist insurers in managing high risk enrollees and create a broader pool of people to absorb all other risk. This should prevent future insurer exits, encourage additional insurers to write business in North Dakota's individual market, and improve consumer access.
- Lower rates to keep consumers in the market and attract new entrants to the market. The RAND will provide significant financial relief for those not eligible for subsidies. Keeping individuals in the market and attracting new entrants will also be significant steps toward a healthier risk pool.
- Retain federal subsidies for individuals with incomes between 100% and 400% of the federal poverty level (FPL), which will ensure that those with access to affordable coverage due to federal subsidies can keep their coverage.

Operation, Funding, Parameters and Impact of the Reinsurance Association of North Dakota

House Bill 1106 (found at Attachment 1) was signed into law by Governor Doug Burgum on April 18, 2019. The legislation creates the RAND. The RAND will be administered by the North Dakota Insurance Department (NDID), contingent upon approval of a 1332 Waiver. The RAND will be funded with a combination of assessments on the fully insured small and large group health insurance market and by federal pass through dollars.

The NDID, along with its actuarial consultant, NovaRest, is estimating a 55% federal pass through rate with federal funding from APTC to be approximately $26,116,306 for 2020 and approximately $27,480,273 for 2021. Therefore, we anticipate state assessments to be approximately $21,225,000 for the 2020 plan year and $22,323,000 for the 2021 plan year. However, funding language in House Bill 1106 is structured to give the Insurance Commissioner any needed flexibility to fund the RAND if the federal pass through funds differ from the anticipated amount.

House Bill 1106 also gives the RAND access to a $25 million line of credit from the Bank of North Dakota, a bank owned and operated by the state of North Dakota. This line of credit may be accessed by the RAND to the extent necessary to provide timely reimbursements to member insurers as required by House Bill 1106.

The RAND will be governed by a seven-member board of directors comprised of the state health officer, one state senator, one state representative, and one individual from each of the four insurers of the association with the highest annual market share. The board is responsible for scheduling and approving biennial audits of the RAND, approving bylaws and operating rules, and providing for any other matters as may be necessary and proper for the execution of the commissioner’s and the board’s powers, duties, and obligations.

The NDID and the Insurance Commissioner are responsible for performing all functions necessary for the RAND to carry out the daily operations and objectives of the RAND and House Bill 1106. The Insurance Commissioner has the sole authority to approve any assessments to the insurers writing or otherwise issuing group health insurance plans. House Bill 1106 also grants the NDID administrative rulemaking authority to address operational and other RAND needs. The NDID will consult with the RAND board of directors and consider their feedback on when the insurer payments will be made by the RAND. However, the NDID anticipates that full and complete insurer payments for the 2020 plan year will be made no later than May 1, 2021.

The RAND will operate as an “invisible” reinsurance pool, meaning enrollees will not know they are part of the reinsurance pool. Enrollees will have the same choices of health insurance plans that all consumers shopping on the individual market have and will not have any additional costs or change in benefits or coverage. The claims submitted to the reinsurance pool will be handled by the insurer and the Insurance Department on the back end of the process, with no effect to the enrollee.

House Bill 1106 sets the attachment point for the reinsurance at $100,000. Once the attachment point is met, the legislation requires the reinsurance pool to pay 75% of the claim amounts and the insurer to pay the remaining 25%. If claims for an individual plan exceed $1,000,000 in a year, the RAND would stop paying at the $1,000,000 point and allow the federal high-cost risk pool program to share the cost of the claims with the insurer on claims exceeding $1,000,000.

House Bill 1106 allows the state assessments on small and large group business to be deducted by the insurer from the company's premium taxes. Therefore, the assessment costs will be borne by the state of North Dakota in the form of reduced state revenues, instead of being passed onto the consumer. Therefore, affordability and coverage for the small and large group markets will be unaffected by the RAND.

The NDID and NovaRest estimate the RAND will reduce premiums on the individual market for the 2020 plan year by approximately 20% from the projected baseline level if the RAND was not in place. Due to the reduced premium, the NDID and NovaRest project that membership in the 2020 individual market would increase by 1% compared to the baseline without the waiver.

I. North Dakota 1332 Waiver Request

North Dakota's individual health insurance market is unstable. The ACA has brought prohibitive rate increases and insurers making the choice to either not sell plans on the state's individual market or to substantially reduce service areas. For the 2018 plan year, 48 of North Dakota's 53 counties had only one insurer option. Annual double-digit rate increases have become routine since the enactment of the ACA, with some plans receiving as high as a 94.5% annual increase. This market volatility has left consumers with unaffordable and dwindling plan options.

North Dakota seeks waiver of Section 1312(c)(1) under Section 1332 of the ACA for a five year period beginning in the 2020 plan year to develop and implement a state reinsurance program. The RAND is intended to stabilize the individual market, reduce rates, encourage existing companies to expand their offerings in North Dakota, and encourage new insurance companies to offer individual health insurance plans in the state.

Section 1332(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." Waiver of the single risk pool requirement, to the extent it would otherwise require excluding total expected state reinsurance payments when establishing the market wide index rate, will not affect any other provision of the ACA. Consideration of these payments will lower the market wide index rate. A lower index rate will lower premiums for North Dakota's ACA plans on the federal exchange, including the second lowest cost silver plan offered through the federal Exchange, which will reduce the overall APTC that the federal government is obligated to pay for North Dakota subsidy-eligible consumers.

As fewer healthy people purchase coverage due to prohibitive rate increases, the pool of people in the single risk pool becomes sicker, older, and higher risk, which means they are more costly to insure. Healthy lives are needed to balance this risk so that consumers can regain access to more affordable coverage.

Without the RAND, individual health insurance premiums in North Dakota will continue to rise at an unsustainable rate and more healthy lives will make the decision to go without health insurance and be left out of the pool. This will also increase costs to the federal government because as premiums rise the amount the federal government will be required to subsidize premiums for those at or below the 400% poverty level will also rise. Operating the RAND will help reduce further erosion of this market. The RAND will result in decreased premiums and a means for insurers to manage high cost claims in a way that prevents them from leaving the market.

Figure 1

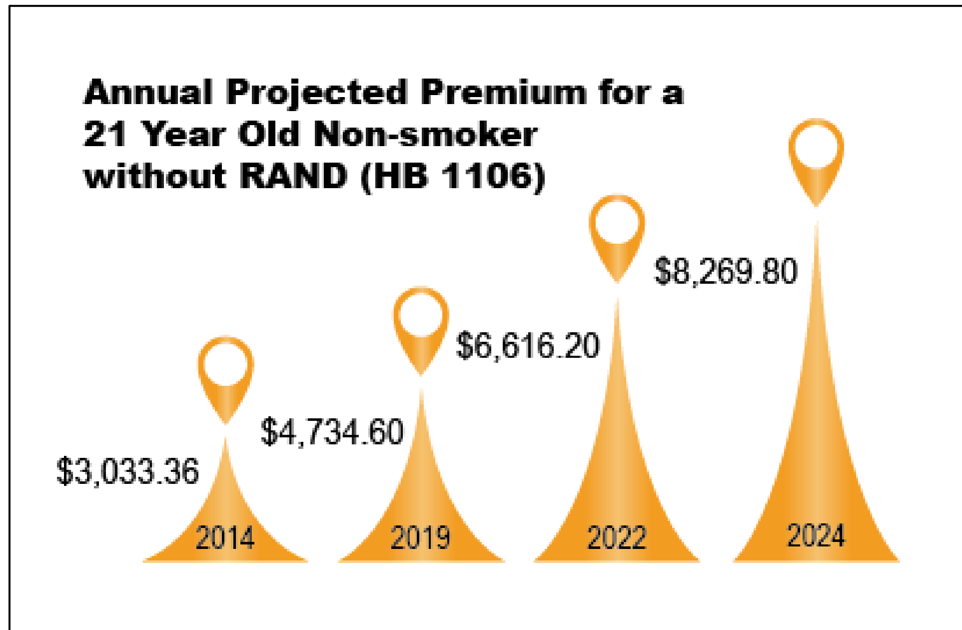


Table A 2020 Membership Difference from Base Line		
Membership	**2020**	
	Without Waiver	**$100,000 Attachment Point 75% Coins**
On-Exchange		
94% CSR (138% to 150% FPL)	2,096	2,096
87% CSR (150% to 200% FPL)	4,907	4,907
73% CSR (200% to 250% FPL)	2,639	2,639
APTC (250% to 300% FPL)	5,346	5,346
APTC (300% to 400% FPL)	6,534	6,534
Total APTC	**21,523**	**21,523**
Total Non-APTC (> 400%)	2,385	2,366
Total On-Exchange	**23,908**	**23,889**
Off-Exchange	14,711	15,007
Total ACA	**38,619**	**38,897**

Table B 2020 Premium Difference from Base Line			
Average Premium	**2020**		
	Without Waiver	**$100,000 Attachment Point, 75% Coinsurance, $1,000,000 Max**	**% Difference**
On-Exchange			
APTC Aggregate Premium Rate	$522.86	$418.29	-20.0%
APTC Maximum Premium Paid	$232.81	$232.81	0.0%
APTC	**$290.05**	**$185.48**	**-36.1%**
Non-APTC	$459.29	$366.82	-20.1%
Total On-Exchange	**$516.52**	**$413.19**	**-20.0%**
Off-Exchange	$580.51	$466.58	-19.6%
Total ACA	**$540.90**	**$433.79**	**-19.8%**

Table C 2020 Membership Difference from Base Line			
Membership	**2020**		
	Without Waiver	**$100,000 Attachment Point, 75% Coinsurance, $1,000,000 Max**	**% Difference**
On-Exchange			
94% CSR (138% to 150% FPL)	2,096	2,096	0.0%
87% CSR (150% to 200% FPL)	4,907	4,907	0.0%
73% CSR (200% to 250% FPL)	2,639	2,639	0.0%
APTC (250% to 300% FPL)	5,346	5,346	0.0%
APTC (300% to 400% FPL)	6,534	6,534	0.0%
Total APTC	**21,523**	**21,523**	**0.0%**
Total Non-APTC (> 400%)	2,385	2,366	-0.8%
Total On-Exchange	**23,908**	**23,889**	**-0.1%**
Off-Exchange	14,711	15,007	2.0%
Total ACA	**38,619**	**38,897**	**0.7%**

Table D Second Lowest Silver Monthly Premium AGE 40 Non-smoker		
	2020	
Area	**Without Waiver**	**With $100,000 Attachment Point**
1	$404.10	$323.28
2	$404.10	$323.28
3	$493.83	$395.06
4	$404.10	$323.28

II. Compliance with Section 1332

A. Comprehensive Coverage Requirement – 1332(b)(1)(A)

The proposed waiver will not impact the comprehensiveness of coverage of North Dakota's insurance markets as the proposed waiver does not make alterations to the required scope of benefits offered in the insurance market in North Dakota.

B. Affordability Requirement – 1332(b)(1(B)

As documented throughout this application, NDID and NovaRest project the proposed waiver will reduce premiums by approximately 20%, thereby increasing affordability.

Cost sharing for plans will remain within the federal requirements and should therefore not impact affordability.

Cost sharing protections against excessive out-of-pocket spending will remain the same and within federal requirements, so the waiver will not have an impact on affordability in terms of cost sharing.

C. Scope of Coverage Requirement – 1332(b)(1)(C)

As documented throughout this application, NDID and NovaRest project the proposed waiver will cover more individuals in North Dakota than would be covered without the waiver. Due to the reduced premium, the membership in the 2020 individual market would increase by 1% compared to the baseline without the waiver, as lower premiums will result in individuals retaining coverage rather than dropping coverage due to unaffordable premium rates.

House Bill 1106 allows the state assessments on small and large group business to be deducted by the insurer from the company's premium taxes. Therefore, the assessment costs will be borne by the state of North Dakota in the form of reduced state revenues, instead of being passed onto the consumer. Therefore, there will be no effect on the affordability of small and large group plans. Likewise, with no effect on affordability, the RAND will also have no impact on the number of individuals in the state covered under employer-sponsored plans.

D. Federal Deficit Neutrality Requirement – 1332(b)(1)(D)

As documented throughout this application, the proposed waiver will not result in increased spending, administrative, or other expenses to the federal government. There will be no increase in federal administrative expense. The federal funding will be calculated based on actual APTC subsidized enrollment and will be reduced by any reductions in exchange user fees.

The Waiver will lower premiums by approximately 20%, which will reduce the APTC that would be paid by the federal government. Since the Exchange user fees are a percentage of premium, the reduced premium will reduce the Exchange user fees collected by the federal government. The intention is for the lower APTCs less the reduced Exchange user fees to be passed through to North Dakota and be used to fund the reinsurance program under the waiver. Table C illustrates the estimated savings to the federal government from the proposed waiver:

Table E Budget Neutrality Projection, 2020-2029					
Base	**2020**	**2021**	**2022**	**2023**	**2024**
APTC Agg Prem	$135,041,894	$142,064,072	$148,741,084	$155,731,915	$163,051,315
APTC Max Prem	$60,128,125	$61,330,688	$62,557,301	$63,808,447	$65,084,616
Total APTC	$74,913,769	$80,733,385	$86,183,782	$91,923,467	$97,966,698
$100,000 Attach 75% Coins					
APTC Agg Prem	$108,033,515	$113,651,258	$118,992,867	$124,585,532	$130,441,052
APTC Max Prem	$60,128,125	$61,330,688	$62,557,301	$63,808,447	$65,084,616
Total APTC	$47,905,390	$52,320,570	$56,435,566	$60,777,084	$65,356,436
APTC Savings	$27,008,379	$28,412,814	$29,748,217	$31,146,383	$32,610,263
Exchange Fee Reduction	$892,073	$932,541	$971,196	$1,011,793	$1,054,418
Net Federal Savings	$26,116,306	$27,480,273	$28,777,021	$30,134,590	$31,555,845

III. The RAND and Federal Pass Through Funding

The RAND is designed to improve North Dakotans' access to affordable and comprehensive health insurance coverage. The goal of the reinsurance program is to manage the risk of high-cost claimants across the broader health insurance market, thereby lowering premiums for the individual market.

As the amount of APTC available for eligible consumers is tied to the second lowest cost silver plan available through the federal Exchange, the amount the federal government will be required to pay in APTC will be reduced. Through this waiver request, North Dakota seeks the amount of federal savings from these reduced APTC payments to offset a portion of the costs associated with the reinsurance program.

IV. Implementation Timeline

04-05-19	North Dakota's public comment period begins
04-05-19	Tribal consultation meeting held in Bismarck
04-17-19	Public hearing in Fargo
04-18-19	Public hearing in Bismarck
04-18-19	Legislation authorizing the RAND is signed into law
05-06-19	Public comment period ends
05-10-19	1332 Waiver Application is submitted to the federal government
05-24-19	Insurer rate submission deadline to NDID; one set of rates for the 2020 plan year assuming the RAND is in place, one set of rates assuming RAND is not in place.
06-10-19	Federal government determines the waiver application is complete/federal comment period begins
07-10-19	Federal government comment period ends
09-10-19	Federal government approves 1332 Waiver for RAND and grants funding for RAND
11-01-19	Commissioner reviews and approves assessments to health insurers for fourth quarter 2019
01-01-20	First plan year for the RAND begins
02-01-20	Commissioner reviews and approves assessments to health insurers for first quarter 2020
02-15-20	NDID posts date, time, and location of post-award public forum on the NDID website to meet 45 CFR 155.1320(c)(1)
03-20-20	NDID holds six-month public forum required by 45 CFR 155.1320(c)
04-10-20	Federal government funds RAND with pass-through funding savings for the 2020 plan year
04-30-20	Deadline for insurers to submit Q1 2020 eligible claims data to NDID for RAND
05-01-20	Commissioner reviews and approves assessments to health insurers for second quarter 2020
05-24-20	Insurer rate submission deadline to NDID; one set of rates for the 2021 plan year assuming the RAND is in place, one set of rates assuming RAND is not in place.
05-31-20	NDID will provide each eligible insurer with the calculation of total amounts of Q1 2020 reinsurance requests
07-31-20	Deadline for insurers to submit Q2 2020 eligible claims data to NDID for RAND
08-01-20	Commissioner reviews and approves assessments to health insurers for third quarter 2020
08-31-20	NDID will provide each eligible insurer with the calculation of total amounts of Q2 2020 reinsurance requests
09-04-20	NDID holds annual public forum required by 45 CFR 155.1320(c).
10-31-20	Deadline for insurers to submit Q3 2020 eligible claims data to NDID for RAND
11-01-20	Commissioner reviews and approves assessments to health insurers for fourth quarter 2020
11-30-20	NDID will provide each eligible insurer with the calculation of total amounts of Q3 2020 reinsurance requests
01-31-21	Deadline for insurers to submit Q4 2020 eligible claims data to NDID for RAND

Date	Event
02-01-21	Commissioner reviews and approves assessments to health insurers for first quarter 2021
03-01-21	NDID will provide each eligible insurer with the calculation of total amounts of Q4 2020 reinsurance requests
03-31-21	No later than this date, NDID submits draft post award annual report to HHS as required by 45 CFR 155.1324(c)
04-10-21	Federal government funds RAND with pass-through funding savings for the 2021 plan year
04-30-21	NDID pays all appropriate claims made to the RAND for the 2020 plan year by this date
04-30-21	Deadline for insurers to submit Q1 2021 eligible claims data to NDID for RAND
05-01-21	Commissioner reviews and approves assessments to health insurers for second quarter 2021
05-23-21	Insurer rate submission deadline to NDID; one set of rates for the 2022 plan year assuming the RAND is in place, one set of rates assuming RAND is not in place.
05-31-21	NDID will provide each eligible insurer with the calculation of total amounts of Q1 2021 reinsurance requests
06-01-21	Federal government funds RAND with APTC savings for the 2021 plan year
07-01-21	NDID submits required post award annual report per 45 CFR 155.1324(c)
07-31-21	Deadline for insurers to submit Q2 2021 eligible claims data to NDID for RAND
08-01-21	Commissioner reviews and approves assessments to health insurers for third quarter 2021.
08-31-21	NDID will provide each eligible insurer with the calculation of total amounts of Q2 2021 reinsurance requests
10-31-21	Deadline for insurers to submit Q3 2021 eligible claims data to NDID for RAND
11-30-21	NDID will provide each eligible insurer with the calculation of total amounts of Q3 2021 reinsurance requests
01-31-22	Deadline for insurers to submit Q4 2021 eligible claims data to NDID for RAND
03-01-22	NDID will provide each eligible insurer with the calculation of total amounts of Q4 2021 reinsurance requests
04-30-22	NDID pays all appropriate claims made to the RAND for the 2021 plan year by this date

V. Additional Information and Reporting

A. Administrative Burden

Waiver of Section 1312(c) will cause minimal administrative burden and expense for North Dakota and for the federal government. The waiver will cause no additional administrative burden to employers and individuals because Section 1312(c) does not relate to the administrative functions or requirements typically undertaken by employers or individuals.

NDID has the resources and staff necessary to absorb the following administrative tasks that the waiver will require the state to perform:

- Administer the RAND
- Distribute federal pass through funds
- Calculate the appropriate premium tax credits for RAND assessments levied against insurers
- Monitor compliance with federal law
- Collect and analyze data related to the waiver
- Perform reviews of the implementation of the waiver
- Hold annual public forums to solicit comments on the progress of the waiver
- Submit annual reports to the federal government

The waiver will require the federal government to perform the following administrative tasks:

- Review documented complaints, if any, related to the wavier
- Review state reports
- Periodically evaluate the state's 1332 waiver program
- Calculate and facilitate the transfer of pass through funds to the state

NDID believes the above federal administrative tasks are highly like other administrative tasks currently being performed by the federal government, making their effect insignificant. Waiver of Section 1312(c)(1) does not necessitate any changes to the Federally Facilitated Marketplace and will not affect how APTC or cost-sharing reduction payments are calculated or paid.

B. Impact on Residents Who Need to Obtain Healthcare Services Out-of-State

North Dakota shares borders with Minnesota, South Dakota, Montana, and two Canadian provinces. Insurer health plans covering individuals living in border counties generally include providers from the neighboring state in their networks. Granting this waiver request will not affect insurer networks or service areas that provide coverage for services performed by out of state providers.

C. Ensuring Compliance, Waste, Fraud, and Abuse

The NDID is responsible for regulating and ensuring regulatory compliance and monitoring the solvency of all insurers. The NDID performs market conduct examinations, financial examinations, investigates consumer complaints, and investigates and prosecutes acts of insurance fraud.

House Bill 1106 along with federal law sets reporting and audit requirements for the RAND. The RAND may also set forth additional requirements and detail by administrative rule. The RAND is also subject to audit by the North Dakota State Auditor.

D. State Reporting Requirements and Targets

NDID will assume responsibility for the reporting requirements of 45 CFR 155.1324, including the following:

- Quarterly reports to the federal government to the extent required under 45 CFR 155.1324(a), including, if necessary, reports of ongoing operational challenges, if any, and plans for, and results of, associated corrective actions.
- Annual reports as required by 45 CFR 155.1324(b), including:
    - (1) The progress of the waiver.
    - (2) Data on compliance with section 1332(b)(1)(A) through (D) of the Affordable Care Act.
    - (3) A summary of the annual post-award public forum, held in accordance with § 155.1320(c), including all public comments received at such forum regarding the progress of the section 1332 waiver and action taken in response to such concerns or comments.
    - (4) The premium for the second lowest cost silver plan under the waiver and an estimate of the premium as it would have been without the waiver.
    - (5) Any other information consistent with the State's approved terms and conditions.

To the extent that quarterly reporting is required under 45 CFR 155.1324(a), NDID will follow the reporting timelines required by the federal approval letter. NDID will submit and publish annual reports by the deadlines established in 45 CFR 155.1324(c) or the deadlines established by the terms of the waiver.

VI. Supporting Information and Miscellaneous

A. 45 CFR 155.1308(f)(4)(i) – (iii)

The supporting information required by 45 CFR 155.1308(4)(i) – (iii), including the actuarial analyses and certifications, the economic analysis, 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) are found in Attachment 2.

VII. Alignment with Section 1332 Principles

North Dakota's waiver, if approved, will advance several of the principles described in the October 2018, 1332 guidance:

- **Provide increased access to affordable private market coverage.** The reinsurance program will reduce premiums exclusively for those purchasing private health insurance. Specifically, it will reduce premiums for private health insurance in the individual market by approximately 20% for each of the years the waiver is in effect. The reinsurance program will also support competition in the health insurance market and could lead to new health insurers entering North Dakota's individual market, helping to ensure access to private insurance coverage.

- **Encourage sustainable spending growth.** While not a direct component of this waiver application, House Bill 1106 includes a mandatory legislative study during the 2019-20 interim which will examine the ways North Dakota can positively affect the current trend of health insurance premium rates increasing, with a focus on the high-risk and subsidized markets. The study must be solution based to reduce costs and may include consideration of whether a strict managed care model may be effective. North Dakota's legislative management will report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the North Dakota Legislative Assembly when it reconvenes in 2021.

- **Support and empower those in need.** By reducing premiums in the individual market, the proposed reinsurance program will target its impact at those who are not currently eligible for financial assistance and therefore generally face the largest premiums for health insurance. Individuals with incomes under 400 percent of the federal poverty (and who are not eligible for other coverage) are generally eligible for the PTC, which generally limits their contribution towards individual market health insurance to a fixed percentage of their income. As a result, they are generally insulated from the impact of premium changes. However, individuals with incomes over 400 percent of the poverty line are ineligible for the PTC and therefore face payment of the full premium, which annually can be over thirty-three thousand dollars for a single individual.

- **Foster state innovation.** The RAND is a state-run approach to making coverage more affordable that is suited to the specific needs of North Dakota. States across the country have pursued innovative approaches to strengthening their health care systems. A reinsurance waiver has been identified by North Dakota as the approach that meets its needs while allowing it to take control of its own health care system.

- **Promote consumer-driven healthcare.** The proposed reinsurance program will empower North Dakotans to make informed choices about their health coverage and health care. The NDID has been holding public meetings to discuss the proposed reinsurance program. We have also spent time educating our state's health insurance agents on the benefits of the RAND and how it will benefit the citizens of North Dakota.

We have scheduled meetings with insurance agents at seven cities throughout the state during the month of June where we will continue to educate our agents about the benefits of the proposed waiver and the RAND.

VIII. Public Comment and Tribal Consultation

A. Public Comment

Supporting information required by 45 CFR 155.1308(f)(2) and 45 CFR 155.1312 is located under Attachments 3-10. All comments provided were supportive of North Dakota's proposed 1332 reinsurance waiver.

B. Tribal Consultation

Supporting information required by HHS guidance is located under Attachment 11.

C. Public Hearings

Public hearings were held by the Insurance Department in Fargo on April 17, 2019 and in Bismarck on April 18, 2019. Questions asked by the public and the answers provided are located under Attachment 12 (note: there were no questions or comments from the public at the Bismarck public hearing). Additional supporting documentation is located under Attachment 13. Attachment 14 is documents showing notice of the public hearings was provided to the public.

Attachment 1

Sixty-sixth Legislative Assembly of North Dakota
In Regular Session Commencing Thursday, January 3, 2019

HOUSE BILL NO. 1106
(Industry, Business and Labor Committee)
(At the request of the Insurance Commissioner)

AN ACT to create and enact chapter 26.1-36.7 of the North Dakota Century Code, relating to the establishment of an invisible reinsurance pool for the individual health insurance market; to amend and reenact subsection 2 of section 26.1-03-17 of the North Dakota Century Code, relating to premium taxes and credits for insurance companies; to provide for a legislative management study; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 26.1-03-17 of the North Dakota Century Code is amended and reenacted as follows:

2. An insurance company, nonprofit health service corporation, health maintenance organization, or prepaid legal service organization subject to the tax imposed by subsection 1 is entitled to a credit against the tax due for the amount of any assessment paid as a member of a comprehensive health association under subsection 3 of section 26.1-08-09 for which the member may be liable for the year in which the assessment was paid, a credit against the tax due for the amount of any assessment paid as a member of the reinsurance association of North Dakota under section 26.1-36.7-06 for which the member may be liable for the year in which the assessment is paid, a credit as provided under section 26.1-38.1-10, a credit against the tax due for an amount equal to the examination fees paid to the commissioner under sections 26.1-01-07, 26.1-02-02, 26.1-03-19.6, 26.1-03-22, 26.1-17-32, and 26.1-18.1-18, and a credit against the tax due for an amount equal to the ad valorem taxes, whether direct or in the form of rent, on that proportion of premises occupied as the principal office in this state for over one-half of the year for which the tax is paid. The credits under this subsection must be prorated on a quarterly basis and may not exceed the total tax liability under subsection 1.

SECTION 2. Chapter 26.1-36.7 of the North Dakota Century Code is created and enacted as follows:

26.1-36.7-01. Definitions.

For purposes of this chapter, unless the context otherwise requires:

1. "Association" means the reinsurance association of North Dakota.
2. "Board" means the board of directors of the reinsurance association of North Dakota.
3. "Earned group health benefit plan premiums" means premium owed to an insurer for a period of time during which the insurer has been liable to cover claims for an insured pursuant to the terms of a group health benefit plan issued by the insurer.
4. "Future losses" means reserves for claims incurred but not reported.
5. "Group health benefit plan" means a health benefit plan offered through an employer, or an association of employers, to more than one individual employee.
6. "Health benefit plan" means any hospital and medical expense-incurred policy or certificate, nonprofit health care service plan contract, health maintenance organization subscriber

contract, or any other health care plan or arrangement that pays for or furnishes benefits that pay the costs of or provide medical, surgical, or hospital care.

a. "Health benefit plan" does not include any one or more of the following:

(1) Coverage only for accident or disability income insurance, or any combination of the two;

(2) Coverage issued as a supplement to liability insurance;

(3) Liability insurance, including general liability insurance and automobile liability insurance;

(4) Workforce safety and insurance or similar workers' compensation insurance;

(5) Automobile medical payment insurance;

(6) Credit-only insurance;

(7) Coverage for onsite medical clinics;

(8) Other similar insurance coverage, specified in federal regulations, under which benefits for medical care are secondary or incidental to other insurance benefits; and

(9) Self-funded plans.

b. "Health benefit plan" does not include the following benefits if the benefits are provided under a separate policy, certificate, or contract of insurance or are otherwise not an integral part of the plan:

(1) Limited scope dental or vision benefits;

(2) Benefits for long-term care, nursing home care, home health care, or community-based care, or any combination of this care; and

(3) Other similar limited benefits specified under federal regulations issued under the federal Health Insurance Portability and Accountability Act of 1996 [Pub. L. 104-191; 110 Stat. 1936; 29 U.S.C. 1181 et seq.].

c. "Health benefit plan" does not include the following benefits if the benefits are provided under a separate policy, certificate, or contract of insurance; there is no coordination between the provision of the benefits; and any exclusion of benefits under any group health insurance coverage maintained by the same plan sponsor, and the benefits are paid with respect to an event without regard to whether benefits are provided with respect to such an event under any group health plan maintained by the same sponsor:

(1) Coverage only for specified disease or illness; and

(2) Hospital indemnity or other fixed indemnity insurance.

d. "Health benefit plan" does not include the following if offered as a separate policy, certificate, or contract of insurance:

(1) Medicare supplement health insurance as defined under section 1882(g)(1) of the federal Social Security Act [42 U.S.C. 13295ss(g)(1)];

(2) Coverage supplemental to the coverage provided under chapter 55 of United States Code title 10 [10 U.S.C. 1071 et seq.] relating to armed forces medical and dental care; and

(3) Similar supplemental coverage provided under a group health plan.

7. "Individual health benefit plan" means a health benefit plan offered to individuals, other than in connection with a group health benefit plan. The term does not include short-term, limited-duration health insurance as defined by section 26.1-36-49.

8. "Insured" means an individual who is insured by a health benefit plan.

9. "Insurer" means an entity authorized to write health benefit plans or that provides health benefit plans in the state. The term includes an insurance company as defined in section 26.1-02-01, a nonprofit health service organization, a fraternal benefit society, and a health maintenance organization.

10. "Member insurer" means an insurer that offers individual health benefit plans and is actively marketing individual health benefit plans in this state.

26.1-36.7-02. Waiver proposal and application.

1. The commissioner may develop a proposal for an innovation waiver under section 1332 of the federal Patient Protection and Affordable Care Act [Pub. L. 111-148 119 Stat. 124; 42 U.S.C. 1801 et seq.].

2. On behalf of the state, in accordance with the proposal developed under subsection 1, the commissioner may submit an application the to the United States department of health and human services and to the United States secretary of the treasury. The commissioner may implement any federally approved waiver.

26.1-36.7-03. Reinsurance association of North Dakota.

1. The reinsurance association of North Dakota is established as a nonprofit legal entity. As a condition of writing health insurance business in this state, an insurer that has issued or administered a group health benefit plan within the previous twelve months or is actively marketing or administering a group health benefit plan in this state shall participate in the association.

2. The association may begin operation on either:

   a. The January first following the date the commissioner certifies to the secretary of state and the legislative council that the state's innovation waiver application has been approved by the federal government pursuant to section 1332 of the federal Patient Protection and Affordable Care Act [Pub L. 111-148 Stat. 124; 42 U.S.C. 1801 et seq.]; or

   b. The January first following the date the commissioner certifies to the secretary of state and the legislative council that the Patient Protection and Affordable Care Act [Pub. L. 111-148] has been repealed, amended, or finally adjudicated by a court of law with jurisdiction over North Dakota as invalid or in a manner that makes the granting of an innovation waiver unnecessary or inapplicable.

3. If the federal funding associated with an approved innovation waiver under section 1332 of the federal Patient Protection and Affordable Care Act [Pub. L. 111-148 Stat. 124; 42 U.S.C. 1801 et seq.] is terminated or otherwise discontinued, the commissioner may cease or suspend operations of the reinsurance association of North Dakota beginning on the January first following the date the commissioner notifies the board that federal funding has been terminated or otherwise discontinued.

26.1-36.7-04. Board of directors.

1. The association is governed by the board of directors of the reinsurance association of North Dakota.

2. The board consists of the state health officer, one senator appointed by the majority leader of the senate of the legislative assembly, one representative appointed by the speaker of the house of representatives of the legislative assembly, one individual from each of the four insurers of the association with the highest annual market share as determined by annual market share reports of health benefit plans provided by the commissioner annually, and two nonvoting, members from the insurance department appointed by the commissioner.

3. Members of the board may be reimbursed from the moneys of the association for expenses incurred by the members due to their service as board members, but may not otherwise be compensated by the association for board services.

4. The costs of conducting the meetings of the association and the board are borne by the association.

5. For cause, the commissioner may remove any board member representing one of the four insurers.

26.1-36.7-05. Powers and duties of commissioner and board.

1. The commissioner shall:

   a. Perform all functions necessary for the association to carry out the purposes of this chapter; and

   b. Approve any assessments to the insurers writing or otherwise issuing group health benefit plans. A group health benefit plan issued pursuant to chapter 54-52.1 is exempt from the assessment.

2. The board shall:

   a. Formulate general policies to advance the purposes of this chapter;

   b. Schedule and approve independent biennial audits in order to:

      (1) Ensure claims are being processed appropriately and only include services covered by the individual health benefit plan for the contracted rates; and

      (2) Verify that the assessment base is accurate and that the appropriate percentage was used to calculate the assessment;

   c. Approve bylaws and operating rules; and

   d. Provide for other matters as may be necessary and proper for the execution of the commissioner's and board's powers, duties, and obligations.

3. The commissioner and the members of the board are not liable for any obligations of the association.

26.1-36.7-06. Assessments against insurers.

1. For the purpose of providing the funds necessary to carry out the purposes of the association under this chapter, the commissioner shall assess insurers writing or otherwise issuing group health benefit plans based on the insurer's group health benefit plan premium written in this state. The assessment must be paid quarterly within forty-five days of the end of the previous quarter on all earned group health benefit plan premiums for the previous calendar quarter. An assessment not paid within forty-five days of the end of the previous quarter accrues interest at twelve percent per annum beginning on the date due.

2. The commissioner may verify the amount of each insurer's assessment based on annual statements and other reports determined to be necessary by the commissioner. The commissioner may use any reasonable method of estimating an insurer's group health benefit plan premium if the specific number is not reported to the commissioner.

3. Any federal funding obtained by the association must be used to reduce the assessments of insurers writing or otherwise issuing group health benefit plans pursuant to this section.

4. Before April second of each year, the association shall determine and report to the board the association's net gains or net losses for the previous calendar year.

5. Before April sixteenth of each year, the association shall provide an estimate to the commissioner and the board of the amount of assessments needed for the association to carry out the powers and duties of the association under this chapter.

6. Before May second of each year, the board may provide a recommendation to the commissioner and the board of the amount of assessments needed for the association to carry out the powers and duties of the association under this chapter.

7. An insurer may apply to the commissioner for a deferral of all or part of an assessment imposed by the association under this section. The commissioner may defer all or part of the assessment if the commissioner determines the payment of the assessment would place the insurer in a financially impaired condition. If all or part of the assessment is deferred, the amount deferred must be assessed against other insurers in a proportionate manner consistent with this section. The insurer that receives a deferral remains liable to the association for the amount deferred and is prohibited from reinsuring any person through the association until such time as the insurer pays the assessments.

8. The board shall use any surplus, including any interest earned on the surplus, to:

   a. Offset future losses;

   b. Reduce future assessments to insurers writing or otherwise issuing group health benefit plans; or

   c. Pay off a line of credit issued pursuant to section 26.1-36.7-07.

9. The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any member insurer that fails to pay an assessment. As an alternative, the commissioner may levy a penalty on any member insurer that fails to pay an assessment when due. In addition, the commissioner may use any power granted to the commissioner by this title to collect any unpaid assessment.

26.1-36.7-07. Bank of North Dakota line of credit.

The Bank of North Dakota shall extend to the association a line of credit not to exceed twenty-five million dollars. The association shall repay the line of credit from assessments against insurers writing or otherwise issuing group health benefit plans in this state or from other funds appropriated by the legislative assembly. The association may access the line of credit to the extent necessary to provide reimbursements to member insurers as required by this chapter.

26.1-36.7-08. Reinsurance.

For claims of an insured which total one hundred thousand dollars to one million dollars incurred per plan year, a member insurer must be reinsured by the association at seventy-five percent of the member insurer's responsibility for claims incurred by the insured pursuant to the terms of an individual's nongrandfathered individual health benefit plan.

26.1-36.7-09. Reimbursement of member insurer.

For nongrandfathered individual health benefit plans issued or renewed after the November second preceding to the date the association begins operation, a member insurer may seek reimbursement from the association and the association shall reimburse the member insurer pursuant to the provisions of section 26.1-36.7-08 to the extent the claims incurred by the insured and submitted by the member insurer to the association are eligible for coverage and reimbursement according to the terms of insured's individual health benefit plan.

26.1-36.7-10. Rulemaking.

The commissioner may adopt rules for the implementation and administration of this chapter.

SECTION 3. LEGISLATIVE MANAGEMENT STUDY - HEALTH INSURANCE PREMIUM TREND. During the 2019-20 interim, the legislative management shall study ways the state may be able to positively affect the current trend of health insurance premium rates increasing, with a focus on the high-risk and subsidized markets. The study must be solution based to reduce costs and may include consideration of whether a strict managed care model might be effective. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-seventh legislative assembly.

SECTION 4. EXPIRATION DATE. This Act is effective through December 31, 2021, and after that date is ineffective.

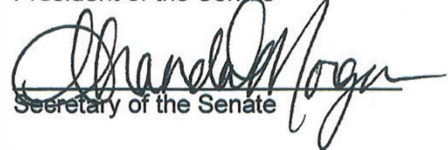
SECTION 5. EMERGENCY. This Act is declared to be an emergency measure.

H. B. NO. 1106 - PAGE 7

Speaker of the House

President of the Senate

Chief Clerk of the House


Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1106 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

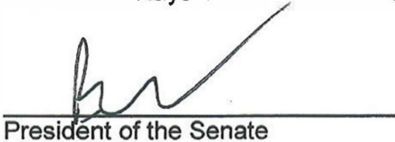
Vote: Yeas 89 Nays 0 Absent 5

Speaker of the House

Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

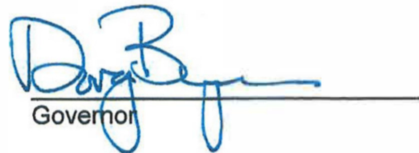
Vote: Yeas 46 Nays 1 Absent 0


President of the Senate

Secretary of the Senate

Received by the Governor at 9:48 AM. on April 17, 2019.

Approved at 2:20 PM. on April 18, 2019.


Governor

Filed in this office this 19th day of April, 2019,

at 8:42 o'clock A. M.

Secretary of State

North Dakota Section 1332 State Innovation Waiver Application

Actuarial Analysis for a Cost-Based Individual Reinsurance Program

May 2, 2019

Donna Novak, ASA, MAA, FCA, MBA
Audrey Halvorson FSA, MAAA
Richard Diamond FSA, MAAA
Matt Elston FSA, MAA
Richard Cadwell

156 West Calle Guija, Suite 200, Sahuarita, AZ 85629 tel.: 520-908-7246 – www.NovaRest.com
Copyright © 2019 by NovaRest, Inc.

NovaRest ACTUARIAL CONSULTING

Table of Contents

I. Executive Summary 4
Intent of This Report 4
North Dakota's 1332 Reinsurance Waiver Program 4
Reinsurance 4
Meeting the 1332 Waiver Guardrails 5
Funding 6
In Conclusion 7
II. Background 8
Section 1332 Waivers 8
Guardrails 8
Actuarial Certification 9
Current Environment 10
Current State of the Affordable Care Act (ACA) 10
North Dakota Characteristics 10
III. Overview of North Dakota's Reinsurance 1332 Waiver 17
Reinsurance Design 17
IV. Actuarial and Economic Analysis 18
Meeting the Section 1332 Waiver Guardrails 26
Comprehensive Requirement (1332(b)(1)(A) 26
Affordability Requirement 1332(b)(1)(B) 27
Scope of Coverage Requirement 1332(b)(1)(C) 28
Federal Deficit Neutrality Requirement – 1332(b)(1)(D) 29
Aggregate Premium 20
Calculation of an Individual's Maximum Payable Premium for the Advanced Premium Tax Credit 19
Calculation of the APTC 18
Calculation of the Federal Savings Available for Pass-Through Funding 30
Ten Year Projections 33
Assumptions 33
Process 33
Projections 34

Copyright © 2019 by NovaRest, Inc.

Analysis Process and Assumptions 21
Data 21
2019 Market Projection 22
Projection of 2020 Base Line Market 24
Reinsurance and Funding Needs Projection 26
V. Actuarial Certification 37
VI. Appendices 39
Appendix A – Claim Trend Assumptions 40
Appendix B - Administrative Requirements for North Dakota Reinsurance Program 41
Claims Processing 41
Funding Collections 41
Periodic Audits 41
Miscellaneous Tasks 42
Appendix C - Definitions and Abbreviations 43
Appendix D - NRMM Model and Assumptions 45
Appendix E – Qualifications 47
Appendix F – Reliance 48
Appendix G –Limitations 49

Copyright © 2019 by NovaRest, Inc.

NovaRest ACTUARIAL CONSULTING

I. Executive Summary

Intent of This Report

The NovaRest team was hired by the North Dakota Insurance Department to provide the actuarial and economic analysis related to North Dakota's proposal for a waiver under §1332 of the Affordable Care Act. This actuarial and economic report meets the requirement for an actuarial certification to be included in North Dakota's 1332 Waiver application. Specifically, it addresses section 45 CFR 155.1308(f)(4)(i)-(iii) of the Centers for Medicare and Medicaid Service (CMS) checklist for the 1332 Waiver, including actuarial analyses and actuarial certifications, economic analyses, and data and assumptions. Additionally, the report details the assumptions and methodologies used to develop the actuarial and economic projections. Reliance on this report should include a review of the full report, and the report should only be reproduced in its entirety with prior consent from NovaRest.

North Dakota's 1332 Reinsurance Waiver Program

It is North Dakota's desire that its 1332 Waiver will reduce individual market premiums, making insurance more affordable, while protecting insurers from unpredictable high cost claims starting in 2020. North Dakota believes this could be accomplished using a reinsurance mechanism to help fund high cost claims. The result, therefore, should be more individuals staying in the market and more insurers being willing to write policies in North Dakota's counties. Both of these will help stabilize the individual health insurance market in North Dakota.

The projections in this report were developed using NovaRest's micro-simulation model referred to as the NovaRest Migration Model (NRMM). The NRMM uses economic assumptions and detailed individual membership data to project family buying decisions based on premium rate increases, morbidity, family size, and age. More detail on the methodology and assumptions used are contained in the report and in Appendix D.

Reinsurance

This section focuses on projections for the base year of 2020, while the 10-year projections are detailed in Section IV Actuarial Economic: Ten Year Projections.

Under its 1332 Waiver, North Dakota proposes to implement a reinsurance mechanism that would be similar to traditional reinsurance and the temporary ACA Transitional Reinsurance program that operated between 2014 and 2016. The reinsurance is estimated to reduce premiums by approximately 20% in 2020 compared to the base line premium (without the waiver). Due to the reduced premium, the membership in the 2020 individual market is expected to increase 0.7% compared to the base line without the waiver.

The reinsurance mechanism would be what has been referred to as "invisible" reinsurance.[1] The approach of an "invisible" reinsurance mechanism allows enrollees to remain in the individual

[1] Jonathan Keisling. "Invisible High-Risk Pools." April 11, 2017. https://www.americanactionforum.org/insight/invisible-high-risk-pools/ . Accessed April 9, 2019.

Copyright © 2019 by NovaRest, Inc.

market with their current plan and carrier, but a portion of their claims are reimbursed by the reinsurance pool. The enrollee is not aware that their claim is being paid via the reinsurance pool. This means there is no effect on the enrollee, as the task of ceding claims to the reinsurance pool is completed on the back end of the process and is without consequence to the enrollee.

For 2020, the proposed reinsurance program would cover 75% of paid claims between the attachment point and $1,000,000. The attachment point proposed is $100,000. This level of reinsurance was assumed in the future projections, but North Dakota may have the flexibility to change the parameters in the future.

The reinsurance payable under the Waiver is estimated to be approximately $47 million in 2020. It will increase over the next ten years due to medical inflation. The actual amount that will be paid under the reinsurance will depend on submitted claims.

The proposed reinsurance program should be coordinated with the federal risk adjustment program; however, it will not affect risk adjustment calculations. Since the risk adjustment program is a revenue neutral program, the proposed reinsurance program will not add any risk adjustment costs to the federal government. The proposed reinsurance program covers paid claims up to a maximum of $1,000,000, which is where the federal risk adjustment high-risk pool program begins, therefore there is no overlap.

Meeting the 1332 Waiver Guardrails

CMS has determined four "guardrails" that must be met before a 1332 Waiver can be approved.

Table I.1 summarizes the expected impact of the proposed Section 1332 Waiver on the required guardrails. Our analysis demonstrates the proposed Section 1332 Waiver is expected to meet the guardrails starting in 2020 and continuing in each of the next ten years. Section IV, Actuarial and Economic Analysis: Meeting the Section 1332 Waiver Guardrails, provides more detailed analysis of the results.

Copyright © 2019 by NovaRest, Inc.

Table I.1	
Guardrail Requirement	Impact of Proposed 1332 Waiver
Comprehensiveness of Coverage: Coverage under the Section 1332 Waiver will be at least as comprehensive as would be provided absent the waiver.	The proposed Waiver does not make alterations to the required scope of benefits offered in the insurance market in North Dakota. It is expected to result in an increase in the number of individuals with coverage that meet the ACA's EHB requirements.
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.	In each year the reinsurance is in effect, the cost of individual coverage will be lower than it would be absent the waiver.
Scope of Coverage: Coverage under the Section 1332 Waiver will be provided to at least a comparable number of residents as would be provided absent the waiver.	The number of residents covered under the North Dakota waiver are projected to be higher than would be absent the waiver.
Deficit Neutrality: The Section 1332 Waiver will not increase the Federal deficit.	The North Dakota waiver will not increase the Federal deficit since the federal pass-through funding will be the APTC savings less the reduced income from exchange user fees.

Funding

A portion of the funding for the reinsurance would come from the federal government due to the reduction in advanced premium tax credits (APTC) being passed to North Dakota.[2] The reduction in premiums for the second lowest Silver plan in each region directly reduces the APTC for the individuals eligible for APTCs.

The additional funding required by the reinsurance program would come from assessments against the group health insurance market. NovaRest projects the APTC pass-through in 2020 to be $26 million and the assessment requirement to be $21 million. The 2020 assessment would be 2% of the group health insurance premium, but the assessment could be deducted from state premium tax of 2% meaning the state is actually funding the program by reducing the premium tax income so there is no impact on the group marketplaces. This percentage is higher than the current estimates of required additional funding in order to provide a cushion in the first year of operation. Ten-year reinsurance projections are detailed in Tables I.2a and I.2b.

[2] In reality, the amount of pass-through funding depends on the expected change in total PTC subsidy, attributable to the waiver. The total PTC subsidy is the APTC, less the amount of excess APTC repaid when tax returns are filed, plus the additional amount of PTC claimed on tax return. We are using the projected APTC as an estimate of the ultimate PTC, since we believe that looking at past history of changes in the PTC compared to the APTC will not give us a better estimate of the PTC.

Copyright © 2019 by NovaRest, Inc.

Table I.2a Projected Reinsurance, Federal Pass-Through, and North Dakota Responsibility					
	2020	**2021**	**2022**	**2023**	**2024**
Reinsurance by Year	$47,342,136	$49,803,927	$52,144,711	$54,595,513	$57,161,502
Federal Pass-Through	$26,116,306	$27,480,273	$28,777,021	$30,134,590	$31,555,845
North Dakota Responsibility	$21,225,830	$22,323,653	$23,367,691	$24,460,923	$25,605,657

Table I.2b Projected Reinsurance, Federal Pass-Through, and North Dakota Responsibility					
	2025	**2026**	**2027**	**2028**	**2029**
Reinsurance by Year	$59,905,254	$62,900,517	$65,793,940	$68,820,462	$71,986,203
Federal Pass-Through	$33,075,450	$34,734,244	$36,336,515	$38,012,397	$39,765,282
North Dakota Responsibility	$26,829,804	$28,166,273	$29,457,426	$30,808,064	$32,220,921

As can be seen in Tables I.2a and I.2b, the projected reinsurance payable, Federal pass-through, and North Dakota responsibility for the balance of reinsurance payable not funded by the Federal pass-through increases each year. The portion of reinsurance payable funded by the Federal pass-through is roughly 55% in 2020.

In Conclusion

North Dakota's Waiver reinsurance program is projected to reduce premiums and provide lower-cost options for comprehensive coverage. As can been seen in the ten-year projections in Section IV, this is expected to result in more ACA membership and a more stable individual market. The program will also protect carriers from unpredictable, high cost claims, and make the claims costs more predictable. This should result in carriers being more willing to participate in North Dakota's individual insurance market.

The reinsurance would be funded by a combination of federal reduction in APTCs and state assessments. The assessments would be against the group health insurance market, but because the assessment could be deducted from state premium tax, the state is actually funding the program. Since the group insured market is much larger than the individual market, the assessment needed to stabilize the individual market would be spread over a much larger base.

Copyright © 2019 by NovaRest, Inc.

II. Background

Section 1332 Waivers

Section 1332 of the Affordable Care Act (ACA) permits a state to apply for a State Innovation Waiver to pursue innovative strategies for providing their residents with access to high quality, affordable health insurance while retaining the basic protections of the ACA.[3]

Guardrails

In 2012, the Department of Health and Human Services (HHS) issued regulations for Section 1332 Waivers.[4] In 2015, the Department of Treasury and HHS released guidance on how they would interpret the law's guardrail requirements.[5] On October 24, 2018, the Department of Treasury and HHS released additional guidance providing more flexibility in meeting the Waiver guardrails[6] and this 2018 guidance supersedes the 2015 guidance.

As this report shows, the proposed Waiver will meet the required guardrail conditions as described below:

Comprehensive Coverage – 1332(b)(1)(A). The proposed waiver will not make alterations to the required scope of benefits offered in the insurance market in North Dakota and will not result in a decrease in the number of individuals with coverage that meet the ACA's Essential Health Benefits requirements.

Affordability – 1332(b)(1)(B). The proposed waiver will not decrease existing coverage or cost-sharing protections against excessive out-of-pocket spending. The waiver will not result in any decrease in affordability for individuals.

Average premiums will be lower under the waiver. Also, the NovaRest modeling predicts which individuals and families will shop for less-rich coverage due to rate increases. Under the waiver we project that fewer individuals and families opt to purchase less-rich coverage and remain in their current level of coverage. The result is that under the waiver the average cost of member cost-sharing (deductibles, coinsurance, and copays) is less than without the waiver. The total out-of-pocket cost including premiums and cost-sharing are projected to be less on average under the waiver than without the waiver.

---

[3] "Section 1332: State Innovation Waivers." The Center for Consumer Information & Insurance Oversight. https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section_1332_State_Innovation_Waivers-.html . Accessed December 20, 2018.
[4] "Application, Review, and Reporting Process for Waivers for State Innovation." Department of Health and Human Services. February 27, 2012. https://www.govinfo.gov/content/pkg/FR-2012-02-27/pdf/2012-4395.pdf . Accessed April 9, 2019.
[5] "Waivers for State Innovation." Department of Health and Human Services. December 16, 2015. https://www.govinfo.gov/content/pkg/FR-2015-12-16/pdf/2015-31563.pdf . Accessed April 9, 2019.
[6] "State Relief and Empowerment Waivers." Department of Health and Human Services. October 24, 2018. https://s3.amazonaws.com/public-inspection.federalregister.gov/2018-23182.pdf . Accessed April 9, 2019.

Copyright © 2019 by NovaRest, Inc.

Scope of Coverage – 1332(b)(1)(C).
As documented in this report the proposed waiver will cover more individuals in North Dakota than would be covered without the waiver. Due to the reduced premium, the membership in the 2020 individual market would increase by 1% compared to the baseline without the waiver, as lower premiums will result in individuals retaining coverage rather than dropping coverage due to unaffordable premium rates.

The waiver anticipates funding from assessments on group premiums. We project that this will not have any impact on the number of individuals in the state covered under employer-sponsored plans or the affordability of the plans given that the assessment can be deducted from the premium tax.

Federal Deficit Neutrality – 1332(b)(1)(D). The proposed Waiver will not result in increased spending, administrative, or other expenses to the federal government.

When examining the options available to stabilize the individual health insurance market in North Dakota each of these guardrails must be met.

Actuarial Certification

A 1332 Waiver also requires an actuarial certification that is conducted and signed by a member of the American Academy of Actuaries.

The requirements of the actuarial certification have changed since 2012. This report is intended to meet the following requirements:[7]

A. *Actuarial analyses and actuarial certifications.* Actuarial analyses and actuarial certifications to support North Dakota's estimates that the proposed Waiver will comply with the comprehensive coverage requirement, the affordability requirement, and the scope of coverage requirement.

B. *Economic analyses.* Economic analyses to support North Dakota's estimates that the proposed Waiver will comply with the comprehensive coverage requirement, the affordability requirement, the scope of coverage requirement and the federal deficit requirement, including:
    a. A detailed 10-year budget plan that is deficit neutral to the federal government, as prescribed by section 1332(a)(1) and section 1332(B)(ii) of the Affordable Care Act, and includes all costs under the Waiver, including administrative costs and other costs to the federal government, if applicable; and
    b. A detailed analysis regarding the estimated impact of the Waiver on health insurance coverage in North Dakota.

[7] "Checklist for Section 1332 State Innovation Waiver Applications, including specific items applicable to High-Risk Pool/State-Operated Reinsurance Program Applications." https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Downloads/Checklist-for-Section-1332-State-Innovation-Waiver-Applications-5517-c.pdf . Accessed April 9, 2019.

Copyright © 2019 by NovaRest, Inc.

C. *Data and assumptions.* The data and assumptions used to demonstrate that North Dakota's proposed Waiver is in compliance with the comprehensive coverage requirement, the affordability requirement, the scope of coverage requirement and the federal deficit requirement, including:
   a. Information on the age, income, health expenses and current health insurance status of the relevant State population; the number of employers by number of employees and whether the employer offers insurance; crosstabulations of these variables; and an explanation of data sources and quality; and
   b. An explanation of the key assumptions used to develop the estimates of the effect of the Waiver on coverage and the federal budget, such as individual and employer participation rates, behavioral changes, premium and price effects, and other relevant factors.

Current Environment

Current State of the Affordable Care Act (ACA)

As federal healthcare reform efforts continue to face significant challenges, the ACA continues to strain North Dakota's individual insurance market. Nationally, the cost of health care is still a major barrier to obtaining coverage and ACA market conditions have resulted in carriers leaving the market or reducing the counties in which they offer plans. North Dakota desires to maintain a robust market despite these headwinds.

Under the ACA if a family income falls between 100% and 400% of the FPL, they may be eligible for cost sharing and premium subsidies.[8] Cost sharing reductions (CSR) lower the amount of cost sharing that an individual pays out of pocket. The CSR's are available to those between 100% to 250% of the federal poverty line and Native American Indians, with families with lower incomes paying less out-of-pocket. APTCs reduce the premium that a family pays based on their income level and are available up to 400% of FPL.

North Dakota Characteristics

North Dakota is one of the fastest growing states in the country. According to Census.gov, North Dakota's total population increased by 12.3% from April 1, 2010 to July 1, 2017.[9] The population increase over the same period for the entire United States is 5.5%.[10] As of July 1, 2017, the North Dakota population is estimated to be 755,393.[11] Table II.1 provides a breakdown of the population demographics.[12]

---

[8] "2018 Federal Poverty Level". Obamacare.net. https://obamacare.net/2018-federal-poverty-level/ . Accessed March 27, 2019.
[9] "Quickfacts: North Dakota". United States Census Bureau. https://www.census.gov/quickfacts/fact/table/nd,US/PST045217 . Accessed April 2, 2019.
[10] Ibid.
[11] Ibid.
[12] "American FactFinder." United States Census Bureau. https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_17_5YR_S0101&prodType=table . Accessed February 20, 2019.

Copyright © 2019 by NovaRest, Inc.

Table II.1 Population by Age	
Under 20 years	197,320
20 to 24 years	64,891
25 to 29 years	60,594
30 to 34 years	53,659
35 to 39 years	48,502
40 to 44 years	39,644
45 to 49 years	39,436
50 to 54 years	42,858
55 to 59 years	49,436
60 to 64 years	45,845
65 years and over	113,208
Total	**755,393**

North Dakota's GDP of $52.5 billion ranks 45th in the US.[13] The compound annual growth rate from 2007-2017 was 4.8% in North Dakota compared with 1.5% for the US. Enterprises with less than 100 employees represent 58% of the total number of establishments in North Dakota and also employ 11% of the total employed.[14]

The median household income in 2017 was $61,285, which is slightly higher than the median household income for the entire United States, which was $57,652.[15] The income distribution for the North Dakota population, in 2017 inflation adjusted dollars, is shown in Table II.2:[16]

[13] "GDP for North Dakota." U.S. Bureau of Economic Analysis. November 2018. https://apps.bea.gov/regional/bearfacts/action.cfm. Accessed April 2, 2019.
[14] "2016 SUSB Annual Data Tables by Establishment Industry." United States Census Bureau. December 2018. https://www.census.gov/data/tables/2016/econ/susb/2016-susb-annual.html . Accessed April 2, 2019
[15] "Quickfacts: North Dakota". United States Census Bureau. https://www.census.gov/quickfacts/fact/table/nd,US/PST045217 . Accessed April 2, 2019.
[16] "American Fact Finder." United States Census Bureau. https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_16_5YR_DP03&prodType=table . Accessed April 3, 2019.

Copyright © 2019 by NovaRest, Inc.

Table II.2 Population by Income		
	Estimate	**Percent**
Total Households	**311,525**	
Less than $10,000	18,381	5.9%
$10,000 to $14,999	13,583	4.4%
$15,000 to $24,999	27,190	8.7%
$25,000 to $34,999	28,707	9.2%
$35,000 to $49,999	40,668	13.1%
$50,000 to $74,999	56,924	18.3%
$75,000 to $99,999	43,906	14.1%
$100,000 to $149,999	49,043	5.7%
$150,000 to $199,999	16,797	5.4%
$200,000 or more	16,326	5.2%
Median household income (dollars)	**61,285**	
Mean household income (dollars)	**81,334**	

Per the most recent U.S. Census Bureau estimates, the number of persons in poverty in North Dakota is 10.3%, which is lower than the estimated 12.3% for the entire United States.[17] North Dakota is the 47th most populated state in the US[18], making the population density of North Dakota among the lowest 5 states in the US, with around 11 residents per square mile.[19] This makes providing adequate access to health care difficult. A biennial report by the University of North Dakota School of Medicine and Health Sciences Advisory Council indicated there is a shortage of providers, particularly primary care physicians, especially in the rural and western parts of North Dakota.[20] They indicate the problem is driven by a lack of providers and more importantly by a higher concentration of providers in the more urbanized areas of the state.

The Federal Poverty Level (FPL) is utilized to determine if a citizen is eligible for subsidies to off-set the cost of their monthly premiums. The FPL is also used to determine eligibility for Medicaid, Children's Health Insurance Program (CHIP) and North Dakota's Children's Special Health Services (CSHS). In 2017, 25% of the population were under 200% FPL in North Dakota.[21]

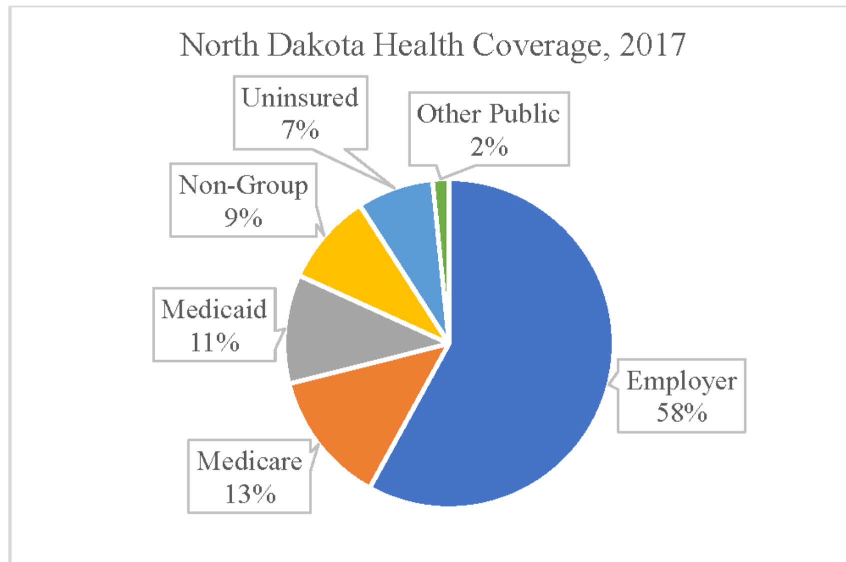
---

[17] "Quickfacts: North Dakota." United States Census Bureau. https://www.census.gov/quickfacts/fact/table/nd,US/PST045217. Accessed April 3, 2019.
[18] Ibid.
[19] "Population density in the U.S. by federal states including the District of Columbia in 2017." Statista. https://www.statista.com/statistics/183588/population-density-in-the-federal-states-of-the-us/ . Accessed April 3, 2019.
[20] "Fourth Biennial Report, Health Issues for the State of North Dakota." UND School of Medicine and Health Sciences. 2017. https://med.und.edu/publications/biennial-report/_files/docs/fourth-biennial-report.pdf . Accessed April 3, 2019.
[21] "Medicaid In North Dakota", Kaiser Family Foundation, November 2018, http://files.kff.org/attachment/fact-sheet-medicaid-state-ND . Accessed April 3, 2019.

Copyright © 2019 by NovaRest, Inc.

The ACA provided federal funding to states that expanded their Medicaid programs. This expansion provided coverage to many who could not afford health insurance premiums. North Dakota opted to expand Medicaid to 138% FPL utilizing federal funding. Low-income adults without dependent children became eligible for Medicaid in North Dakota in 2014. Along with most states the cost of expanding Medicaid has been higher than expected in North Dakota. According to a report, "Sanford reported that the cost of claims among the Medicaid expansion group in 2014 averaged $1,215 per member, per month – far higher than the $352 average for their commercially-insured members."[22] The first three years of the program the federal government was responsible for paying the cost for the new population. In 2017, North Dakota was responsible for paying 5 percent of the cost. Assuming no major changes in the coverage qualifications or other federal changes, the state will be required to pay 10 percent of the costs in 2020.[23]

A breakdown of the sources of health insurance coverage in North Dakota is shown below[24]:



Previously, residents of North Dakota who were unable to find adequate health insurance coverage in the private market due to medical conditions or who had lost their employer-sponsored group health insurance were eligible for Comprehensive Health Association of North

[22] Norris, Louise. "North Dakota and the ACA's Medicaid expansion." August 27, 2018. https://www.healthinsurance.org/north-dakota-medicaid/ . Accessed April 3, 2019.
[23] Ibid.
[24] "Health Insurance Coverage of the Total Population." Henry J Kaiser Family Foundation. https://www.kff.org/other/state-indicator/total-population/?currentTimeframe=0&selectedRows=%7B%22states%22:%7B%22north-dakota%22:%7B%7D%7D%7D&sortModel=%7B%22colId%22:%22Uninsured%22,%22sort%22:%22desc%22%7D . Accessed April 3, 2019. "Other Public" includes those covered under the military of Veterans Administration.

Copyright © 2019 by NovaRest, Inc.

Dakota (CHAND). If an individual was denied health insurance coverage, insurance carriers were required to inform that individual about CHAND. Individual premiums fund approximately one-half to two-thirds of the program, with rates not to exceed 135% of premium rates charged in the state of North Dakota for similar coverage.[25] The balance is covered by assessments to health insurance carriers that write $100,000 or more in annual premiums on behalf of residents of North Dakota. Additional dollars may also come through federal grants.[26] Once the ACA was implemented with its guaranteed issue requirement, CHAND was unable to gain new membership, but prior members were allowed to remain in CHAND.

North Dakota did not establish its own exchange, so enrollments are completed via HealthCare.gov.

North Dakota was one of only two states where insurers were not allowed to add the cost of cost-sharing reductions to premiums when they were defunded.[27] This prompted Medica to leave the exchange at the end of 2017 and left only Blue Cross Blue Shield of North Dakota (Noridian) and Sanford Health Plan on the exchange for the individual market in 2018. Therefore, individuals looking for coverage on the exchange only had two options, Blue Cross and Blue Shield of North Dakota and Sanford Health Plan. In 2017, Medica provided coverage for 3,073 individuals of the 20,691 on North Dakota's exchange.[28]

The approved 2018 average rate increases for the individual market, including off-exchange products, are included in Table II.3.[29]

Table II.3

North Dakota 2018 Final Average Individual Market Rate Increases by Company

Company	2018 Rate Increase
Blue Cross Blue Shield of North Dakota	23.15%
Medica Health Plans	18.33%
Sanford Health Plan	7.86%

[25] The Comprehensive Health Association of North Dakota (CHAND). http://www.chand.org/ . Accessed April 3, 2019.
[26] Ibid.
[27] Norris, Louise. "North Dakota health insurance marketplace: history and news of the state's exchange." April 1, 2019. https://www.healthinsurance.org/north-dakota-state-health-insurance-exchange/ . Accessed April 3, 2019.
[28] "Medica to leave ND health insurance exchange in 2018." Post-Bulletin Company. September 28, 2017. http://www.postbulletin.com/news/business/medica-to-leave-nd-health-insurance-exchange-in/article_0190e224-ff87-55ac-9954-8296518786a9.html . Accessed April 3, 2019.
[29] North Dakota Rate Review Submissions. https://ratereview.healthcare.gov/. Note: Rate increases are provided at the product level. Product rate increases are weighted by projected membership in the URRT to determine the average carrier increases.

Copyright © 2019 by NovaRest, Inc.

For 2019, carriers could add the cost of the federally defunded CSRs to premiums. Medica decided to offer plans on the exchange in 2019. The approved 2019 average rate increases for the individual market, including off-exchange, are shown in Table II.4.[30]

Table II.4
North Dakota 2019 Approved Average Individual Market Rate Increases by Company

Company	2019 Rate Increase
Blue Cross Blue Shield of North Dakota	5.79%
Medica Health Plans	29.32%
Sanford Health Plan	23.25%

The three North Dakota carriers provided NovaRest with data for each individual as of December 31, 2017 and May 31, 2018. Based on the data received, the individual insurance market membership, average premium and total premium are shown in the following Table II.5. Since the premium is the average based on the age mix in the category, the premiums are not totally comparable, but give a sense of what individuals are paying in each market segment. Note also that the "APTC premium rate" reflects the premium collected by the carrier including the APTC and member premium. It is shown as a comparison to the non-APTC premium rates.

[30] Ibid.

Copyright © 2019 by NovaRest, Inc.

Table II.5 Current North Dakota Individual Market		
Membership Active on Census Date	**December 31, 2017**	**May 31, 2018**
On-Exchange		
APTC	15,588	17,707
Non-APTC	3,101	3,936
Total On-Exchange	**18,689**	**21,643**
Off-Exchange	20,379	17,902
Total ACA	**39,068**	**39,545**
Transitional	924	249[31]
Grandfathered	6,381	6,291
Total Individual Market	**46,373**	**46,085**
Average Premium		
On-Exchange		
APTC premium rate	$407.06	$462.90
Non-APTC	$371.06	$420.15
Total On-Exchange	**$401.08**	**$455.12**
Off-Exchange	$406.75	$493.90
Total ACA	**$404.04**	**$472.68**
Transitional	$261.57	$417.70
Grandfathered	$451.47	$471.05
Total Individual Market	**$407.73**	**$472.16**
Total Annual Premium		
Total ACA	$189,421,176	$224,304,283
Transitional	$2,900,288	$1,248,088
Grandfathered	$34,570,284	$35,561,179
Total Individual Market	**$226,891,748**	**$261,113,550**

North Dakota has seen a lot of change in recent years. It expanded Medicaid, had a carrier leave the Exchange, and saw significant change in population. Also, a significant number of individuals have moved from the Grandfathered and Transitional policies to the ACA market. All of these changes have resulted in unusual patterns of enrollment in North Dakota's recent history.

[31] Transitional membership was not provided as of May 31, 2018. The number of active members and the average premium were requested from Sanford Health (the last remaining carrier of transitional policies) as of April 2019.

Copyright © 2019 by NovaRest, Inc.

III. Overview of North Dakota's Reinsurance 1332 Waiver

Reinsurance Design

Under its 1332 Waiver, North Dakota proposes to implement a reinsurance mechanism that would reduce premiums 20% in 2020, compared to the base line premium (without the Waiver). The premium reduction is due to the claims expected to be paid by the reinsurance and the improved morbidity that is reflected in the NRMM micro-simulation model results. The reinsurance mechanism would be "invisible reinsurance", invisible to members, like traditional reinsurance or the temporary federal ACA reinsurance that was effective from 2014 to 2016.

Each calendar year the reinsurance would cover 75% coinsurance of paid claims between the attachment point of $100,000 and a maximum amount of $1,000,000.

In addition to reducing premiums, the reinsurance would allow carriers to better predict their health care claims costs and protect against unpredictable high-cost claimants.

The reinsurance would be funded by the reduction in federal Advanced Premium Tax Credits (APTC) and assessments against group insurance carriers.

The reduction in premiums in North Dakota results in the reduction in APTCs. The APTCs funded by the federal government are the difference between the second lowest Silver premium in a region and the maximum amount that a family pays in premium based on its income and family size. As the Silver premiums are reduced, the APTC is reduced due to the reduction in premiums. The reduction in APTCs is slightly offset by exchange user fee decreases, which the federal government will not be able to collect. The fourth guardrail - Federal Deficit Neutrality, requires that any savings from APTC be offset by any loss of income, which will be discussed in Section IV.

Since the individual market is only 16% of the total health insurance commercial market, the assessments from the group market would be allocated to a much larger base. NovaRest estimates that the impact of the assessments would be deducted from the premium tax and would have no impact on the group market place.

The reinsurance program would reduce premiums, making insurance more affordable while protecting insurers from unpredictable high cost claims. The result, therefore, should be more individuals staying in the market and more insurers willing to write policies in North Dakota counties. Both of these results will help stabilize the individual health insurance market in North Dakota.

The proposed reinsurance program should be coordinated with the federal risk adjustment program; however, it will not affect risk adjustment calculations. Since the risk adjustment program is a revenue neutral program, the proposed reinsurance program will not add any risk adjustment costs to the federal government. The proposed reinsurance program covers paid claims

Copyright © 2019 by NovaRest, Inc.

up to a maximum of $1,000,000, which is where the federal risk adjustment high-risk pool program begins; therefore, there is no overlap.

IV. Actuarial and Economic Analysis

The following actuarial and economic analysis meets the requirements under 45 CFR 155.1308(f)(4)(i) and the additional analysis requested by CMS's Checklist for a Section 1332 State Innovation Waiver Application.[32] As previously noted, NovaRest utilized our micro-simulation model to examine the impact of the proposed Section 1332 Waiver. The model is able to predict how the Waiver will affect the insurance markets in North Dakota and ensure the Waiver meets all guardrails. The NRMM uses economic assumptions and detailed individual membership data to project family buying decisions based on premium rate increases, morbidity, family size, and age.

Calculation of the APTC

An individual's APTC is the difference between the second lowest cost Silver plan in the region for the individual's age and the maximum premium for an individual. For a family, it is the sum of all the second lowest cost Silver plans in the region for the individual's age for each individual and the maximum family premium.

For the Waiver scenario, the APTC is reduced because the second lowest Silver premium for each region is reduced due to the reinsurance. The reinsurance lowers the premiums for all plans, but the second lowest Silver plan is the one that impacts the APTC. NovaRest assumed that the premium reduction was the same percentage for all plans due to the single risk pool requirement.[33] The difference in the premiums for the second lowest Silver plans with and without the reinsurance is the difference in the APTC between the two scenarios. This is the amount that CMS will save in APTC and that can be applied to the reinsurance funding.

The amount that the federal government can contribute and remain budget neutral is the savings from the reduced APTCs less the loss of the exchange user fees. Exchange user fees for the individual market are 3.0% of premium paid on-exchange plans in 2019.[34] When the premium is reduced, this income to the federal government is also reduced. The amount of federal budget savings is the reduction in APTC less the exchange user fees. For example, if APTC has a 15%

---

[32] "Checklist for Section 1332 State Innovation Waiver Applications, including specific items applicable to High-Risk Pool/State-Operated Reinsurance Program Applications." https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Downloads/Checklist-for-Section-1332-State-Innovation-Waiver-Applications-5517-c.pdf . Accessed April 9, 2019.

[33] Rate increases are rarely the same for all plans due to changes such as changes in morbidity that vary between plans and geographic factor changes. It is not possible to predict these types of factors with an appropriate amount of accuracy.

[34] "HHS Notice of Benefit and Payment Parameters for 2020." The Centers for Medicare & Medicaid Services. January 24, 2019. https://www.federalregister.gov/documents/2019/01/24/2019-00077/patient-protection-and-affordable-care-act-hhs-notice-of-benefit-and-payment-parameters-for-2020 . Accessed March 28, 2019.

Copyright © 2019 by NovaRest, Inc.

reduction in premiums, the net amount of savings to the federal government is 15% less the 3.0% or 12.0%.

Calculation of an Individual's Maximum Payable Premium for the APTC

The family Federal Poverty Level (FPL) for 2019 is $12,490 for the first person plus $4,420 for each additional person.[35] A family of 4 would be $12,490 plus 3 times $4,420 or $25,750 total. The single person FPL rate has been increasing by 1% to 3% a year and the additional person cost has been increasing by 0% to 4% a year.[36] We used an assumption that the FPL increased 2.9% for 2018 to 2019 and then will increase 2% per year thereafter.

Maximum premium paid by low income as a percent of income:[37]

- For 138% to 150% of FPL the percentage is between 3.11% and 4.15%.[38]
- For 150% to 200% it is between 4.15% and 6.54%.
- For 200% to 250% it is between 6.54% and 8.36%.
- For 250% to 300% it is between 8.36% and 9.86%.
- For 300% to 400% it is 9.86%.

Table IV.1 presents the maximum premium paid by APTC eligible families for 2019.

Table IV.1
2019 Maximum Premium Paid by APTC Eligible Families

			Annual Premium		Monthly Premium	
FPL Range	FPL Mid-point	Percent of Income	Single at $12,490	Additional at $4,420	Single at $12,490	Additional at $4,420
138% to 150%	144%	3.69%	$664.41	$235.12	$55.37	$19.59
150% to 200%	175%	5.35%	$1,168.28	$413.44	$97.36	$34.45
200% to 250%	225%	7.45%	$2,093.64	$740.90	$174.47	$61.74
250% to 400%	325%	9.52%	$3,862.38	$1,366.83	$321.86	$113.90

If there is one person in a family, the single premium is used. If there is more than one family member, the family premium is increased by the additional amount for each additional family member. For example, as can be seen in Table IV.1, a family of 4 at the 200% to 250% of FPL

---

[35] "Prior Poverty Guidelines and Federal Register References." Office of the Assistant Secretary for Planning and Evaluation. https://aspe.hhs.gov/prior-hhs-poverty-guidelines-and-federal-register-references . Accessed April 4, 2019.
[36] Ibid.
[37] "Rev. Proc. 2018-34, IRS update of the Applicable Percentage." Internal Revenue Service. https://www.irs.gov/pub/irs-drop/rp-18-34.pdf
[38] Note families between 0%-138% FPL are covered under Medicaid.

Copyright © 2019 by NovaRest, Inc.

income level, the annual family premium would be $2,093.64 plus 3 times $740.90 or $4,316.34 for the year, which would be a monthly premium of $359.70.

The CSR levels are the key to the FPLs used in the calculation.

- **138%-150% FPL** = 94% Actuarial Value (CSR 94)
- **150%-200% FPL** = 87% Actuarial Value (CSR 87)
- **200%-250% FPL** = 73% Actuarial Value (CSR 73)

Families between the 250% and 400% FPL are eligible for APTCs, but not CSRs. According to CCIIO's 2018 report approximately forty-five percent of these families are in the lower category (250% to 300%) and the other fifty-five percent are in the second (300% to 400%).

CSRs are also available for Native American Indians, as well, with the level based on income. Those with income under 300% FPL receive 100% CSR plans. Members in 100% CSR plans, because we do not have any information about the members' poverty or income level, are equally distributed among the other subsidy levels.

Aggregate Premium

The NRMM also calculates the aggregate premium rate for individuals and families that are eligible for APTCs and the maximum a family will actually pay.

The aggregate premium rate is the premium that the individuals would pay if they did not receive the APTC. This is based on the second lowest Silver rate in each region. Table IV.2 shows the estimated premium in 2019 and 2020 for a person age 40, assuming a 2% FPL trend, assuming no 1332 Waiver. The tobacco rate charged to smokers was not considered since it is not used in the APTC determination.

Table IV.2
Second Lowest Silver Monthly Premium
AGE 40 Non-smoker

	2019	**2020**
Area	**Monthly Premium**	
1	$396.18	$404.10
2	$396.18	$404.10
3	$484.14	$493.83
4	$396.18	$404.10

Copyright © 2019 by NovaRest, Inc.

NovaRest ACTUARIAL CONSULTING

Analysis Process and Assumptions

Data

Carrier Data Call

NovaRest requested three data files from the carriers in North Dakota, including Blue Cross Blue Shield of North Dakota, Sanford, and Medica.

NovaRest performed a data call for the individual market carriers and identified the number of members in each of the following FPL ranges. Those from 0% of the FPL to 138% of the FPL are covered by Medicaid. Members are eligible for APTC up to 400% FPL. Members at the 100% CSR level who are eligible for APTC (of which there were 560 according to the data call) were evenly distributed between the 138% to 400% FPL ranges. For members eligible for APTC but not CSR, 45% were allocated to the 250%-300% FPL level and 55% were allocated to the 300%-400% CSR level based on 2018 Consumer Information and Insurance Oversight (CCIIO) data. [39]

Individual Files

The data provided is for fully compliant ACA policies. The individual file was used to simulate a decision-making process to predict market migration based on rate increases. Since health insurance buying decisions are family based, NovaRest requested information that allowed individuals to be grouped into families when modeling the decision-making process.

The individual files contained a record for each covered individual as of December 31 for 2017, and May 31 for 2018. Data includes premium and claim information, data on individuals such as date of birth, plan information, any cost sharing reductions (CSR) or APTC for which they are eligible. The 2018 file did not include claim information as claim data was not complete at the time of the data request.

Historic Claim Distributions

This data requested included ACA-compliant policies. NovaRest received data from years 2014 to 2017. Following is a list of all claim ranges:

- Under $50,000
- $50,000 to $99,999
- $100,000 to $199,999
- $200,000 to $499,999
- $500,000 to $749,999
- $750,000 to $999,999
- $1,000,000 to $1,249,999
- $1,250,000 to $1,499,999
- over $1,500,000

[39] "2018 Marketplace Open Enrollment Period Public Use Files." Centers for Medicare and Medicaid Services. https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/Marketplace-Products/2018_Open_Enrollment.html . Accessed April 9, 2019.

Copyright © 2019 by NovaRest, Inc.

Historic Membership and Premium Information

This data included membership and premium information for ACA-compliant, CHAND, transitional, grandfathered, short-term duration health plans, and association health plans.

CCIIO Public Reports

NovaRest used public reports on the CCIIO website to estimate the membership changes in the North Dakota CSR and APTC populations over time. [40]

Rate Filing Information

NovaRest used 2018 and 2019 rate filing information from Medica, Sanford, and Blue Cross and Blue Shield of North Dakota. The Unified Rate Review Templates (URRTs) include the plan metal levels and indicate if the plans were offered on-and-off exchange or off-exchange only. The Rate Templates were used to access the 2018 and 2019 premium rates.

2019 Market Projection

The data for individuals covered on December 31, 2017 and on May 31, 2018 included a record for each individual and information that allowed individuals to be grouped into families.

Family information is needed because the maximum amount that individuals pay when eligible for APTC is based on family size and family income. Also, decisions to shop for other coverage based on rate increases is a family decision rather than an individual decision for those with families.

Individuals that were eligible for 94% CSR, 87% CSR, 73% CSR and APTC non-CSR were determined to be the ones most likely to retain coverage. Although many circumstances can arise that result in turnover in this market segment, such as becoming employed by an employer that offers health insurance or moving out of state, in general North Dakota has seen an increase in the 94% CSR, 87% CSR, 73% CSR membership. NovaRest found that individuals eligible for APTC, but not CSR, were in Gold, Silver and Bronze metal levels. NovaRest again assumed that these individuals were likely to retain their coverage, unless obtaining employer coverage or moving. Since NovaRest cannot predict employment or moving out-of-state, we treated these members as a stable block.

For non-APTC individuals, total family claims cost was also calculated to determine the probability of a family retaining coverage even when faced with large rate increases.

For all other individuals NovaRest used the elasticity of demand for each metal level from a Society of Actuaries' (SOA) training session[41], which was consistent with other reports on elasticity that we have reviewed. The elasticity estimates the percentage of membership that will

---

[40] "2018 Marketplace Open Enrollment Period Public Use Files." Centers for Medicare and Medicaid Services. https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/Marketplace-Products/2018_Open_Enrollment.html . Accessed April 9, 2019.

[41] "Session 76 L, Understanding Stakeholder Behavior: Hidden Forces in the U.S. Healthcare System." Society of Actuaries. June 2017. https://www.soa.org/pd/events/2017/health-meeting/pd-2017-06-health-session-076.pdf . Accessed April 9, 2019.

Copyright © 2019 by NovaRest, Inc.

shop for other coverage based on the percent of rate increase. Based on the rate increase for Gold level individuals, a percentage will decide to shop for alternative coverage. Those that decide to shop may decide to purchase Silver coverage, based on the difference in the current Gold level premium and the Silver coverage. Others may find the Silver coverage too expensive and may look at Silver off-exchange coverage, Bronze coverage, or may decide to drop coverage and become uninsured.

It was assumed that all non-subsidized individuals that currently have Platinum, Gold or Silver plans would not select on-exchange Silver plans, but rather would shop for off-exchange Silver plans. This is due to the decision to allow loading of CSR costs into the on-exchange Silver plans starting in plan year 2019, which raised Silver on-exchange premiums significantly. Otherwise, we assume that if a member purchased their current coverage on-exchange and decided to seek alternative coverage, they would shop on-exchange and if they purchased current coverage off-exchange, they would seek alternative coverage off-exchange.

Individuals in Catastrophic coverage may age out or, based on the rate increase, decide to drop coverage and become uninsured. For the loss of membership due to aging, NovaRest used a steady state and decided that the individuals aging out would be replaced by new entrants. For the portion of the individuals deciding to drop coverage, NovaRest used a Catastrophic-specific elasticity from the SOA training session.

NovaRest used its proprietary migration model (NRMM) to project the movement between the metal levels and individuals becoming uninsured without a Waiver (base line scenario), with the Waiver with a $100,000 attachment point and 75% coinsurance. This allowed NovaRest to project the number of individuals that would be covered by health insurance under base line and the Waiver. The NRMM aggregates individuals into families and performs an analysis, using elasticity assumptions, of the likelihood of the individual and families staying with their current plan, shopping for a less expensive option or becoming uninsured. The NRMM projects the 2020 membership and increases in the uninsured with and without the reinsurance under the 1332 Waiver.

The migration model provides the 2019 APTC membership, non-APTC membership on and off the exchange and the increase in the uninsured. Using the projected 2019 membership and the rates filed by the three carriers for 2019, NovaRest calculated the average premium for APTC and Non-APTC without the Waiver's reinsurance. The 2019 membership and average premiums are shown for the base line.

156 West Calle Guija, Suite 200, Sahuarita, AZ 85629 tel.: 520-908-7246 – www.NovaRest.com
Copyright © 2019 by NovaRest, Inc.

Table IV.3 2019 Projections	
Membership	**2019**
On-Exchange	
94% CSR (138% to 150% FPL)	2,096
87% CSR (150% to 200% FPL)	4,907
73% CSR (200% to 250% FPL)	2,639
APTC (250% to 300% FPL)	5,346
APTC (300% to 400% FPL)	6,534
Total APTC	**21,523**
Total Non-APTC (> 400%)	2,505
Total On-Exchange	**24,028**
Off-Exchange	15,224
Total ACA	**39,252**
Average Premium	
On-Exchange	
APTC Aggregate Premium Rate	$506.65
APTC Maximum Premium Paid	$228.24
APTC	**$278.41**
Non-APTC	$442.56
Total On-Exchange	**$499.97**
Off-Exchange	$558.88
Total ACA	**$522.82**
Total Annual Premium	
Total APTC Aggregate Premium	$130,854,548
Total APTC Maximum Premium Paid	$58,949,142
Total APTC	**$71,905,406**
Total Non-APTC	$13,303,536
Total On-Exchange Premium	**$144,158,084**
Off-Exchange	$102,098,211
Total ACA	**$246,256,295**

Projection of 2020 Base Line Market

The following table shows the 2020 base line projections, compared to the proposed 1332 Waiver. The base line was projected by taking the 2019 NRMM model output and trending membership and premiums. NovaRest did not include the 100% FPL to 138% FPL, since they are covered by

Copyright © 2019 by NovaRest, Inc.

Medicaid in North Dakota.[42] NovaRest did not project changes in the subsidized population, but rather assumed a steady state for the subsidized population.

Table IV.4 2020 Membership Difference from Base Line		
Membership	**2020**	
	Without Waiver	**$100,000 Attachment Point 75% Coins**
On-Exchange		
94% CSR (138% to 150% FPL)	2,096	2,096
87% CSR (150% to 200% FPL)	4,907	4,907
73% CSR (200% to 250% FPL)	2,639	2,639
APTC (250% to 300% FPL)	5,346	5,346
APTC (300% to 400% FPL)	6,534	6,534
Total APTC	**21,523**	**21,523**
Total Non-APTC (> 400%)	2,385	2,366
Total On-Exchange	**23,908**	**23,889**
Off-Exchange	14,711	15,007
Total ACA	**38,619**	**38,897**

NovaRest estimates that if the North Dakota 1332 Waiver is not implemented that there will be over 632 additional uninsured in 2020. With the Waiver, the amount of new uninsured is reduced to less than 360.

The following table shows the 2020 age 40 non-smoker premium rates for the second lowest Silver plan.

[42] "Medicaid Expansion." North Dakota Department of Human Services. http://www.nd.gov/dhs/medicaidexpansion/

Copyright © 2019 by NovaRest, Inc.

Table IV.5 Second Lowest Silver Monthly Premium AGE 40 Non-smoker		
	2020	
Area	Without Waiver	With $100,000 Attachment Point
1	$404.10	$323.28
2	$404.10	$323.28
3	$493.83	$395.06
4	$404.10	$323.28

Reinsurance and Funding Needs Projection

The reinsurance was calculated for several combinations of attachment point, coinsurance, and maximum claim level. Based on the results, the Insurance Department decided that a $100,000 attachment point was appropriate. Also, it was decided that a 75% coinsurance be used up to a $1,000,000 maximum paid claims level.

NovaRest used the National Health Expenditure Projections from 2019 and beyond because we considered it a reasonable trend and it had the endorsement of CMS. See the trend in Appendix A.

After researching the issue, NovaRest decided to equate paid claim cost reduction to premium reduction. Typically, premiums increase at a higher rate than claims due to deductible leveraging and changes in morbidity, as well as influences such as changing geographic factors and network changes. When NovaRest reviewed North Dakota's allowed and paid claim trends they did not follow typical patterns. Also, paid claim trends and premium trends did not follow typical patterns, so there was no apparent basis for converting claim reduction to premium reduction based on North Dakota experience. Therefore, it was decided to use the simplifying assumption to equate reduction in claim costs to reduction in premium rate.

Meeting the Section 1332 Waiver Guardrails

This section will demonstrate that the four 1332 Waiver guardrails will be met by North Dakota's proposed 1332 Waiver structure.

Comprehensive Requirement 1332(b)(1)(A)

The Waiver will have no material effect on the comprehensiveness of coverage for North Dakota residents. Regardless of whether the Waiver is granted, all North Dakota ACA-compliant plans will be required to provide coverage of essential health benefits. 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 gaining health coverage under the Waiver will have coverage for more comprehensive health benefits than they would absent the Waiver.

Copyright © 2019 by NovaRest, Inc.

Affordability Requirement 1332(b)(1)(B)

In each year the reinsurance program is in effect, the cost of individual coverage will be lower than it would be absent the Waiver. 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. The NovaRest modeling predicts which individuals and families will shop for less-rich coverage due to rate increases. Under the waiver we project that fewer individuals and families opt to purchase less-rich coverage and remain in their current level of coverage. The result is that under the waiver the average cost of member cost-sharing (deductibles, coinsurance, and copays) is less than without the waiver. The total out-of-pocket cost including premiums and cost-sharing are projected to be less on average under the waiver than without the waiver.

Although small and large group health plans will be subject to an assessment to fund the Waiver, employee contributions and employee wages are not expected to be materially affected by the Waiver. We also project that this will not have any material impacts on the number of individuals in North Dakota that are covered under employer-sponsored plans or the affordability of the plans given that the assessment would be deducted from premium taxes and would not impact the group market place.

Our estimates predict the proposed Waiver will not have a material impact on the affordability of coverage for Medicaid and Medicare, or any other public insurance plan since they service a separate population and have separate sources of funding.

The Waiver will reduce premium and increase premium affordability for the individual market (See Table IV.6).

Copyright © 2019 by NovaRest, Inc.

Table IV.6 2020 Premium Difference from Base Line			
Average Premium	**2020**		
	Without Waiver	**$100,000 Attachment Point, 75% Coinsurance, $1,000,000 Max**	**% Difference**
On-Exchange			
APTC Aggregate Premium Rate	$522.86	$418.29	-20.0%
APTC Maximum Premium Paid	$232.81	$232.81	0.0%
APTC	**$290.05**	**$185.48**	**-36.1%**
Non-APTC	$459.29	$366.82	-20.1%
Total On-Exchange	**$516.52**	**$413.19**	**-20.0%**
Off-Exchange	$580.51	$466.58	-19.6%
Total ACA	**$540.90**	**$433.79**	**-19.8%**

As can be seen in Table IV.6, the Waiver program is not expected to change the amount of the premium which subsidy eligible individuals would pay (APTC Maximum Premium Paid), but it does decrease the premium for non-subsidy eligible individuals both on and off the exchange.

The values in the line "APTC" reflect that the subsidy amounts will decrease by 36.1%, which is the source of the federal pass-through funding.

Scope of Coverage Requirement 1332(b)(1)(C)

The proposed Waiver is projected to cover more individuals in North Dakota than would be covered absent the Waiver. The lower costs of coverage will allow for more North Dakota residents to purchase or maintain coverage in the individual market. Lower premiums will result in individuals retaining coverage rather than dropping coverage due to unaffordable premium rates. As indicated in Table IV.7, enrollment in the individual market is expected to increase by approximately 0.7% in 2020, 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 premiums will be lower (See Table IV.7).

Copyright © 2019 by NovaRest, Inc.

Table IV.7 2020 Membership Difference from Base Line			
Membership	**2020**		
	Without Waiver	**$100,000 Attachment Point, 75% Coinsurance, $1,000,000 Max**	**% Difference**
On-Exchange			
94% CSR (138% to 150% FPL)	2,096	2,096	0.0%
87% CSR (150% to 200% FPL)	4,907	4,907	0.0%
73% CSR (200% to 250% FPL)	2,639	2,639	0.0%
APTC (250% to 300% FPL)	5,346	5,346	0.0%
APTC (300% to 400% FPL)	6,534	6,534	0.0%
Total APTC	**21,523**	**21,523**	**0.0%**
Total Non-APTC (> 400%)	2,385	2,366	-0.8%
Total On-Exchange	**23,908**	**23,889**	**-0.1%**
Off-Exchange	14,711	15,007	2.0%
Total ACA	**38,619**	**38,897**	**0.7%**

Table IV.7 shows that the projected number of subsidy-eligible people buying insurance under the Waiver program does not change, since their premium after subsidy is based on their income, not on the total premium rate. The NRMM assumes all non-subsidized members will avoid Silver on-exchange plans due to the CSR loading in the Silver premiums on-exchange, whereas the off-exchange Silver products do not include the silver loading (as of 2019). In Table IV.7, the Waiver is projected to lower on-exchange membership and increase off-exchange membership as members are more likely to keep their Silver level coverage and move off-exchange due to the 20% reduction in premiums. In the base line, these members are projected to reduce coverage and purchase on-exchange Bronze plans or become uninsured.

Federal Deficit Neutrality Requirement – 1332(b)(1)(D)

The proposed Waiver will not result in increased spending, administrative, or other expenses to the federal government. There will be no increase in federal administrative expense. The federal funding will be calculated based on actual APTC subsidized enrollment and will be decreased by any reductions in exchange user fees. The Waiver scenario is expected to lower premiums by 20%, which will reduce the APTC that would be paid by the federal government. Since the exchange user fees are a percentage of premium, the reduced premium will in turn reduce the exchange user fees collected by the federal government. The intention is for the lower APTCs less the reduced exchange user fees to be passed on to North Dakota and used to partially fund the reinsurance program under the Waiver.

Copyright © 2019 by NovaRest, Inc.

Calculation of the Federal Savings Available for Pass-Through Funding

The reduced APTC saves the federal government money. To offset this savings are some potential losses to income for the federal government.

The shared responsibility or individual mandate penalty would be reduced if individuals remain insured rather than becoming uninsured and subject to the penalty. In December 2017, Republican lawmakers passed H.R.1, the Tax Cuts and Jobs Act, which repealed the individual mandate penalty.[43] The repeal is effective for the 2019 plan year. Therefore, there is no impact on the federal deficit for individuals becoming insured for the period of the North Dakota Waiver.

The Patient-Centered Outcomes Research Institute (PCORI) fee payable to the federal government is based on enrollment. This fee is only applicable for plan years ending between October 1, 2012 and October 1, 2019.[44] Since the fee is not applicable in 2020, it will not impact the federal deficit for the period of the North Dakota Waiver.

The Health Insurance Providers Fee (HIF) for 2018 was an annual amount of $14.3 billion.[45] There is a moratorium for the HIF in 2019. For 2020 and beyond, the applicable amount is the amount in the preceding fee year increased by the rate of premium growth of covered entities (within the meaning of section 36B(b)(3)(A)(ii)).

A covered entity is generally any entity with net premiums written for health insurance for United States health risks during the fee year that is (1) a health insurance issuer within the meaning of section 9832(b)(2); (2) a health maintenance organization within the meaning of section 9832(b)(3); (3) an insurance company that is subject to tax under subchapter L, Part I or II, or that would be subject to tax under subchapter L, Part I or II, but for the entity being exempt from tax under section 501(a); (4) an insurer that provides health insurance under Medicare Advantage, Medicare Part D, or Medicaid; or (5) a non-fully insured multiple employer welfare arrangement (MEWA).[46]

The fee is assessed as a percentage of net premium. For entities with less than $25,000,000 no fee will be assessed.[47] For entities with net premium between $25,000,000 and $49,999,999, 50% of the net premiums will be taken into account and for entities with over $50,000,000 in net premium,

---

[43] Norris, Louise. “With the GOP tax bill and the president’s 2017 executive order, will the IRS still enforce the individual mandate penalty?” HealthInsurance.org. January 22, 2018. https://www.healthinsurance.org/faqs/does-the-presidents-executive-order-mean-the-irs-wont-enforce-the-individual-mandate-penalty/ . Accessed April 9, 2019.
[44] “Patient-Centered Outcomes Research Institute Fee.” Internal Revenue Service. June 6, 2018. https://www.irs.gov/newsroom/patient-centered-outcomes-research-institute-fee . Accessed April 9, 2019.
[45] “Affordable Care Act Provision 9010 - Health Insurance Providers Fee.” Internal Revenue Service. September 4, 2018. https://www.irs.gov/businesses/corporations/affordable-care-act-provision-9010 . Accessed April 9, 2019.
[46] Ibid.
[47] Ibid.

Copyright © 2019 by NovaRest, Inc.

the total net premium will be taken into account.[48] If the Waiver reduces premiums enough to impact the national premium growth rate, the HIF collected by the federal government would be reduced. Otherwise since the HIF is a national budgeted amount, the Waiver will not impact the HIF. We assume that the Waiver program in North Dakota, which would only impact the individual ACA market, will not, by itself, decrease the national premium growth rate and therefore have no impact on the federal deficit.

Since the North Dakota 1332 individual market Waiver will not have a measurable impact on the HIF and therefore the federal deficit, the HIF will not be considered in determining the federal deficit neutrality.

The Exchange User Fee is a federally mandated fee used to fund the federal and state exchanges. Because North Dakota did not establish a state-based exchange, the exchange is facilitated by the federal government. Although the fee is calculated on on-exchange business[49], it is included in the premium for all non-grandfathered on-and-off exchange ACA business. The 2020 exchange user fee rate in the individual market is 3.0% for a state with a Federally Facilitated Exchange.[50] Table IV.8a and IV.8b present the projected net federal savings available for federal funding of the Waiver program, reflecting the net budget neutrality for the federal government.

---

[48] Ibid.
[49] "HHS announces applicable user fees." Blue Cross Blue Shield Blue Care Network of North Dakota. May 6, 2013. https://www.bcbsm.com/health-care-reform/reform-alerts/hhs-announces-applicable-user-fees1.html . Accessed April 9, 2019.
[50] "HHS Notice of Benefit and Payment Parameters for 2020." The Centers for Medicare & Medicaid Services. January 24, 2019. https://www.federalregister.gov/documents/2019/01/24/2019-00077/patient-protection-and-affordable-care-act-hhs-notice-of-benefit-and-payment-parameters-for-2020 . Accessed March 28, 2019.

Copyright © 2019 by NovaRest, Inc.

Table IV.8a Budget Neutrality Projection, 2020-2029					
Base	**2020**	**2021**	**2022**	**2023**	**2024**
APTC Agg Prem	$135,041,894	$142,064,072	$148,741,084	$155,731,915	$163,051,315
APTC Max Prem	$60,128,125	$61,330,688	$62,557,301	$63,808,447	$65,084,616
Total APTC	$74,913,769	$80,733,385	$86,183,782	$91,923,467	$97,966,698
$100,000 Attach 75% Coins					
APTC Agg Prem	$108,033,515	$113,651,258	$118,992,867	$124,585,532	$130,441,052
APTC Max Prem	$60,128,125	$61,330,688	$62,557,301	$63,808,447	$65,084,616
Total APTC	$47,905,390	$52,320,570	$56,435,566	$60,777,084	$65,356,436
APTC Savings	$27,008,379	$28,412,814	$29,748,217	$31,146,383	$32,610,263
Exchange Fee Reduction	$892,073	$932,541	$971,196	$1,011,793	$1,054,418
Net Federal Savings	$26,116,306	$27,480,273	$28,777,021	$30,134,590	$31,555,845

Table IV.8b Budget Neutrality Projection, 2020-2029					
Base	**2025**	**2026**	**2027**	**2028**	**2029**
APTC Agg Prem	$170,877,778	$179,421,667	$187,675,063	$196,308,116	$205,338,290
APTC Max Prem	$66,386,309	$67,714,035	$69,068,315	$70,449,682	$71,858,675
Total APTC	$104,491,469	$111,707,632	$118,606,748	$125,858,435	$133,479,614
$100,000 Attach 75% Coins					
APTC Agg Prem	$136,702,222	$143,537,333	$150,140,051	$157,046,493	$164,270,632
APTC Max Prem	$66,386,309	$67,714,035	$69,068,315	$70,449,682	$71,858,675
Total APTC	$70,315,914	$75,823,299	$81,071,735	$86,596,811	$92,411,956
APTC Savings	$34,175,556	$35,884,333	$37,535,013	$39,261,623	$41,067,658
Exchange Fee Reduction	$1,100,106	$1,150,089	$1,198,498	$1,249,226	$1,302,376
Net Federal Savings	$33,075,450	$34,734,244	$36,336,515	$38,012,397	$39,765,282

Copyright © 2019 by NovaRest, Inc.

Ten Year Projections

Assumptions

NovaRest used the metal level elasticities of demand provided in a Society of Actuaries' training session against the National Health Expenditure Projections.[51] We assumed members will decrease their level of coverage prior to becoming uninsured.

To project the 2020 premiums that resulted from the NRMM modeling, NovaRest used historic changes in FPL and National Health Expenditure Projections.[52] For the FPL increase, we used 2%.

The National Health Expenditure Projections show a 3.2% health care cost increase from 2019 to 2020 and ranges from 4.6% to 5.2% thereafter as shown in Appendix A. The NRMM model output premium was trended from 2019 to 2029 using the National Health Expenditure Projections for both the base projections and the Waiver projections. The Waiver scenario modeled included a $100,000 attachment point with 75% coinsurance up to $1,000,000.

Process

Projections were done for membership and premium per member per month (PMPM) for the following categories:[53]

- 94% CSR (133% to 150% FPL)
- 87% CSR (150% to 200% FPL)
- 73% CSR (200% to 250% FPL)
- APTC (250% to 300% FPL)
- APTC (300% to 400% FPL)
- Total Non-APTC (> 400% FPL)
- Off-Exchange
- Uninsured

The 2019 NRMM model output is used to project the 2019 base line and then 2020-2029 for the base line and under the proposed waiver.

NovaRest reviewed the CCIIO public use files[54] to determine a membership trend for the CSR and APTC not CSR levels. The CCIIO data did not show a consistent pattern of subsidized enrollment. It was decided to use a steady state in membership for the 10-year projections for subsidized APTC

[51] "Session 76 L, Understanding Stakeholder Behavior: Hidden Forces in the U.S. Healthcare System." Society of Actuaries. https://www.soa.org/pd/events/2017/health-meeting/pd-2017-06-health-session-076.pdf . Accessed April 9, 2019.
[52] "National Health Expenditure Projections 2017-2026." The Centers for Medicare & Medicaid Services. https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/Downloads/ForecastSummary.pdf . Accessed April 9, 2019.
[53] Since North Dakota expanded Medicaid to 133% FPL, a projection of the population under 133% FPL was not necessary.
[54] "2018 Marketplace Open Enrollment Period Public Use Files." Centers for Medicare and Medicaid Services

Copyright © 2019 by NovaRest, Inc.

members. The NRMM model does show decreasing membership for the non-APTC members due to increasing premiums.

NovaRest used the National Health Expenditure Projections[55] for health care spending increases. These projections showed a 3.2% health care cost increase from 2019 to 2020 and ranges from 4.6% to 5.2% thereafter. Projections in 2021 assume transition policies end. If rules change allowing extension of transition plans into 2021 or beyond, these projections would need to be updated.

Projections

The ten-year projections for the base line and the proposed reinsurance are in Tables IV.9 and IV.10 below.

[55] "Projected." Centers for Medicare & Medicaid Services. August 1, 2018. https://www.cms.gov/research-statistics-data-and-systems/statistics-trends-and-reports/nationalhealthexpenddata/nationalhealthaccountsprojected.html . Accessed April 9, 2019.

Copyright © 2019 by NovaRest, Inc.

Table IV.9 2020-2029 Base Line Without Waiver										
Membership	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**	**2027**	**2028**	**2029**
94% CSR	2,096	2,096	2,096	2,096	2,096	2,096	2,096	2,096	2,096	2,096
87% CSR	4,907	4,907	4,907	4,907	4,907	4,907	4,907	4,907	4,907	4,907
73% CSR	2,639	2,639	2,639	2,639	2,639	2,639	2,639	2,639	2,639	2,639
APTC 250%-300%	5,346	5,346	5,346	5,346	5,346	5,346	5,346	5,346	5,346	5,346
APTC 300%-400%	6,534	6,534	6,534	6,534	6,534	6,534	6,534	6,534	6,534	6,534
Total APTC	**21,523**	**21,523**	**21,523**	**21,523**	**21,523**	**21,523**	**21,523**	**21,523**	**21,523**	**21,523**
Tot Non-APTC On-Ex	2,385	2,201	2,050	1,911	1,783	1,662	1,547	1,449	1,359	1,275
Total On-Exchange	**23,908**	**23,724**	**23,573**	**23,434**	**23,306**	**23,185**	**23,070**	**22,972**	**22,882**	**22,798**
Off-Exchange	14,711	14,166	13,509	12,905	12,348	11,823	11,318	10,887	10,486	10,110
Total ACA	**38,619**	**37,890**	**37,081**	**36,338**	**35,654**	**35,009**	**34,388**	**33,860**	**33,367**	**32,908**
Average Premium										
Total APTC Agg Prem	$522.86	$550.05	$575.90	$602.97	$631.31	$661.61	$694.69	$726.65	$760.07	$795.03
Total APTC Max Prem	$232.81	$237.46	$242.21	$247.06	$252.00	$257.04	$262.18	$267.42	$272.77	$278.22
Total APTC	**$290.05**	**$312.59**	**$333.69**	**$355.91**	**$379.31**	**$404.57**	**$432.51**	**$459.22**	**$487.30**	**$516.81**
Tot Non-APTC On-Ex	$459.29	$487.53	$514.29	$542.27	$571.53	$602.77	$636.85	$669.70	$704.02	$739.88
Total On-Exchange	**$516.52**	**$544.25**	**$570.54**	**$598.02**	**$626.73**	**$657.39**	**$690.81**	**$723.05**	**$756.74**	**$791.95**
Off-Exchange	$580.51	$616.24	$650.47	$686.09	$723.17	$762.60	$805.40	$846.46	$889.18	$933.62
Total ACA	**$540.90**	**$571.17**	**$599.66**	**$629.30**	**$660.13**	**$692.92**	**$728.52**	**$762.73**	**$798.36**	**$835.47**
Total Premium										
Total APTC Agg Prem	$135,041,894	$142,064,072	$148,741,084	$155,731,915	$163,051,315	$170,877,778	$179,421,667	$187,675,063	$196,308,116	$205,338,290
Total APTC Max Prem	$60,128,125	$61,330,688	$62,557,301	$63,808,447	$65,084,616	$66,386,309	$67,714,035	$69,068,315	$70,449,682	$71,858,675
Total APTC	**$74,913,769**	**$80,733,385**	**$86,183,782**	**$91,923,467**	**$97,966,698**	**$104,491,469**	**$111,707,632**	**$118,606,748**	**$125,858,435**	**$133,479,614**
Tot Non-APTC On-Ex	$13,143,915	$12,874,958	$12,648,704	$12,432,957	$12,226,990	$12,025,199	$11,822,761	$11,647,656	$11,479,641	$11,318,300
Total On-Exchange	**$148,185,809**	**$154,939,030**	**$161,389,788**	**$168,164,872**	**$175,278,304**	**$182,902,977**	**$191,244,427**	**$199,322,719**	**$207,787,758**	**$216,656,590**
Off-Exchange	$102,481,683	$104,755,941	$105,442,095	$106,244,946	$107,159,205	$108,197,727	$109,382,227	$110,588,274	$111,883,387	$113,264,021
Total ACA	**$250,667,492**	**$259,694,971**	**$266,831,882**	**$274,409,818**	**$282,437,509**	**$291,100,704**	**$300,626,654**	**$309,910,993**	**$319,671,145**	**$329,920,611**

156 West Calle Guija, Suite 200, Sahuarita, AZ 85629 tel.: 520-908-7246 – www.NovaRest.com
Copyright © 2019 by NovaRest, Inc.

Table IV.10 2020-2029 $100,000 Attachment Point, 75% Coinsurance, $1,000,000 Maximum										
Membership	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**	**2027**	**2028**	**2029**
94% CSR	2,096	2,096	2,096	2,096	2,096	2,096	2,096	2,096	2,096	2,096
87% CSR	4,907	4,907	4,907	4,907	4,907	4,907	4,907	4,907	4,907	4,907
73% CSR	2,639	2,639	2,639	2,639	2,639	2,639	2,639	2,639	2,639	2,639
APTC 250%-300%	5,346	5,346	5,346	5,346	5,346	5,346	5,346	5,346	5,346	5,346
APTC 300%-400%	6,534	6,534	6,534	6,534	6,534	6,534	6,534	6,534	6,534	6,534
Total APTC	**21,523**	**21,523**	**21,523**	**21,523**	**21,523**	**21,523**	**21,523**	**21,523**	**21,523**	**21,523**
Tot Non-APTC On-Ex	2,366	2,183	2,032	1,894	1,767	1,647	1,532	1,435	1,346	1,262
Total On-Exchange	**23,889**	**23,706**	**23,555**	**23,417**	**23,290**	**23,170**	**23,055**	**22,958**	**22,869**	**22,785**
Off-Exchange	15,007	14,456	13,794	13,186	12,624	12,094	11,583	11,148	10,741	10,360
Total ACA	**38,897**	**38,162**	**37,349**	**36,602**	**35,914**	**35,264**	**34,639**	**34,107**	**33,610**	**33,146**
Average Premium										
Total APTC Agg Prem	$418.29	$440.04	$460.72	$482.37	$505.05	$529.29	$555.75	$581.32	$608.06	$636.03
Total APTC Max Prem	$232.81	$237.46	$242.21	$247.06	$252.00	$257.04	$262.18	$267.42	$272.77	$278.22
Total APTC	**$185.48**	**$202.58**	**$218.51**	**$235.32**	**$253.05**	**$272.25**	**$293.57**	**$313.90**	**$335.29**	**$357.80**
Tot Non-APTC On-Ex	$366.82	$389.54	$411.06	$433.56	$457.08	$482.20	$509.60	$536.01	$563.59	$592.41
Total On-Exchange	**$413.19**	**$435.39**	**$456.44**	**$478.43**	**$501.41**	**$525.94**	**$552.68**	**$578.48**	**$605.44**	**$633.61**
Off-Exchange	$466.58	$495.33	$522.76	$551.31	$581.03	$612.61	$646.90	$679.79	$714.00	$749.60
Total ACA	**$433.79**	**$458.09**	**$480.93**	**$504.68**	**$529.39**	**$555.67**	**$584.19**	**$611.60**	**$640.13**	**$669.87**
Total Premium										
Total APTC Agg Prem	$108,033,515	$113,651,258	$118,992,867	$124,585,532	$130,441,052	$136,702,222	$143,537,333	$150,140,051	$157,046,493	$164,270,632
Total APTC Max Prem	$60,128,125	$61,330,688	$62,557,301	$63,808,447	$65,084,616	$66,386,309	$67,714,035	$69,068,315	$70,449,682	$71,858,675
Total APTC	**$47,905,390**	**$52,320,570**	**$56,435,566**	**$60,777,084**	**$65,356,436**	**$70,315,914**	**$75,823,299**	**$81,071,735**	**$86,596,811**	**$92,411,956**
Tot Non-APTC On-Ex	$10,416,541	$10,203,070	$10,023,723	$9,852,898	$9,689,995	$9,530,565	$9,370,787	$9,232,737	$9,100,402	$8,973,440
Total On-Exchange	**$118,450,056**	**$123,854,328**	**$129,016,590**	**$134,438,430**	**$140,131,047**	**$146,232,787**	**$152,908,120**	**$159,372,788**	**$166,146,895**	**$173,244,072**
Off-Exchange	$84,024,408	$85,927,369	$86,533,182	$87,232,588	$88,021,278	$88,910,636	$89,919,131	$90,940,158	$92,032,371	$93,192,896
Total ACA	**$202,474,464**	**$209,781,697**	**$215,549,772**	**$221,671,019**	**$228,152,325**	**$235,143,423**	**$242,827,252**	**$250,312,946**	**$258,179,266**	**$266,436,967**

The above tables show that the premium is lower and the membership is higher under the Waiver projections for all years.

Copyright © 2019 by NovaRest, Inc.

V. Actuarial Certification

Actuarial Certification

In my opinion, the State of North Dakota's proposed Section 1332 Waiver application complies with the following requirements:

- The coverage provided under this 1332 Waiver is at least as comprehensive as the coverage available absent the 1332 Waiver.
- The coverage provided under this 1332 Waiver is at least as affordable as the coverage available absent the 1332 Waiver.
- The 1332 Waiver will provide coverage to at least a comparable number of residents as would be available absent the 1332 Waiver.
- The 1332 Waiver will not increase the federal deficit.

This actuarial certification applies solely for the use of supporting North Dakota's Innovation Waiver under Section 1332 of the Patient Protection and Affordable Care Act. North Dakota seeks a Waiver of §1312(c)(1) of the Affordable Care Act, which requires all enrollees in all health plans offered by an insurance carrier in the individual market be members of a single risk pool. The intended users of this report are North Dakota Insurance Department. Distribution of this report to any other parties does not constitute advice from or by us to those parties. The reliance of other parties on any aspect of our work is not authorized by us and is done at their own risk.

Reliance

In the analysis described in this report, we relied on information provided by the insurers offering coverage in the North Dakota individual health insurance market, information published by the federal government, and information provided by insurers offering coverage in the Individual market in North Dakota.

We relied upon this information without independent investigation or audit. If information is inaccurate or incomplete, our findings and conclusions may need to be revised. We have reviewed the data for consistency and reasonableness. Where data was inconsistent or unreasonable, we requested clarification.

The actuarial methodologies utilized in order to arrive at our opinion were those considered generally accepted within the industry and are consistent with all applicable Actuarial Standards of Practice (ASOP).

Copyright © 2019 by NovaRest, Inc.

I, Donna Novak, am the President and CEO of NovaRest Actuarial Consulting. I am an Associate in the Society of Actuaries, a Member of the American Academy of Actuaries, and I am qualified to render this opinion.

If you have any questions, do not hesitate to call me at 520-908-7246.

Sincerely,

Donna C. Novak

Donna C. Novak, FCA, ASA, MAAA, MBA

Copyright © 2019 by NovaRest, Inc.

VI. Appendices

Appendix A	Claim Trend Assumptions	Discussion on National Health Expenditure trends used in projections
Appendix B	Administrative Requirements for North Dakota Reinsurance Program	Discussion on functions that will be needed in order to administer the North Dakota reinsurance program.
Appendix C	Definitions and Abbreviations	Glossary
Appendix D	NRMM Model and Assumptions	Discussion on NovaRest Market Migration Model and Functionality
Appendix E	Qualifications	About the NovaRest model team
Appendix F	Reliance	Data reliance
Appendix G	Limitations	Limitations on the data received

Copyright © 2019 by NovaRest, Inc.

Appendix A – Claim Trend Assumptions

National Health Expenditure Projection Rates

Table 17 of the NHE Projection data splits out spending for Private Insurance into Employer-Sponsored Insurance (ESI) and Direct Purchase.[56] Direct Purchase includes coverage purchased through the Marketplace along with other plans such as Medicare supplemental coverage and individually purchased plans. This category seems to be the best fit for projecting individual spending among the NHE data. It has been used for other 1332 Waiver applications such as Wisconsin and Oregon (which were approved by CMS). The current NHE Projection uses 2017 as the latest year with actual data and projects from 2017 through 2027.

The NHE trends, as shown in the table below, are allowed trends appropriate to project total claims costs.

Our model currently uses actual filed premiums in 2019 with projected membership for 2019 along with projected claims in 2018 and 2019 using the premium trends for 2018 and 2019. In 2020 and beyond we use the trends from the NHE per CMS guidance.[57]

National Health Expenditure Trends (NHE Table 17 Health Spending by Source of Insurance Coverage Spending Direct Purchase)	
Year	**Annual Growth Rate**
2020	3.2%
2021	5.2%
2022	4.7%
2023	4.7%
2024	4.7%
2025	4.8%
2026	5.0%
2027+	4.6%

[56] NHE Projections. Centers for Medicare and Medicaid Services. https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/NationalHealthAccountsProjected.html . Accessed April 4, 2019.

[57] "State Relief and Empowerment Waivers." Department of Health and Human Services. October 24, 2018. https://www.federalregister.gov/documents/2018/10/24/2018-23182/state-relief-and-empowerment-waivers. Accessed April 4, 2019.

Copyright © 2019 by NovaRest, Inc.

Appendix B - Administrative Requirements for North Dakota Reinsurance Program

A number of functions will be needed in order to administer this program. Claims will have to be filed by the carriers and reinsurance reimbursements will have to be paid. Also, amounts will have to be collected from the federal government for APTC reductions and from the assessments against those identified in the legislation once it is finalized.

Claims Processing

Carriers will provide claim information to the administrator once the initial attachment point is reached. The administrator will accumulate the claims and determine the reinsurance payment owed to the carrier.

Once the payment amount is determined, the administrator will verify that adequate funds are available and either pay the claim or notify the carrier that payment will be delayed.

The administrator will also monitor the total claims and notify the carrier once the maximum claim level is reached.

If funding becomes an issue, the administrator will have to monitor funding levels and pay claims as adequate funding is available.

Funding Collections

It is NovaRest's understanding that federal APTC funds are made available in the first half of the year for the estimated annual funding amount. The administrator will need to coordinate with the appropriate federal office to ensure that funding is made available on a timely basis.

Assessments will be received on a periodic basis from those providing the additional funding needed for the program. The administrator will follow-up on assessments that are not received on a timely basis. NovaRest assumes that assessments will be based on premium or claim levels and therefore the assessed entities will calculate the assessment amount, not the administrator.

Periodic Audits

The administrator should periodically audit both the carrier claim submissions and the assessments. An audit can be done by the administrator or an outside vendor. An outside vendor would cost approximately $10,000.

The audit would verify that the carrier claims were processed appropriately and included covered services only.

Assessment audits would verify that the assessment base (premium, claims, etc.) was accurate and that the appropriate percentage was used to calculate the assessment.

Copyright © 2019 by NovaRest, Inc.

Miscellaneous Tasks

There will be various additional tasks such as opening banking accounts and balancing account statements.

Tasks would also include reporting requirements back to the State authority that is responsible for the reinsurance program, and to the federal authority, as required.

Relationship management will require an executive director level person to interact with the federal government, state legislators, carriers, and the public.

Copyright © 2019 by NovaRest, Inc.

Appendix C - Definitions and Abbreviations

Allowed Claims - The maximum amount a plan will pay for a covered health care service.

Advance Premium Tax Credit "APTC" or "PTC" – A tax credit taken by enrollee to lower monthly health insurance payment. The enrollee will estimate yearly income when they apply for coverage in the Health Insurance Marketplace. The APTC will be based on the estimate of the income entered.

Centers for Medicare & Medicaid Services "CMS" - The Centers for Medicare & Medicaid Services, CMS, is part of the Department of Health and Human Services (HHS). CMS oversees many federal healthcare programs, including those that involve health information technology such as the meaningful use incentive program for electronic health records (EHR).

Children's Health Insurance Program "CHIP" - The Children's Health Insurance Program (CHIP) provides health coverage to eligible children, through both Medicaid and separate CHIP programs. CHIP is administered by states according to federal requirements. The program is funded jointly by states and the federal government.

Cost Sharing - The share of costs covered by an insurance plan that an enrollee will pay out of their pocket. In general, cost sharing includes deductibles, coinsurance, and copayments, or similar charges, but it does not include premiums, balance billing amounts for non-network providers, or the cost of non-covered services.

Cost Sharing Reduction "CSR" - A discount that lowers the amount an enrollee will have to pay for deductibles, copayments, and coinsurance. In the Health Insurance Marketplace, cost-sharing reductions are often called "extra savings".

Essential Health Benefits "EHB" - A set of 10 categories of services health insurance plans must cover under the Affordable Care Act. These include doctors' services, inpatient and outpatient hospital care, prescription drug coverage, pregnancy and childbirth, mental health services, and more.

Federal Poverty Level "FPL" - A measure of income issued every year by the Department of Health and Human Services (HHS). Federal poverty levels are used to determine eligibility for certain programs and benefits, including savings on Marketplace health insurance, and Medicaid and CHIP coverage.

Health Insurance Marketplace "Marketplace" or "exchange" http://www.healthcare.gov - A shopping and enrollment service for medical insurance created by the Affordable Care Act in

Copyright © 2019 by NovaRest, Inc.

2010. In most states, the federal government runs the Marketplace (sometimes known as the "exchange") for individuals and families.

High-Risk Pool Plan - States offer plans that provide coverage if an individual has been denied health insurance because of a pre-existing condition. High-risk pool plans offer health insurance coverage that is subsidized by a state government.

Metal Level, Metal Plans or Metal Categories - Plans in the Health Insurance Marketplace are presented in 5 "metal" categories: Catastrophic, Bronze, Silver, Gold, and Platinum.

Patient Protection and Affordable Care Act "ACA" or "Affordable Care Act" - United States federal statute enacted by the 111th United States Congress and signed into law by President Barack Obama on March 23, 2010.

Per Member Per Month "PMPM" - Per Member Per Month, or the average cost of services per individual per month.

Premium - A health insurance premium is a monthly fee paid to an insurance company or health plan to provide health coverage.

Risk Adjustment - A statistical process that takes into account the underlying health status and health spending of the enrollees in an insurance plan when looking at their health care outcomes or health care costs.

Copyright © 2019 by NovaRest, Inc.

Appendix D - NRMM Model and Assumptions

The NRMM uses 2017 and 2018 carrier data as well as 2018 and 2019 carrier premium rates to determine member health insurance shopping behavior and to capture and project annual enrollment and premium by metal level for 2018 and 2019 and project forward to 2029. Because it is possible that carriers change plans throughout a year which would result in double counting members, we only use the members who were enrolled in a plan at the end of the period, which was as of May 2018.

The 2018 carrier data we received was only through May of 2018, so the NRMM model assumes that all members maintained their plan through the remainder of 2018.

If a member's total family paid claims in 2017 were greater than their total family premium in 2017, the member is assumed to re-enroll in their 2018 plan for 2019, or if that plan is not available, they will find another plan at a similar level of coverage. If the total family paid claims are not greater than the total family premium, the member may shop for a lower level of coverage based on the premium rate change from their current plan. The NRMM assumes the member will look to enroll with the same carrier so they can keep their current providers. If their current carrier does not offer plans at a lower level of coverage they will look at the average plan at that level of coverage in the market. The NRMM also assumes that a member will keep their exchange status, except for the Silver tier. Because of CSR loading on on-exchange Silver plans that began in plan year 2019, an unsubsidized member is assumed to never enroll in an on-exchange Silver plan and will instead look at the off-exchange Silver plan.

The members that shop for a lower level of coverage are determined by the premium rate change from their current plan to the level of coverage they are shopping for in 2019 and elasticities presented at a Society of Actuaries' training session. If the rate change is a rate decrease, the NRMM assumes the member will pocket the extra premium instead of opting for more coverage. If a member is projected to decrease coverage from the Bronze or Catastrophic tier, they are projected to go uninsured. Although it is possible for a Catastrophic member to age out of a Catastrophic plan, we assume this will be offset by younger members joining.

For the subsidized members, we assumed members enrolled in 94% CSR, 87% CSR, or 73% CSR plans will continue to enroll in the second lowest Silver plan in 2019 and maintain their subsidy status. Members in 100% CSR plans, because we do not have any information about the members' poverty or income level, are equally distributed among the other subsidy levels. This is a simplifying assumption on a very small number of members, so we believe it is a reasonable assumption. We also assume APTC non-CSR members will continue to enroll in their current level of coverage.

The aggregate premium for 2019 is based on the 2019 premium for the member plan selected in the model, including the impact of a member aging one year from the 2018 data. The NRMM assumes 12 months of coverage for 2019. No other member trend was assumed for 2019 other than

Copyright © 2019 by NovaRest, Inc.

the assumptions in the NRMM as described above. The maximum premium for subsidized members is based on CCIIO data and family size.

Projections for 2019 are then projected to 2020 through 2029. NovaRest used the metal level elasticities of demand provided in a Society of Actuaries' training session against the National Health Expenditure Projections for non-subsidized members. We assumed members will decrease their level of coverage prior to becoming uninsured.

To project the 2020 premiums that resulted from the NRMM modeling, NovaRest used historic changes in FPL and National Health Expenditure Projections.[58] For the FPL increase, we used 2.9% for 2018 to 2019 and 2% thereafter.

The National Health Expenditure Projections show a 3.2% health care cost increase from 2019 to 2020 and ranges from 4.6% to 5.2% thereafter as shown in Appendix A. The NRMM model output premium was trended from 2019 to 2029 using the National Health Expenditure Projections for both the base line projection and the Waiver projection.

[58] "National Health Expenditure Projections 2017-2026." The Centers for Medicare & Medicaid Services. https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/Downloads/ForecastSummary.pdf

Copyright © 2019 by NovaRest, Inc.

Appendix E – Qualifications

About the Model Team

NovaRest Actuarial Consulting (NovaRest) was hired by the North Dakota Department of Insurance and Financial Services to perform a study of the North Dakota individual health insurance market. The goal was to model the individual health insurance market and to study options to avoid destabilization of the marketplace. Ultimately, the study pointed to the creation of a reinsurance plan and the request for a Section 1332 Waiver. NovaRest has been helping state insurance regulators meet their regulatory responsibilities since 2002. The 1332 project included four accredited actuaries, an actuarial student, and two research assistants. The core team members have worked on healthcare economic analysis and section 1332 Waiver projects. In addition to our unique section 1332 experience, we have performed studies to analyze the cost drivers of health insurance and have analyzed the impact of proposed legislation. NovaRest employs some of the most senior actuaries in the industry. The NovaRest actuaries are experts in the Affordable Care Act (ACA), modeling and project management. In addition, NovaRest has experience working on Section 1332 Waiver and reinsurance projects.

The primary tool that NovaRest used for the 1332 Waiver application analysis is the NovaRest Migration Model (NRMM). The NRMM is an actuarial tool for analyzing the impact of market migration, take-up and lapse rates resulting from proposed legislative changes.

Copyright © 2019 by NovaRest, Inc.

Appendix F – Reliance

In performing the analyses, NovaRest relied on information provided by the North Dakota Insurance Department, issuers offering coverage in North Dakota, annual and quarterly financial statements submitted to the National Association of Insurance Commissioners, and additional public information published by the federal government.

NovaRest relied on this information without audit or investigation. However, NovaRest believes that this analysis is based on accurate, reasonable, and complete data. When data appeared to be inconsistent or unreasonable, clarification was requested. NovaRest believes the best available data for determining the impact of the proposed Section 1332 Waiver was utilized.

Other information relied on is footnoted as to the source.

NovaRest made assumptions in modeling the Section 1332 Waiver. Although we believe these assumptions to be accurate, variances in the assumptions could impact the results. The NovaRest assumptions were reviewed by the North Dakota Insurance Department for reasonability.

Copyright © 2019 by NovaRest, Inc.

Appendix G –Limitations

There were a few limitations in the data received and the availability of more accurate assumptions. Even with these limitations, NovaRest believes that the base line projections included in this report are appropriate for decision-making purposes. NovaRest performed sensitivity testing to verify that varying the assumptions used would not significantly change the results. Actual federal funding through reduced APTC will be based on actual enrollment and filed premiums rather than on NovaRest's or other projections.

1. The data that NovaRest used was a snapshot. With the turnover in the individual market this may overstate 2019 due to later 2019 migration from the market.
2. NovaRest had little information on individuals eligible for 100% CSR. From the data provided, NovaRest knows that these individuals are all eligible for APTCs, but not the actual poverty level. NovaRest allocated the 100% CSR to the CSR levels for the non-100% CSR individuals.
3. For Grandfathered and Transitional Health Plans, NovaRest had member months from 2014 to 2017. NovaRest converted the member months to members using 12 months, which may understate the actual number of members in these markets.

Copyright © 2019 by NovaRest, Inc.

Attachment 3

April 19, 2019

North Dakota Insurance Department
Jon Godfread, Commissioner
600 East Boulevard Ave. Dept 401
Bismarck, ND 58505-0320
Via Email Only to: jrubben@nd.gov

Dear Commissioner Jon Godfread,

As insurers currently providing coverage to North Dakotans across the state, we respectfully submit this comment letter in support of the reinsurance program proposed in HB 1106.

Stability and Predictability

Reinsurance is a state-based mechanism that reduces premium increases by establishing a reinsurance fund, which insurers can utilize to pay for costs associated with very expensive claims (claims with costs from $100,000 to $1 million). Reinsurance will allow for greater predictability for health plans when determining their costs during their plan design period. This will also benefit North Dakotans, as it will soften the expenses of enrollees who experience unusually high claims.

In the other states that have implemented a reinsurance program via a Section 1332 Innovation Waiver, reinsurance has proven to become an important market stabilizer. This program will allow for a local solution, controlled by North Dakota regulators, with input via the Board of the reinsurance association, and local stakeholders who will ensure the stability of our individual market.

Beneficial to Individual and Employer Plans

This program will benefit not only those who buy on the individual market, but will positively impact our employer groups in the state. Employer groups of all sizes benefit when more people are insured and there is a stable individual market. When health insurance becomes unaffordable, people start going without insurance. When the uninsured rate increases, cost shifting to the employer group market threatens the affordability of group insurance premiums.

In conclusion, we applaud the North Dakota Department of Insurance and Commissioner Godfread in pursuing a Section 1332 Innovation Waiver. This program has the potential to stabilize premiums in North Dakota's individual market, along with those on employer plans in the state. The program will also allow North Dakota to have regulatory control over the program.

Sincerely,

SANFORD
HEALTH PLAN

via electronic submission

April 25, 2019

Jeff Ubben
Deputy Insurance Commissioner
North Dakota Insurance Department
600 E Boulevard Ave.
Bismarck, ND 58505-0320

Re: ACS CAN's Comments on Proposed 1332 Waiver

Dear Deputy Commissioner Ubben:

The American Cancer Society Cancer Action Network (ACS CAN) appreciates the opportunity to comment on the North Dakota Insurance Department's draft Section 1332 waiver proposal. ACS CAN, the nonprofit, nonpartisan advocacy affiliate of the American Cancer Society, supports evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem. As the nation's leading advocate for public policies that are helping to defeat cancer, ACS CAN ensures that cancer patients, survivors, and their families have a voice in public policy matters at all levels of government.

ACS CAN supports a robust marketplace from which consumers can choose a health plan that best meets their needs. Access to health care is paramount for persons with cancer and survivors. Research from the American Cancer Society has shown that uninsured Americans are less likely to get screened for cancer and thus are more likely to have their cancer diagnosed at an advanced stage when survival is less likely and the cost of care more expensive.[1] In the United States, there are more than 1.7 million Americans who will be diagnosed with cancer this year.[2] An additional 15.5 million Americans are living with a history of cancer.[3] In North Dakota, an estimated 3,940 residents are expected to be diagnosed with cancer this year[4] and another 35,390 are cancer survivors.[5] For these Americans access to affordable health insurance is a matter of life or death.

---

[1] E Ward et al, "Association of Insurance with Cancer Care Utilization and Outcomes, *CA: A Cancer Journal for Clinicians* 58:1 (Jan./Feb. 2008), http://www.cancer.org/cancer/news/report-links-health-insurance-status-with-cancer-care.

[2] American Cancer Society. Cancer Facts & Figures: 2019. Atlanta: American Cancer Society, 2019.

[3] Id.

[4] Id.

[5] American Cancer Society. Cancer Treatment & Survivorship: Facts & Figures 2016-2017. Atlanta: American Cancer Society, 2016.

A well-designed reinsurance program can help to lower premiums and mitigate plan risk associated with high-cost enrollees. We note that the Department expects the reinsurance program will reduce premiums by 20 percent in plan year 2020.[6] These savings could benefit the federal government through reduced subsidy payments, as well as consumers not eligible for subsidies who enroll in coverage through the exchange – through lower premiums.

A reinsurance program may also encourage insurance carriers to continue offering plans through the exchange, or begin to offer plans, as applicable. The Department notes that in 2018, only one issuer offered plans in all counties in the state. The expected maintenance or increase in plan competition due to the reinsurance program also may help to keep premiums from rising. These premium savings could help cancer patients and survivors afford health insurance coverage and may allow some individuals to enroll who previously could not afford coverage. The Department estimates that enrollment in the individual market will increase 1 percent because of the reinsurance program.

ACS CAN supports North Dakota's proposed reinsurance program because it would not adversely affect enrollees' scope of benefits. We are pleased that the application states that the waiver "does not make alterations to the required scope of benefits offered in the insurance market in North Dakota."[7] ACS CAN believes that patient protections in current law – like the prohibition on pre-existing condition exclusions, prohibition on lifetime and annual limits, and Essential Health Benefits requirements – are crucial to making the healthcare system work for cancer patients and survivors.

Conclusion

On behalf of the American Cancer Society Cancer Action Network, we thank you for the opportunity to comment on the proposed section 1332 waiver, which we believe will provide long-term viability of the individual market while not eroding important consumer protections. If you have any questions, please feel free to contact me at (701) 314-4880.

Sincerely,

Deb Knuth
North Dakota Government Relations Director
American Cancer Society Cancer Action Network

---

[6] North Dakota Insurance Department. NORTH DAKOTA 1332 WAIVER APPLICATION. May 10, 2019. https://www.nd.gov/ndins/sites/www/files/documents/Health%20Care%20Reform/20190405%20North%20Dakota%201332%20Waiver%20Application.pdf

[7] Ibid.

Attachment 5

America's Health Insurance Plans
601 Pennsylvania Avenue, NW
South Building, Suite Five Hundred
Washington, DC 20004

April 30, 2019

Deputy Commissioner Jeff Ubben
North Dakota Insurance Department
600 East Boulevard Avenue
Bismarck, North Dakota 58505

Dear Deputy Commissioner Ubben:

I write you today on behalf of America's Health Insurance Plans in support of North Dakota's proposed reinsurance program as outlined in House Bill 1106, which was signed by Governor Burgum on Friday, April 19. AHIP is the national association whose members provide insurance coverage for health care and related services. Through these offerings, we improve and protect the health and financial security of consumers, families, businesses, communities and the nation. We are committed to market-based solutions and public-private partnerships that improve affordability, value, access, and well-being for consumers.

We support state-flexibility to solve market-specific problems and have supported recent efforts to implement reinsurance programs in Alaska, Wisconsin, Oregon, and Minnesota. Reinsurance programs can help mitigate the effects of adverse selection and help to stabilize the individual market.

North Dakota's proposed reinsurance program will subsidize costs associated with claims of an insured that amount to between $100,000 and $1,000,000 per plan year. It is important to note that these subsidies are used to reimburse providers and facilities for the cost of care. By subsidizing these outsized costs, this program will help keep premium costs lower for all plan enrollees. The program will further be helped by the tax credits for any assessment paid by carriers.

As this program is implemented, work will still need to be done to ensure that the funding mechanism for the program is equitable, and we appreciate that our members will have a seat at the table for these important discussions. We look forward to working with the Department to ensure consumers have access to quality, affordable coverage and care for years to come.

202.778.3200 | www.ahip.org

If you have any questions, please do not hesitate to contact me at sorrange@ahip.org or (703) 887-5285.

Sincerely,

Sara Orrange
Regional Director, State Affairs
America's Health Insurance Plans

April 30, 2019

Jeff Ubben
Deputy Insurance Commissioner
North Dakota Insurance Department
600 E. Boulevard Ave.
Bismarck, ND 58505-0320

Re: North Dakota Section 1332 State Innovation Waiver

Dear Deputy Commissioner Ubben:

The Leukemia & Lymphoma Society (LLS) appreciates the opportunity to submit comments on North Dakota's Section 1332 State Innovation Waiver.

LLS serves the needs of blood cancer patients by working to find cures for leukemia, lymphoma, Hodgkin's disease, and multiple myeloma, and by ensuring that blood cancer patients have sustainable access to quality, affordable, coordinated healthcare. Recognizing that patients' access to meaningful health insurance coverage is inherent to that mission, LLS supports North Dakota's efforts to strengthen its marketplace by submitting this 1332 State Innovation Waiver to implement a reinsurance program.

Reinsurance is an important tool to help stabilize health insurance markets. Reinsurance programs help insurance companies cover the claims of very high cost enrollees, which in turn keeps premiums affordable for other individuals buying insurance on the individual market. Reinsurance programs have been used to stabilize premiums in a number of healthcare programs, such as Medicare Part D. A temporary reinsurance fund for the individual market was also established under the Affordable Care Act and reduced premiums by an estimated 10 to 14 percent in its first year.[i] A recent analysis by Avalere of the seven states that have already created their own reinsurance programs through Section 1332 waivers found that these states reduced individual market premiums by an average of 19.9 percent in their first year.[ii]

North Dakota's proposal will create a reinsurance program starting for the 2020 plan year and continuing in 2021. This program is projected to reduce premiums by 8 to 20 percent, and is expected to encourage insurers to remain in the QHP-compliant exchange market. This would help patients with pre-existing conditions, including blood cancer survivors, obtain affordable, comprehensive coverage.

Office of Public Policy
10 G Street NE
Suite 400
Washington, DC 20002
Main 202.408.7631
www.LLS.org

BEATING CANCER IS IN OUR BLOOD.

LLS believes the 1332 State Innovation Waiver will help stabilize the individual market in North Dakota and protect patients and consumers who continue to count on the comprehensive benefit and coverage eligibility requirements mandated by the Affordable Care Act. We look forward to continuing to work with North Dakota policymakers on this and other opportunities to improve access to affordable, quality health coverage, and we thank you for the opportunity to provide comments.

Sincerely,

Dana Bacon
North Dakota Government Affairs Director
The Leukemia & Lymphoma Society

---

[i] American Academy of Actuaries, Individual and Small Group Markets Committee. *An Evaluation of the Individual Health Insurance Market and Implications of Potential Changes.* January 2017. Retrieved from https://www.actuary.org/files/publications/Acad_eval_indiv_mkt_011817.pdf.

[ii] Avalere. *State-Run Reinsurance Programs Reduce ACA Premiums by 19.9% on Average.* March 2019. Retrieved from https://avalere.com/press-releases/state-run-reinsurance-programs-reduce-aca-premiums-by-19-9-on-average.

Attachment 7

arthritis.org/advocacy

May 2, 2019

Deputy Commissioner Jeff Ubben
North Dakota Insurance Department
600 East Boulevard Avenue, Dept. 401
Bismarck, ND 58505-0320

Re: North Dakota Section 1332 State Innovation Waiver

Dear Deputy Commissioner Ubben,

The Arthritis Foundation appreciates the opportunity to submit comments on North Dakota's Section 1332 State Innovation Waiver. The Arthritis Foundation is the Champion of Yes. Leading the fight for the arthritis community, the Foundation helps conquer everyday battles through life-changing information and resources, access to optimal care, advancements in science, and community connections. We work on behalf of the over 142,000 people in North Dakota who live with the chronic pain of arthritis every day.

The Arthritis Foundation believes everyone should have high-quality, affordable healthcare coverage. A strong, robust marketplace is essential for people with arthritis to access the coverage that they need. The Arthritis Foundation supports North Dakota's efforts to strengthen its marketplace by submitting a 1332 State Innovation Waiver to implement a reinsurance program.

Reinsurance is an important tool to help stabilize health insurance markets. Reinsurance programs help insurance companies cover the claims of very high cost enrollees, which in turn keeps premiums affordable for other individuals buying insurance on the individual market. Reinsurance programs have been used to stabilize premiums in a number of healthcare programs, such as Medicare Part D. A temporary reinsurance fund for the individual market was also established under the Affordable Care Act and reduced premiums by an estimated 10 to 14 percent in its first year.[1] A recent analysis by Avalere of the seven states that have already created their own reinsurance programs through Section 1332 waivers found that these states reduced individual market premiums by an average of 19.9 percent in their first year.[2]

North Dakota's proposal will create a reinsurance program starting for the 2020 plan year and continuing for two years. This program is projected to reduce premiums by 20 percent and increase the number of individuals obtaining health insurance through the individual market by about 1 percent. This would help patients with pre-existing conditions, including patients with arthritis, obtain affordable, comprehensive coverage.

The Arthritis Foundation believes the 1332 State Innovation Waiver will help stabilize the individual market in North Dakota and protect patients and consumers. Thank you for the opportunity to provide comments.

Sincerely,

Benjamin Chandhok

Ben Chandhok
Senior Director, State Legislative Affairs
Arthritis Foundation

---

[1] American Academy of Actuaries, Individual and Small Group Markets Committee. *An Evaluation of the Individual Health Insurance Market and Implications of Potential Changes*. January 2017. Retrieved from https://www.actuary.org/files/publications/Acad_eval_indiv_mkt_011817.pdf.

[2] Avalere. *State-Run Reinsurance Programs Reduce ACA Premiums by 19.9% on Average.* March 2019. Retrieved from https://avalere.com/press-releases/state-run-reinsurance-programs-reduce-aca-premiums-by-19-9-on-average.

#AdvocateforArthritis

Attachment 8

May 2, 2019

Deputy Insurance Commissioner Jeff Ubben
North Dakota Insurance Department
600 East Boulevard Avenue, Dept. 401
Bismarck, ND 58505-0320

Re: North Dakota 1332 Waiver Application

Dear Deputy Commissioner Ubben:

The American Lung Association in North Dakota appreciates the opportunity to submit comments on North Dakota's 1332 Waiver Application.

The American Lung Association is the oldest voluntary public health association in the United States, currently representing the 35 million Americans living with lung diseases including asthma, lung cancer and COPD, including more than 83,000 North Dakota residents. The Lung Association is the leading organization working to save lives by improving lung health and preventing lung disease through research, education and advocacy.

The American Lung Association in North Dakota believes everyone should have quality and affordable healthcare coverage. A strong, robust marketplace is essential for people with lung disease to access the coverage that they need. The Lung Association supports North Dakota's efforts to strengthen its marketplace by submitting this 1332 Waiver Application to implement a reinsurance program.

Reinsurance is an important tool to help stabilize health insurance markets. Reinsurance programs help insurance companies cover the claims of very high cost enrollees, which in turn keeps premiums affordable for other individuals buying insurance on the individual market. Reinsurance programs have been used to stabilize premiums in a number of healthcare programs, such as Medicare Part D. A temporary reinsurance fund for the individual market was also established under the Affordable Care Act and reduced premiums by an estimated 10 to 14 percent in its first year.[1] A recent analysis by Avalere of the seven states that have already created their own reinsurance programs through Section 1332 waivers found that these states reduced individual market premiums by an average of 19.9 percent in their first year.[1]

North Dakota's proposal will create a reinsurance program starting for the 2020 plan year and continuing for two years. This program is projected to reduce premiums by 20 percent and increase the number of individuals obtaining health insurance through the individual market by one percent. By improving the stability of the marketplace, the program should also help to retain or attract new insurers to North Dakota's individual market, improving choices for consumers. This program would help patients with pre-existing conditions, including patients with lung disease, obtain affordable, comprehensive coverage.

As states consider different ways to stabilize their marketplaces, the Lung Association is pleased that North Dakota has submitted an application that is projected to improve coverage and affordability without compromising access to essential health benefits or jeopardizing other important protections that our patients rely on. The Lung Association believes this 1332 Waiver Application will help stabilize the individual market in North Dakota and protect patients and consumers. Thank you for the opportunity to provide comments.

Sincerely,

Pat McKone, Senior Director
Health Promotion and Advocacy

---

[1] American Academy of Actuaries, Individual and Small Group Markets Committee. *An Evaluation of the Individual Health Insurance Market and Implications of Potential Changes.* January 2017. Retrieved from https://www.actuary.org/files/publications/Acad_eval_indiv_mkt_011817.pdf.
[1] Avalere. *State-Run Reinsurance Programs Reduce ACA Premiums by 19.9% on Average.* March 2019. Retrieved from https://avalere.com/press-releases/state-run-reinsurance-programs-reduce-aca-premiums-by-19-9-on-average.

Attachment 9

Chairman of the Board
James J. Postl

President
Ivor J. Benjamin, MD, FAHA

Chairman-elect
Bertram L. Scott

President-elect
Robert A. Harrington, MD, FAHA

Immediate Past Chairman of the Board
Alvin L. Royse, JD, CPA

Immediate Past President
John J. Warner, MD, FAHA

Treasurer
Raymond P. Vara, Jr.

Directors
Mary Ann Bauman, MD
Emelia J. Benjamin, MD, ScM, FAHA
Douglas S. Boyle
Keith B. Churchwell, MD, FAHA
Lloyd H. Dean
Mitchell S. V. Elkind, MD, MS, FAHA
J. Donald Fancher
Linda Gooden
Ron W. Haddock
Marsha Jones
Joseph Loscalzo, MD, PhD, FAHA
Lee Shapiro
David A. Spina
Bernard J. Tyson
Thomas Pina Windsor
Joseph C. Wu, MD, PhD, FAHA

Chief Executive Officer
Nancy A. Brown

Chief Operating Officer
Suzie Upton

Chief Science and Medical Officer
Mariell Jessup, MD, FAHA

Chief Administrative Officer and Corporate Secretary
Larry D. Cannon

May 6, 2018

John Godfread, Commissioner
North Dakota Insurance Department
600 East Boulevard Avenue, Dept 401
Bismarck, ND 58505-0320

RE: North Dakota 1332 Waiver Application

Dear Commissioner Godfread:

On behalf of the American Heart Association and the American Stroke Association (AHA/ASA), we would like to thank you for the opportunity to provide written comments on North Dakota's Section 1332 State Innovation Waiver application.

As the nation's oldest and largest voluntary organization dedicated to building healthier lives free from heart disease and stroke, our nonprofit and nonpartisan organization represents over 100 million patients with cardiovascular disease (CVD) and includes over 40 million volunteers and supporters committed to our goal of improving the cardiovascular health of all Americans. AHA has worked diligently for many years to support and advance strong public health policies in addition to providing critical tools and information to providers, patients, and families in order to prevent and treat these deadly diseases.

The AHA believes everyone should have quality and affordable healthcare coverage and a strong, robust marketplace is essential for people with CVD to access the coverage that they need. To that end, a well-designed reinsurance program can help offset the costs of enrollees with expensive health care needs. Additionally, implementing a reinsurance program could also help to alleviate other systemic problems within the state insurance exchange including smaller provider networks and low issuer participation. The AHA would like to express our support for the proposal.

As you are aware, reinsurance programs have been used to stabilize premiums in a number of healthcare programs, such as Medicare Part D. A temporary reinsurance fund for the individual market was also established under the Affordable Care Act and reduced premiums by an estimated 10 to 14 percent in its first year. In Minnesota, a state already implementing a reinsurance program through a 1332 waiver approved last year, insurers filed proposed rates for 2019 that were between 3 and

Advocacy Department I 1150 Connecticut Ave., NW I Suite 300 I Washington, DC I 20036

12.4 percent below 2018 premiums. We are pleased to see that the North Dakota estimates that the program will reduce premiums by approximately 20 percent and increase the number of people able to obtain coverage through the individual market in 2020. We encourage the state and the legislature to examine additional opportunities to extend this waiver beyond 2 years to ensure that coverage in North Dakota remains within reach for consumers and people with pre-existing conditions who rely on the marketplaces to purchase their insurance.

The AHA is also pleased that the that the comprehensiveness and affordability of coverage offered on the individual markets will not be altered by the 1332 waiver proposal. The patient protections extended to individuals with pre-existing conditions under the Affordable Care Act (ACA) including the ten essential health benefit categories, guaranteed issue, out of pocket maximums and many other critical consumer protections are the bedrock of care for our patients. The guarantees and protections enshrined in the ACA make our healthcare system navigable for CVD patients and we commend the state for ensuring that the waiver proposal does not alter the integrity of these requirements. In addition to a strong reinsurance program, we encourage the state to limit access to non-compliant plans to protect consumers and limit unnecessary premium spikes in the North Dakota insurance market.

On behalf of the American Heart Association and American Stroke Association, thank you for reviewing our comments. We appreciate the opportunity to provide feedback on this application. If you have any questions, please contact Maureen Cassidy, Vice President of Field Advocacy for the American Heart Association at Maureen.Cassidy@heart.org.

Sincerely,

Maureen Cassidy
Vice President of Field Advocacy

May 6, 2019

Deputy Commissioner Jeff Ubben
North Dakota Insurance Department
600 East Boulevard Avenue
Bismarck, ND 58505-0001

Re: North Dakota Section 1332 State Innovation Waiver

Dear Deputy Commissioner Ubben:

On behalf of people with cystic fibrosis, the Cystic Fibrosis Foundation appreciates the opportunity to support North Dakota's 1332 State Innovation Waiver application to operate a reinsurance program.

Cystic fibrosis (CF) is a life-threatening genetic disease that affects 30,000 children and adults in the United States. CF causes the body to produce thick, sticky mucus that clogs the lungs and digestive system, which can lead to life-threatening infections. As a complex, multi-system condition, CF requires targeted, specialized treatment and medications.

People with CF benefit from insurance marketplaces that offer affordable health plans that cover their complex health needs. The Cystic Fibrosis Foundation supports North Dakota's creation of a reinsurance program that will make coverage more affordable and expand plan choice by encouraging insurer participation in the marketplace.

Reinsurance is an important tool to help stabilize health insurance markets. These programs help insurance companies cover claims for high cost enrollees, keeping premiums more affordable for everyone. For instance, a temporary reinsurance fund for the individual market established under the Affordable Care Act reduced premiums by an estimated 10 to 14 percent in its first year.[i] A recent analysis by Avalere of the seven states that have created their own reinsurance programs through Section 1332 waivers also found that these programs reduced individual market premiums by an average of 19.9 percent in their first year.[ii]

The Cystic Fibrosis Foundation appreciates the opportunity to provide input on these important policy changes. As the health landscape continues to evolve, we look forward to working with the state of North Dakota to ensure high quality, specialized CF care and improve the lives of all with cystic fibrosis. Please consider us a resource moving forward.

Sincerely,

Mary B. Dwight
Senior VP of Policy & Patient Assistance Programs
Cystic Fibrosis Foundation

Lisa B. Feng, DrPH
Senior Director of Access Policy & Innovation
Cystic Fibrosis Foundation

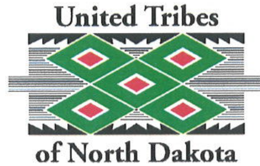
---

[i] American Academy of Actuaries, Individual and Small Group Markets Committee. *An Evaluation of the Individual Health Insurance Market and Implications of Potential Changes.* January 2017. Retrieved from https://www.actuary.org/files/publications/Acad_eval_indiv_mkt_011817.pdf.

[ii] Avalere. *State-Run Reinsurance Programs Reduce ACA Premiums by 19.9% on Average.* March 2019. Retrieved from https://avalere.com/press-releases/state-run-reinsurance-programs-reduce-aca-premiums-by-19-9-on-average.

CYSTIC FIBROSIS FOUNDATION NATIONAL OFFICE | 6931 ARLINGTON ROAD BETHESDA, MD 20814 | TEL: 800.FIGHT.CF FAX: 301.951.6378 | WEB: WWW.CFF.ORG

Attachment 11



GOVERNING TRIBES

Sisseton-Wahpeton Sioux Tribe | Spirit Lake Tribe
Standing Rock Sioux Tribe | Three Affiliated Tribes
Turtle Mountain Band of Chippewa Indians

April 5, 2018
UTTC Cafeteria - Bismarck, ND
Time: ___________

~Agenda~

I. **Opening Comments**

II. **Roll Call** (six or more members constitute a quorum)

III. **Approval of Agenda**

IV. **Approval of Minutes** (March 1, 2019)

V. **Unfinished Business**
No unfinished business at this time.

VI. **New Business**
- a. **Medical Marijuana Dispensaries** (Mr. Purdon)
- b. **Private Health Insurance Rates** (Jon Godfread, ND Insurance Commissioner)
- c. **2020 Census** (Cheryl Kary, Tribal Partnership Specialist)
- d. **Agricultural Producers** (Michael Yellowbird)

VII. **Adjournment**
- a. **Next Meeting** – May 3, 2019 @ 8:30 AM UTTC Cafeteria – Bismarck, ND

Meeting with United Tribes of North Dakota on Proposed 1332 State Innovation Waiver Application - April 5, 2019

Questions/Comments from Tribal Chairmen/Tribal Chairwomen/Tribal Council Members during the meeting:

1. How would you anticipate the tribes would benefit from this reinsurance program?

   Answer provided - Those tribal members that purchase their health insurance on the individual market would see a reduction in the rate of premium they pay for health insurance.

2. When I had Blue Cross Blue Shield, I paid some and the tribe paid the rest, the cost would go down?

   Answer provided – If you purchase your health insurance on the individual market, the cost would go down. However, I cannot speculate on how the savings would be broken down between you and the Tribe. You could contact the Tribe to determine this.

3. You still pay for private insurance, just at a lower rate?

   Answer provided – Yes, those tribal members that purchase their health insurance on the individual market would see a reduction in the rate of premium for health insurance.

4. The assumption is made that insurance companies will lower the rates with this program. But what is to hold their feet to the fire to make sure that they actually reduce their rates and don't just pocket the savings?

   Answer provided – Under North Dakota law, the Insurance Commissioner has prior approval authority for all health insurance rates. This means an insurance company cannot use or charge a rate for a health insurance plan unless it has been approved by the Commissioner. Commissioner Godfread is on record with the Legislative Assembly in saying that he will not approve health insurance rates for use in North Dakota that are inconsistent with the savings this proposed reinsurance pool would bring.

5. Question clarifying the length of the comment period.

   Answer provided - The comment period is 31 days, from April 5, 2019 to May 6, 2019. There will also be a federal comment period at some point in the future.

6. Can tribes choose to participate in the reinsurance program or are they lumped in regardless?

   Answer provided - The reinsurance program would be for the entire individual market, we would not be able to carve certain populations out of the program.

7. Does this proposal have any effect on group plans?

   Answer provided – There is no direct effect on group health insurance plans. However, the individual health insurance market in North Dakota is unstable. This program will help to stabilize the individual market. If the individual market were to fail, there would be large ripple effects on the small and large group market as well. In fact, the individual market failing would likely jeopardize the existence of the small and large group markets.

8. Comment regarding high health/provider costs being a problem and this reinsurance program does nothing to address the high cost of receiving health care.

   Answer provided – The Insurance Department agrees that the increasing cost of receiving health care is a main driver regarding why the cost of health insurance has increased. While the reinsurance program does not address this issue directly, the legislation authorizing the reinsurance program contains language requiring the Legislative Assembly to study the drivers of the increasing cost of receiving health care so we can better understand this issue. This study will be performed in the 2019-2020 interim if this legislation passes.

North Dakota
Insurance Department
Jon Godfread, Commissioner

March 20, 2019

Chairman Mark Fox
Chairman of the Mandan, Hidastsa, Arikara Nation
400 Frontage Road
New Town, ND 58763

Dear Chairman Fox:

I am writing to request your consultation regarding a 1332 Waiver we will be applying for in the coming months. Section 1332 of the Patient Protection and Affordable Care Act (more commonly referred to as the ACA) permits a state to apply for a State Innovation Waiver to pursue innovative strategies for providing their residents with access to high quality, affordable health insurance.

Current State of the ACA:
As federal healthcare reform efforts continue to face significant challenges, the ACA continues to strain North Dakota's individual insurance market. Nationally, the cost of health care is still a major barrier to obtaining coverage. According to Kaiser Family Foundation, nationally the unsubsidized premium for the lowest-cost bronze plan is increasing by an average of 17% between 2017 and 2018, the lowest-cost silver plan is increasing by an average of 32%, and the lowest-cost gold plan is increasing by an average of 18%. Since 2014, premiums in North Dakota individual health insurance market have steadily increased. Nationally, ACA market conditions have resulted in carriers leaving the market or reducing the counties in which they offer plans and North Dakota is making efforts to prevent that from happening.

Under the ACA if a family income falls between 100% and 400% of the FPL, they may be eligible for cost sharing and premium subsidies. Cost sharing reductions (CSR) lower the amount of cost sharing that an individual pays out of pocket. The CSR's are available to those between 100% to 250% of the federal poverty line, with families with lower incomes paying less out-of-pocket. APTCs reduce the premium that a family pays based on their income level and are available up to 400% of FPL. Individuals purchasing the silver level plan in the region that has the second lowest premium only have to pay an affordable percentage of their income. The percentage is determined by their income level.

North Dakota Characteristics:
North Dakota is one of the fastest growing states in the country. According to Census.gov, North Dakota's total population increased by 12.3% from April 1, 2010 to July 1, 2017, which is only behind the District of Columbia and Texas. The population increase over the same period for the entire United States is 5.5%. As of July 1, 2017, the North Dakota population is estimated to be 755,393.

600 E. Boulevard Ave., Bismarck, ND 58505 • (701) 328-2440 • Fax (701) 328-4880 • insurance@nd.gov
Consumer hotline: 1-800-247-0560 • Relay ND TTY 1-800-366-6888 • www.nd.gov/ndins

In response to these challenges and to find a pathway to offer some relief to individuals who purchase their own health insurance on the open market, the North Dakota Insurance Department conducted a study to find out the feasibility and desirability of a North Dakota Section 1332 Waiver. Section 1332 of the Affordable Care Act (ACA) permits a state to apply for a State Innovation Waiver to pursue strategies for providing its residents with access to high quality, affordable health insurance; while retaining the provisions included in the ACA. This program was introduced as House Bill 1106 in the 66th Legislative Assembly.

The study we conducted showed that the 1332 Waiver we have proposed will reduce premiums, making insurance more affordable, while protecting insurers from unpredictable high cost claims which significantly contribute to the rising cost of health insurance. This would be accomplished by using a reinsurance mechanism to help fund high cost claims. The result should be double digit **decreases** in the cost of health insurance on the individual market, which will result in more individuals staying in the market, some individuals who left the market due to unaffordability of health insurance returning to the market, and more insurers being willing to write policies in North Dakota counties. Both will help stabilize the individual health insurance market in North Dakota.

Under HB 1106, North Dakota would implement a reinsurance mechanism that would be similar to traditional reinsurance and the temporary ACA Transitional Reinsurance program that operated between 2014 and 2016. The reinsurance program we are proposing in this legislation is estimated to reduce premiums by approximately 20% in 2020 compared to the baseline premium (without the waiver). Due to the reduced premium, the membership in the 2020 individual market would increase, 1% compared to the baseline without the waiver.

The reinsurance mechanism would be what has been referred to as "invisible" reinsurance. The approach of "invisible" reinsurance allows enrollees to remain in the individual market with their current plan and carrier and have all the choices of health insurance plans that everyone else has, but a portion of their claims would be reimbursed by the reinsurance pool. The enrollee is not aware that their claim is being paid via the reinsurance pool, meaning there is no effect on the enrollee as the task of ceding claims to the reinsurance pool is completed on the back end of the process and is without consequence to the enrollee.

For the 2020 plan year, the proposed reinsurance program would cover 75% of paid claims between the $100,000 attachment point and $1,000,000.

The reinsurance amount payable under the Waiver is estimated to be $48 million in 2020. It will increase over the next ten years due to medical inflation unless the reinsurance parameters are modified. The actual amount that will be paid under the reinsurance will depend on submitted claims.

It should also be noted that nothing within this legislation changes the structure of the ACA or any of the benefits required by the ACA. Health insurance plans will continue to be guaranteed issue and cover individuals with pre-existing conditions, and the ten essential health benefits required by the ACA will still be required for ACA plans under this legislation.

These solutions do not come without a cost, and we fully expect a healthy discussion regarding how this program could and should be funded. A portion of the funding for the reinsurance would come from the federal government due to the reduction in advanced premium tax credits (APTC) being passed back to North Dakota. The reduction in premiums for the second lowest Silver plan in each region directly reduces the APTC for the individuals eligible for APTCs.

As HB 1106 was passed by the House the additional funding required by the reinsurance program would come from assessments against the group health insurance market. We project the APTC pass through from the federal government in 2020 to be $26 million and the state's share of the funding that would come from assessments to be approximately $22 million. HB 1106 as passed by the House would also allow the health insurers to credit any assessment back from their premium taxes they pay the state. This would decrease future state revenues by approximately $37 million per biennium.

We believe there is significant value in stabilizing our failing individual health insurance market. It is no secret that the individual markets across the country are facing trouble; the rising premiums are akin to the canary in the mine. We are reaching a point where individuals are no longer able to afford to purchase their own health insurance. These are individuals who are our small business owners, farmers and ranchers, individuals who do not qualify to receive any kind of premium subsidy or assistance, individuals that cannot continue to afford to pay the costs that come with year after year of double-digit health insurance increases. Couple that with an individual market that is getting more and more concentrated with high claims cost individuals, and you can see that we are approaching a death spiral.

When good risk no longer enters the individual market because the costs associated with it are simply too high, companies will leave that market. If that happens, we will no longer have an option for individuals to purchase health insurance and the federal government will likely step in and provide a form of Medicare coverage to those individuals. This will be the first step in moving to a single payer system and the first step in the elimination of our private health insurance market.

We continue to wait for the federal government to offer us significant health insurance reform; we hope that reform allows states more control of our health insurance markets. In the meantime, HB 1106 allows us to start to regain some control of this market, it offers us a public-private partnership that would reduce premiums and provide lower-cost plans to individuals, and most importantly, this legislation will stabilize our individual market, which is important to keep us from moving toward a form of government run, single-payer health insurance system in the future.

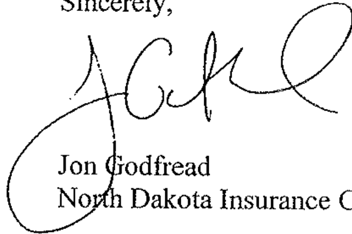
HB 1106 has passed the House of Representatives with a unanimous vote and now moves to the Senate. To meet our timelines and successfully apply for and implement our 1332 waiver for the 2020 plan year, we are moving forward with drafting our application and seeking public comment. At this point we would like the opportunity to consult with you and your leadership to ensure your tribal members have an opportunity to provide input and feedback prior to finalizing our waiver application.

We believe this program will be to the benefit of all North Dakotans, by ensuring those individuals who must purchase their own health insurance can do so in a more affordable market. **This program does not impact or make any changes to Medicaid, Medicare, the Veteran's Administration (VA) health insurance program or the Indian Health Services populations. This program is solely focused on the private pay market and those individuals who are on the individual marketplace.**

Through this consultation and feedback, I hope we can develop a partnership that extends beyond the 1332 waiver. The North Dakota Insurance Department's primary focus is consumer protection, we advocate on behalf of consumers within all lines of insurance. I hope to not only receive your feedback regarding this opportunity, but to better explore other areas we can work together for the betterment of your members and the state of North Dakota.

Thank you for your time and consideration, I look forward to receiving your feedback or an opportunity to meet with you in the near future.

Sincerely,



Jon Godfread
North Dakota Insurance Commissioner

cc. Chairwoman Myra Peterson, Spirit Lake Nation

Chairman Mike Faith, Standing Rock Sioux Tribe

Chairman Jamie Azure, Turtle Mountain Band of Chippewa

Chairwoman Ella Robertson, Sisseton Wahpeton Oyate

North Dakota
Insurance Department
Jon Godfread, Commissioner

March 20, 2019

Chairwoman Myra Pearson
Chairwoman of Spirit Lake Nation
PO Box 359
Fort Totten, ND 58335

Dear Chairwoman Pearson:

I am writing to request your consultation regarding a 1332 Waiver we will be applying for in the coming months. Section 1332 of the Patient Protection and Affordable Care Act (more commonly referred to as the ACA) permits a state to apply for a State Innovation Waiver to pursue innovative strategies for providing their residents with access to high quality, affordable health insurance.

Current State of the ACA:
As federal healthcare reform efforts continue to face significant challenges, the ACA continues to strain North Dakota's individual insurance market. Nationally, the cost of health care is still a major barrier to obtaining coverage. According to Kaiser Family Foundation, nationally the unsubsidized premium for the lowest-cost bronze plan is increasing by an average of 17% between 2017 and 2018, the lowest-cost silver plan is increasing by an average of 32%, and the lowest-cost gold plan is increasing by an average of 18%. Since 2014, premiums in North Dakota individual health insurance market have steadily increased. Nationally, ACA market conditions have resulted in carriers leaving the market or reducing the counties in which they offer plans and North Dakota is making efforts to prevent that from happening.

Under the ACA if a family income falls between 100% and 400% of the FPL, they may be eligible for cost sharing and premium subsidies. Cost sharing reductions (CSR) lower the amount of cost sharing that an individual pays out of pocket. The CSR's are available to those between 100% to 250% of the federal poverty line, with families with lower incomes paying less out-of-pocket. APTCs reduce the premium that a family pays based on their income level and are available up to 400% of FPL. Individuals purchasing the silver level plan in the region that has the second lowest premium only have to pay an affordable percentage of their income. The percentage is determined by their income level.

North Dakota Characteristics:
North Dakota is one of the fastest growing states in the country. According to Census.gov, North Dakota's total population increased by 12.3% from April 1, 2010 to July 1, 2017, which is only behind the District of Columbia and Texas. The population increase over the same period for the entire United States is 5.5%. As of July 1, 2017, the North Dakota population is estimated to be 755,393.

600 E. Boulevard Ave., Bismarck, ND 58505 • (701) 328-2440 • Fax (701) 328-4880 • insurance@nd.gov
Consumer hotline: 1-800-247-0560 • Relay ND TTY 1-800-366-6888 • www.nd.gov/ndins

In response to these challenges and to find a pathway to offer some relief to individuals who purchase their own health insurance on the open market, the North Dakota Insurance Department conducted a study to find out the feasibility and desirability of a North Dakota Section 1332 Waiver. Section 1332 of the Affordable Care Act (ACA) permits a state to apply for a State Innovation Waiver to pursue strategies for providing its residents with access to high quality, affordable health insurance; while retaining the provisions included in the ACA. This program was introduced as House Bill 1106 in the 66th Legislative Assembly.

The study we conducted showed that the 1332 Waiver we have proposed will reduce premiums, making insurance more affordable, while protecting insurers from unpredictable high cost claims which significantly contribute to the rising cost of health insurance. This would be accomplished by using a reinsurance mechanism to help fund high cost claims. The result should be double digit **decreases** in the cost of health insurance on the individual market, which will result in more individuals staying in the market, some individuals who left the market due to unaffordability of health insurance returning to the market, and more insurers being willing to write policies in North Dakota counties. Both will help stabilize the individual health insurance market in North Dakota.

Under HB 1106, North Dakota would implement a reinsurance mechanism that would be similar to traditional reinsurance and the temporary ACA Transitional Reinsurance program that operated between 2014 and 2016. The reinsurance program we are proposing in this legislation is estimated to reduce premiums by approximately 20% in 2020 compared to the baseline premium (without the waiver). Due to the reduced premium, the membership in the 2020 individual market would increase, 1% compared to the baseline without the waiver.

The reinsurance mechanism would be what has been referred to as "invisible" reinsurance. The approach of "invisible" reinsurance allows enrollees to remain in the individual market with their current plan and carrier and have all the choices of health insurance plans that everyone else has, but a portion of their claims would be reimbursed by the reinsurance pool. The enrollee is not aware that their claim is being paid via the reinsurance pool, meaning there is no effect on the enrollee as the task of ceding claims to the reinsurance pool is completed on the back end of the process and is without consequence to the enrollee.

For the 2020 plan year, the proposed reinsurance program would cover 75% of paid claims between the $100,000 attachment point and $1,000,000.

The reinsurance amount payable under the Waiver is estimated to be $48 million in 2020. It will increase over the next ten years due to medical inflation unless the reinsurance parameters are modified. The actual amount that will be paid under the reinsurance will depend on submitted claims.

It should also be noted that nothing within this legislation changes the structure of the ACA or any of the benefits required by the ACA. Health insurance plans will continue to be guaranteed issue and cover individuals with pre-existing conditions, and the ten essential health benefits required by the ACA will still be required for ACA plans under this legislation.

These solutions do not come without a cost, and we fully expect a healthy discussion regarding how this program could and should be funded. A portion of the funding for the reinsurance would come from the federal government due to the reduction in advanced premium tax credits (APTC) being passed back to North Dakota. The reduction in premiums for the second lowest Silver plan in each region directly reduces the APTC for the individuals eligible for APTCs.

As HB 1106 was passed by the House the additional funding required by the reinsurance program would come from assessments against the group health insurance market. We project the APTC pass through from the federal government in 2020 to be $26 million and the state's share of the funding that would come from assessments to be approximately $22 million. HB 1106 as passed by the House would also allow the health insurers to credit any assessment back from their premium taxes they pay the state. This would decrease future state revenues by approximately $37 million per biennium.

We believe there is significant value in stabilizing our failing individual health insurance market. It is no secret that the individual markets across the country are facing trouble; the rising premiums are akin to the canary in the mine. We are reaching a point where individuals are no longer able to afford to purchase their own health insurance. These are individuals who are our small business owners, farmers and ranchers, individuals who do not qualify to receive any kind of premium subsidy or assistance, individuals that cannot continue to afford to pay the costs that come with year after year of double-digit health insurance increases. Couple that with an individual market that is getting more and more concentrated with high claims cost individuals, and you can see that we are approaching a death spiral.

When good risk no longer enters the individual market because the costs associated with it are simply too high, companies will leave that market. If that happens, we will no longer have an option for individuals to purchase health insurance and the federal government will likely step in and provide a form of Medicare coverage to those individuals. This will be the first step in moving to a single payer system and the first step in the elimination of our private health insurance market.

We continue to wait for the federal government to offer us significant health insurance reform; we hope that reform allows states more control of our health insurance markets. In the meantime, HB 1106 allows us to start to regain some control of this market, it offers us a public-private partnership that would reduce premiums and provide lower-cost plans to individuals, and most importantly, this legislation will stabilize our individual market, which is important to keep us from moving toward a form of government run, single-payer health insurance system in the future.

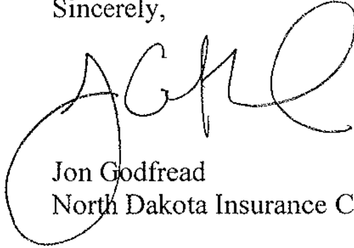
HB 1106 has passed the House of Representatives with a unanimous vote and now moves to the Senate. To meet our timelines and successfully apply for and implement our 1332 waiver for the 2020 plan year, we are moving forward with drafting our application and seeking public comment. At this point we would like the opportunity to consult with you and your leadership to ensure your tribal members have an opportunity to provide input and feedback prior to finalizing our waiver application.

We believe this program will be to the benefit of all North Dakotans, by ensuring those individuals who must purchase their own health insurance can do so in a more affordable market. **This program does not impact or make any changes to Medicaid, Medicare, the Veteran's Administration (VA) health insurance program or the Indian Health Services populations. This program is solely focused on the private pay market and those individuals who are on the individual marketplace.**

Through this consultation and feedback, I hope we can develop a partnership that extends beyond the 1332 waiver. The North Dakota Insurance Department's primary focus is consumer protection, we advocate on behalf of consumers within all lines of insurance. I hope to not only receive your feedback regarding this opportunity, but to better explore other areas we can work together for the betterment of your members and the state of North Dakota.

Thank you for your time and consideration, I look forward to receiving your feedback or an opportunity to meet with you in the near future.

Sincerely,



Jon Godfread
North Dakota Insurance Commissioner

cc. Chairman Mark Fox, Mandan, Hidatsa, Arikara Nation

Chairman Mike Faith, Standing Rock Sioux Tribe

Chairman Jamie Azure, Turtle Mountain Band of Chippewa

Chairwoman Ella Robertson, Sisseton Wahpeton Oyate

North Dakota
Insurance Department
Jon Godfread, Commissioner

March 20, 2019

Chairman Mike Faith
Chairman of Standing Rock Sioux Tribe
PO Box D
Fort Yates, ND 58538

Dear Chairman Faith:

I am writing to request your consultation regarding a 1332 Waiver we will be applying for in the coming months. Section 1332 of the Patient Protection and Affordable Care Act (more commonly referred to as the ACA) permits a state to apply for a State Innovation Waiver to pursue innovative strategies for providing their residents with access to high quality, affordable health insurance.

Current State of the ACA:
As federal healthcare reform efforts continue to face significant challenges, the ACA continues to strain North Dakota's individual insurance market. Nationally, the cost of health care is still a major barrier to obtaining coverage. According to Kaiser Family Foundation, nationally the unsubsidized premium for the lowest-cost bronze plan is increasing by an average of 17% between 2017 and 2018, the lowest-cost silver plan is increasing by an average of 32%, and the lowest-cost gold plan is increasing by an average of 18%. Since 2014, premiums in North Dakota individual health insurance market have steadily increased. Nationally, ACA market conditions have resulted in carriers leaving the market or reducing the counties in which they offer plans and North Dakota is making efforts to prevent that from happening.

Under the ACA if a family income falls between 100% and 400% of the FPL, they may be eligible for cost sharing and premium subsidies. Cost sharing reductions (CSR) lower the amount of cost sharing that an individual pays out of pocket. The CSR's are available to those between 100% to 250% of the federal poverty line, with families with lower incomes paying less out-of-pocket. APTCs reduce the premium that a family pays based on their income level and are available up to 400% of FPL. Individuals purchasing the silver level plan in the region that has the second lowest premium only have to pay an affordable percentage of their income. The percentage is determined by their income level.

North Dakota Characteristics:
North Dakota is one of the fastest growing states in the country. According to Census.gov, North Dakota's total population increased by 12.3% from April 1, 2010 to July 1, 2017, which is only behind the District of Columbia and Texas. The population increase over the same period for the entire United States is 5.5%. As of July 1, 2017, the North Dakota population is estimated to be 755,393.

600 E. Boulevard Ave., Bismarck, ND 58505 • (701) 328-2440 • Fax (701) 328-4880 • insurance@nd.gov
Consumer hotline: 1-800-247-0560 • Relay ND TTY 1-800-366-6888 • www.nd.gov/ndins

In response to these challenges and to find a pathway to offer some relief to individuals who purchase their own health insurance on the open market, the North Dakota Insurance Department conducted a study to find out the feasibility and desirability of a North Dakota Section 1332 Waiver. Section 1332 of the Affordable Care Act (ACA) permits a state to apply for a State Innovation Waiver to pursue strategies for providing its residents with access to high quality, affordable health insurance; while retaining the provisions included in the ACA. This program was introduced as House Bill 1106 in the 66th Legislative Assembly.

The study we conducted showed that the 1332 Waiver we have proposed will reduce premiums, making insurance more affordable, while protecting insurers from unpredictable high cost claims which significantly contribute to the rising cost of health insurance. This would be accomplished by using a reinsurance mechanism to help fund high cost claims. The result should be double digit **decreases** in the cost of health insurance on the individual market, which will result in more individuals staying in the market, some individuals who left the market due to unaffordability of health insurance returning to the market, and more insurers being willing to write policies in North Dakota counties. Both will help stabilize the individual health insurance market in North Dakota.

Under HB 1106, North Dakota would implement a reinsurance mechanism that would be similar to traditional reinsurance and the temporary ACA Transitional Reinsurance program that operated between 2014 and 2016. The reinsurance program we are proposing in this legislation is estimated to reduce premiums by approximately 20% in 2020 compared to the baseline premium (without the waiver). Due to the reduced premium, the membership in the 2020 individual market would increase, 1% compared to the baseline without the waiver.

The reinsurance mechanism would be what has been referred to as "invisible" reinsurance. The approach of "invisible" reinsurance allows enrollees to remain in the individual market with their current plan and carrier and have all the choices of health insurance plans that everyone else has, but a portion of their claims would be reimbursed by the reinsurance pool. The enrollee is not aware that their claim is being paid via the reinsurance pool, meaning there is no effect on the enrollee as the task of ceding claims to the reinsurance pool is completed on the back end of the process and is without consequence to the enrollee.

For the 2020 plan year, the proposed reinsurance program would cover 75% of paid claims between the $100,000 attachment point and $1,000,000.

The reinsurance amount payable under the Waiver is estimated to be $48 million in 2020. It will increase over the next ten years due to medical inflation unless the reinsurance parameters are modified. The actual amount that will be paid under the reinsurance will depend on submitted claims.

It should also be noted that nothing within this legislation changes the structure of the ACA or any of the benefits required by the ACA. Health insurance plans will continue to be guaranteed issue and cover individuals with pre-existing conditions, and the ten essential health benefits required by the ACA will still be required for ACA plans under this legislation.

These solutions do not come without a cost, and we fully expect a healthy discussion regarding how this program could and should be funded. A portion of the funding for the reinsurance would come from the federal government due to the reduction in advanced premium tax credits (APTC) being passed back to North Dakota. The reduction in premiums for the second lowest Silver plan in each region directly reduces the APTC for the individuals eligible for APTCs.

As HB 1106 was passed by the House the additional funding required by the reinsurance program would come from assessments against the group health insurance market. We project the APTC pass through from the federal government in 2020 to be $26 million and the state's share of the funding that would come from assessments to be approximately $22 million. HB 1106 as passed by the House would also allow the health insurers to credit any assessment back from their premium taxes they pay the state. This would decrease future state revenues by approximately $37 million per biennium.

We believe there is significant value in stabilizing our failing individual health insurance market. It is no secret that the individual markets across the country are facing trouble; the rising premiums are akin to the canary in the mine. We are reaching a point where individuals are no longer able to afford to purchase their own health insurance. These are individuals who are our small business owners, farmers and ranchers, individuals who do not qualify to receive any kind of premium subsidy or assistance, individuals that cannot continue to afford to pay the costs that come with year after year of double-digit health insurance increases. Couple that with an individual market that is getting more and more concentrated with high claims cost individuals, and you can see that we are approaching a death spiral.

When good risk no longer enters the individual market because the costs associated with it are simply too high, companies will leave that market. If that happens, we will no longer have an option for individuals to purchase health insurance and the federal government will likely step in and provide a form of Medicare coverage to those individuals. This will be the first step in moving to a single payer system and the first step in the elimination of our private health insurance market.

We continue to wait for the federal government to offer us significant health insurance reform; we hope that reform allows states more control of our health insurance markets. In the meantime, HB 1106 allows us to start to regain some control of this market, it offers us a public-private partnership that would reduce premiums and provide lower-cost plans to individuals, and most importantly, this legislation will stabilize our individual market, which is important to keep us from moving toward a form of government run, single-payer health insurance system in the future.

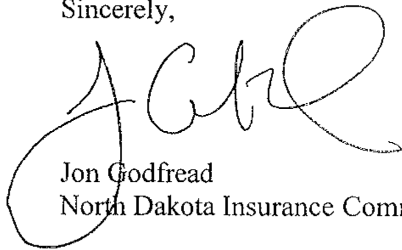
HB 1106 has passed the House of Representatives with a unanimous vote and now moves to the Senate. To meet our timelines and successfully apply for and implement our 1332 waiver for the 2020 plan year, we are moving forward with drafting our application and seeking public comment. At this point we would like the opportunity to consult with you and your leadership to ensure your tribal members have an opportunity to provide input and feedback prior to finalizing our waiver application.

We believe this program will be to the benefit of all North Dakotans, by ensuring those individuals who must purchase their own health insurance can do so in a more affordable market. **This program does not impact or make any changes to Medicaid, Medicare, the Veteran's Administration (VA) health insurance program or the Indian Health Services populations. This program is solely focused on the private pay market and those individuals who are on the individual marketplace.**

Through this consultation and feedback, I hope we can develop a partnership that extends beyond the 1332 waiver. The North Dakota Insurance Department's primary focus is consumer protection, we advocate on behalf of consumers within all lines of insurance. I hope to not only receive your feedback regarding this opportunity, but to better explore other areas we can work together for the betterment of your members and the state of North Dakota.

Thank you for your time and consideration, I look forward to receiving your feedback or an opportunity to meet with you in the near future.

Sincerely,



Jon Godfread
North Dakota Insurance Commissioner

cc. Chairman Mark Fox, Mandan, Hidatsa, Arikara Nation

Chairwoman Myra Pearson, Spirit Lake Nation

Chairman Jamie Azure, Turtle Mountain Band of Chippewa

Chairwoman Ella Robertson, Sisseton Wahpeton Oyate

North Dakota
Insurance Department
Jon Godfread, Commissioner

March 20, 2019

Chairman Jamie Azure
Chairman of Turtle Mountain Band of Chippewa
4180 Highway 281
Belcourt, ND 58316

Dear Chairman Azure:

I am writing to request your consultation regarding a 1332 Waiver we will be applying for in the coming months. Section 1332 of the Patient Protection and Affordable Care Act (more commonly referred to as the ACA) permits a state to apply for a State Innovation Waiver to pursue innovative strategies for providing their residents with access to high quality, affordable health insurance.

Current State of the ACA:
As federal healthcare reform efforts continue to face significant challenges, the ACA continues to strain North Dakota's individual insurance market. Nationally, the cost of health care is still a major barrier to obtaining coverage. According to Kaiser Family Foundation, nationally the unsubsidized premium for the lowest-cost bronze plan is increasing by an average of 17% between 2017 and 2018, the lowest-cost silver plan is increasing by an average of 32%, and the lowest-cost gold plan is increasing by an average of 18%. Since 2014, premiums in North Dakota individual health insurance market have steadily increased. Nationally, ACA market conditions have resulted in carriers leaving the market or reducing the counties in which they offer plans and North Dakota is making efforts to prevent that from happening.

Under the ACA if a family income falls between 100% and 400% of the FPL, they may be eligible for cost sharing and premium subsidies. Cost sharing reductions (CSR) lower the amount of cost sharing that an individual pays out of pocket. The CSR's are available to those between 100% to 250% of the federal poverty line, with families with lower incomes paying less out-of-pocket. APTCs reduce the premium that a family pays based on their income level and are available up to 400% of FPL. Individuals purchasing the silver level plan in the region that has the second lowest premium only have to pay an affordable percentage of their income. The percentage is determined by their income level.

North Dakota Characteristics:
North Dakota is one of the fastest growing states in the country. According to Census.gov, North Dakota's total population increased by 12.3% from April 1, 2010 to July 1, 2017, which is only behind the District of Columbia and Texas. The population increase over the same period for the entire United States is 5.5%. As of July 1, 2017, the North Dakota population is estimated to be 755,393.

600 E. Boulevard Ave., Bismarck, ND 58505 • (701) 328-2440 • Fax (701) 328-4880 • insurance@nd.gov
Consumer hotline: 1-800-247-0560 • Relay ND TTY 1-800-366-6888 • www.nd.gov/ndins

In response to these challenges and to find a pathway to offer some relief to individuals who purchase their own health insurance on the open market, the North Dakota Insurance Department conducted a study to find out the feasibility and desirability of a North Dakota Section 1332 Waiver. Section 1332 of the Affordable Care Act (ACA) permits a state to apply for a State Innovation Waiver to pursue strategies for providing its residents with access to high quality, affordable health insurance; while retaining the provisions included in the ACA. This program was introduced as House Bill 1106 in the 66th Legislative Assembly.

The study we conducted showed that the 1332 Waiver we have proposed will reduce premiums, making insurance more affordable, while protecting insurers from unpredictable high cost claims which significantly contribute to the rising cost of health insurance. This would be accomplished by using a reinsurance mechanism to help fund high cost claims. The result should be double digit **decreases** in the cost of health insurance on the individual market, which will result in more individuals staying in the market, some individuals who left the market due to unaffordability of health insurance returning to the market, and more insurers being willing to write policies in North Dakota counties. Both will help stabilize the individual health insurance market in North Dakota.

Under HB 1106, North Dakota would implement a reinsurance mechanism that would be similar to traditional reinsurance and the temporary ACA Transitional Reinsurance program that operated between 2014 and 2016. The reinsurance program we are proposing in this legislation is estimated to reduce premiums by approximately 20% in 2020 compared to the baseline premium (without the waiver). Due to the reduced premium, the membership in the 2020 individual market would increase, 1% compared to the baseline without the waiver.

The reinsurance mechanism would be what has been referred to as "invisible" reinsurance. The approach of "invisible" reinsurance allows enrollees to remain in the individual market with their current plan and carrier and have all the choices of health insurance plans that everyone else has, but a portion of their claims would be reimbursed by the reinsurance pool. The enrollee is not aware that their claim is being paid via the reinsurance pool, meaning there is no effect on the enrollee as the task of ceding claims to the reinsurance pool is completed on the back end of the process and is without consequence to the enrollee.

For the 2020 plan year, the proposed reinsurance program would cover 75% of paid claims between the $100,000 attachment point and $1,000,000.

The reinsurance amount payable under the Waiver is estimated to be $48 million in 2020. It will increase over the next ten years due to medical inflation unless the reinsurance parameters are modified. The actual amount that will be paid under the reinsurance will depend on submitted claims.

It should also be noted that nothing within this legislation changes the structure of the ACA or any of the benefits required by the ACA. Health insurance plans will continue to be guaranteed issue and cover individuals with pre-existing conditions, and the ten essential health benefits required by the ACA will still be required for ACA plans under this legislation.

These solutions do not come without a cost, and we fully expect a healthy discussion regarding how this program could and should be funded. A portion of the funding for the reinsurance would come from the federal government due to the reduction in advanced premium tax credits (APTC) being passed back to North Dakota. The reduction in premiums for the second lowest Silver plan in each region directly reduces the APTC for the individuals eligible for APTCs.

As HB 1106 was passed by the House the additional funding required by the reinsurance program would come from assessments against the group health insurance market. We project the APTC pass through from the federal government in 2020 to be $26 million and the state's share of the funding that would come from assessments to be approximately $22 million. HB 1106 as passed by the House would also allow the health insurers to credit any assessment back from their premium taxes they pay the state. This would decrease future state revenues by approximately $37 million per biennium.

We believe there is significant value in stabilizing our failing individual health insurance market. It is no secret that the individual markets across the country are facing trouble; the rising premiums are akin to the canary in the mine. We are reaching a point where individuals are no longer able to afford to purchase their own health insurance. These are individuals who are our small business owners, farmers and ranchers, individuals who do not qualify to receive any kind of premium subsidy or assistance, individuals that cannot continue to afford to pay the costs that come with year after year of double-digit health insurance increases. Couple that with an individual market that is getting more and more concentrated with high claims cost individuals, and you can see that we are approaching a death spiral.

When good risk no longer enters the individual market because the costs associated with it are simply too high, companies will leave that market. If that happens, we will no longer have an option for individuals to purchase health insurance and the federal government will likely step in and provide a form of Medicare coverage to those individuals. This will be the first step in moving to a single payer system and the first step in the elimination of our private health insurance market.

We continue to wait for the federal government to offer us significant health insurance reform; we hope that reform allows states more control of our health insurance markets. In the meantime, HB 1106 allows us to start to regain some control of this market, it offers us a public-private partnership that would reduce premiums and provide lower-cost plans to individuals, and most importantly, this legislation will stabilize our individual market, which is important to keep us from moving toward a form of government run, single-payer health insurance system in the future.

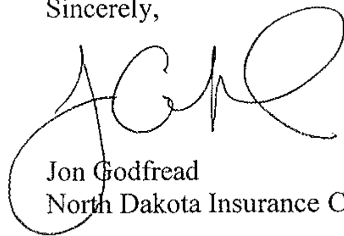
HB 1106 has passed the House of Representatives with a unanimous vote and now moves to the Senate. To meet our timelines and successfully apply for and implement our 1332 waiver for the 2020 plan year, we are moving forward with drafting our application and seeking public comment. At this point we would like the opportunity to consult with you and your leadership to ensure your tribal members have an opportunity to provide input and feedback prior to finalizing our waiver application.

We believe this program will be to the benefit of all North Dakotans, by ensuring those individuals who must purchase their own health insurance can do so in a more affordable market. **This program does not impact or make any changes to Medicaid, Medicare, the Veteran's Administration (VA) health insurance program or the Indian Health Services populations. This program is solely focused on the private pay market and those individuals who are on the individual marketplace.**

Through this consultation and feedback, I hope we can develop a partnership that extends beyond the 1332 waiver. The North Dakota Insurance Department's primary focus is consumer protection, we advocate on behalf of consumers within all lines of insurance. I hope to not only receive your feedback regarding this opportunity, but to better explore other areas we can work together for the betterment of your members and the state of North Dakota.

Thank you for your time and consideration, I look forward to receiving your feedback or an opportunity to meet with you in the near future.

Sincerely,



Jon Godfread
North Dakota Insurance Commissioner

cc. Chairman Mark Fox, Mandan, Hidatsa, Arikara Nation

Chairwoman Myra Pearson, Spirit Lake Nation

Chairman Mike Faith, Standing Rock Sioux Tribe

Chairwoman Ella Robertson, Sisseton Wahpeton Oyate

North Dakota
Insurance Department
Jon Godfread, Commissioner

March 20, 2019

Chairwoman Ella Robertson
Chairwoman of Sisseton Wahpeton Oyate
PO Box 509
Agency Village, SD 57262

Dear Chairwoman Robertson:

I am writing to request your consultation regarding a 1332 Waiver we will be applying for in the coming months. Section 1332 of the Patient Protection and Affordable Care Act (more commonly referred to as the ACA) permits a state to apply for a State Innovation Waiver to pursue innovative strategies for providing their residents with access to high quality, affordable health insurance.

Current State of the ACA:
As federal healthcare reform efforts continue to face significant challenges, the ACA continues to strain North Dakota's individual insurance market. Nationally, the cost of health care is still a major barrier to obtaining coverage. According to Kaiser Family Foundation, nationally the unsubsidized premium for the lowest-cost bronze plan is increasing by an average of 17% between 2017 and 2018, the lowest-cost silver plan is increasing by an average of 32%, and the lowest-cost gold plan is increasing by an average of 18%. Since 2014, premiums in North Dakota individual health insurance market have steadily increased. Nationally, ACA market conditions have resulted in carriers leaving the market or reducing the counties in which they offer plans and North Dakota is making efforts to prevent that from happening.

Under the ACA if a family income falls between 100% and 400% of the FPL, they may be eligible for cost sharing and premium subsidies. Cost sharing reductions (CSR) lower the amount of cost sharing that an individual pays out of pocket. The CSR's are available to those between 100% to 250% of the federal poverty line, with families with lower incomes paying less out-of-pocket. APTCs reduce the premium that a family pays based on their income level and are available up to 400% of FPL. Individuals purchasing the silver level plan in the region that has the second lowest premium only have to pay an affordable percentage of their income. The percentage is determined by their income level.

North Dakota Characteristics:
North Dakota is one of the fastest growing states in the country. According to Census.gov, North Dakota's total population increased by 12.3% from April 1, 2010 to July 1, 2017, which is only behind the District of Columbia and Texas. The population increase over the same period for the entire United States is 5.5%. As of July 1, 2017, the North Dakota population is estimated to be 755,393.

600 E. Boulevard Ave., Bismarck, ND 58505 • (701) 328-2440 • Fax (701) 328-4880 • insurance@nd.gov
Consumer hotline: 1-800-247-0560 • Relay ND TTY 1-800-366-6888 • www.nd.gov/ndins

In response to these challenges and to find a pathway to offer some relief to individuals who purchase their own health insurance on the open market, the North Dakota Insurance Department conducted a study to find out the feasibility and desirability of a North Dakota Section 1332 Waiver. Section 1332 of the Affordable Care Act (ACA) permits a state to apply for a State Innovation Waiver to pursue strategies for providing its residents with access to high quality, affordable health insurance; while retaining the provisions included in the ACA. This program was introduced as House Bill 1106 in the 66th Legislative Assembly.

The study we conducted showed that the 1332 Waiver we have proposed will reduce premiums, making insurance more affordable, while protecting insurers from unpredictable high cost claims which significantly contribute to the rising cost of health insurance. This would be accomplished by using a reinsurance mechanism to help fund high cost claims. The result should be double digit **decreases** in the cost of health insurance on the individual market, which will result in more individuals staying in the market, some individuals who left the market due to unaffordability of health insurance returning to the market, and more insurers being willing to write policies in North Dakota counties. Both will help stabilize the individual health insurance market in North Dakota.

Under HB 1106, North Dakota would implement a reinsurance mechanism that would be similar to traditional reinsurance and the temporary ACA Transitional Reinsurance program that operated between 2014 and 2016. The reinsurance program we are proposing in this legislation is estimated to reduce premiums by approximately 20% in 2020 compared to the baseline premium (without the waiver). Due to the reduced premium, the membership in the 2020 individual market would increase, 1% compared to the baseline without the waiver.

The reinsurance mechanism would be what has been referred to as "invisible" reinsurance. The approach of "invisible" reinsurance allows enrollees to remain in the individual market with their current plan and carrier and have all the choices of health insurance plans that everyone else has, but a portion of their claims would be reimbursed by the reinsurance pool. The enrollee is not aware that their claim is being paid via the reinsurance pool, meaning there is no effect on the enrollee as the task of ceding claims to the reinsurance pool is completed on the back end of the process and is without consequence to the enrollee.

For the 2020 plan year, the proposed reinsurance program would cover 75% of paid claims between the $100,000 attachment point and $1,000,000.

The reinsurance amount payable under the Waiver is estimated to be $48 million in 2020. It will increase over the next ten years due to medical inflation unless the reinsurance parameters are modified. The actual amount that will be paid under the reinsurance will depend on submitted claims.

It should also be noted that nothing within this legislation changes the structure of the ACA or any of the benefits required by the ACA. Health insurance plans will continue to be guaranteed issue and cover individuals with pre-existing conditions, and the ten essential health benefits required by the ACA will still be required for ACA plans under this legislation.

These solutions do not come without a cost, and we fully expect a healthy discussion regarding how this program could and should be funded. A portion of the funding for the reinsurance would come from the federal government due to the reduction in advanced premium tax credits (APTC) being passed back to North Dakota. The reduction in premiums for the second lowest Silver plan in each region directly reduces the APTC for the individuals eligible for APTCs.

As HB 1106 was passed by the House the additional funding required by the reinsurance program would come from assessments against the group health insurance market. We project the APTC pass through from the federal government in 2020 to be $26 million and the state's share of the funding that would come from assessments to be approximately $22 million. HB 1106 as passed by the House would also allow the health insurers to credit any assessment back from their premium taxes they pay the state. This would decrease future state revenues by approximately $37 million per biennium.

We believe there is significant value in stabilizing our failing individual health insurance market. It is no secret that the individual markets across the country are facing trouble; the rising premiums are akin to the canary in the mine. We are reaching a point where individuals are no longer able to afford to purchase their own health insurance. These are individuals who are our small business owners, farmers and ranchers, individuals who do not qualify to receive any kind of premium subsidy or assistance, individuals that cannot continue to afford to pay the costs that come with year after year of double-digit health insurance increases. Couple that with an individual market that is getting more and more concentrated with high claims cost individuals, and you can see that we are approaching a death spiral.

When good risk no longer enters the individual market because the costs associated with it are simply too high, companies will leave that market. If that happens, we will no longer have an option for individuals to purchase health insurance and the federal government will likely step in and provide a form of Medicare coverage to those individuals. This will be the first step in moving to a single payer system and the first step in the elimination of our private health insurance market.

We continue to wait for the federal government to offer us significant health insurance reform; we hope that reform allows states more control of our health insurance markets. In the meantime, HB 1106 allows us to start to regain some control of this market, it offers us a public-private partnership that would reduce premiums and provide lower-cost plans to individuals, and most importantly, this legislation will stabilize our individual market, which is important to keep us from moving toward a form of government run, single-payer health insurance system in the future.

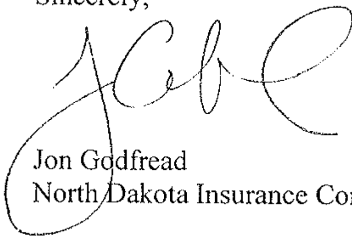
HB 1106 has passed the House of Representatives with a unanimous vote and now moves to the Senate. To meet our timelines and successfully apply for and implement our 1332 waiver for the 2020 plan year, we are moving forward with drafting our application and seeking public comment. At this point we would like the opportunity to consult with you and your leadership to ensure your tribal members have an opportunity to provide input and feedback prior to finalizing our waiver application.

We believe this program will be to the benefit of all North Dakotans, by ensuring those individuals who must purchase their own health insurance can do so in a more affordable market. **This program does not impact or make any changes to Medicaid, Medicare, the Veteran's Administration (VA) health insurance program or the Indian Health Services populations. This program is solely focused on the private pay market and those individuals who are on the individual marketplace.**

Through this consultation and feedback, I hope we can develop a partnership that extends beyond the 1332 waiver. The North Dakota Insurance Department's primary focus is consumer protection, we advocate on behalf of consumers within all lines of insurance. I hope to not only receive your feedback regarding this opportunity, but to better explore other areas we can work together for the betterment of your members and the state of North Dakota.

Thank you for your time and consideration, I look forward to receiving your feedback or an opportunity to meet with you in the near future.

Sincerely,



Jon Godfread
North Dakota Insurance Commissioner

cc. Chairman Mark Fox, Mandan, Hidatsa, Arikara Nation

Chairwoman Myra Pearson, Spirit Lake Nation

Chairman Mike Faith, Standing Rock Sioux Tribe

Chairman Jamie Azure, Turtle Mountain Band of Chippewa

Proposed 1332 State Innovation Waiver - United Tribes of North Dakota Meeting – April 5, 2019

Jeff Ubben

Deputy Insurance Commissioner

North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
JON GODFREAD, COMMISSIONER

What is a 1332 waiver?

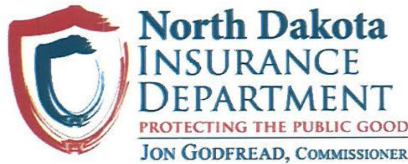
- Allows a state to pursue innovative strategies for providing their residents with access to high quality, affordable health insurance while retaining the basic protections of the Affordable Care Act ("ACA").
- Concerns the private health insurance market only.

North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
JON GODFREAD, COMMISSIONER

What is a 1332 waiver?

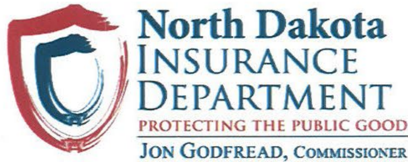
- The proposed waiver does not affect or make any changes to Medicaid, Medicaid Expansion, Medicare, the Veteran's Administration (VA) health insurance program, or the Indian Health Services program.

3



Why pursue a 1332 waiver?

- Rates for the private individual health market have skyrocketed since the enactment of the ACA.
  - Double digit rate increases per year on average since 2014.
  - Some as high as 94%
- Thousands of North Dakotans can no longer afford health insurance.



Why pursue a 1332 waiver?

- Attract new health insurance companies to ND.
- More competition = better rates and better products.
- Individual health insurance market is unstable – this program will stabilize it.

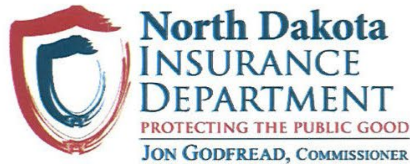
5

North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
JON GODFREAD, COMMISSIONER

What is ND proposing?

- “Invisible” reinsurance pool
- $100,000 attachment point
- Costs split after the $100,000 claims point at 75% from the reinsurance pool, 25% by the insurance company.
- Reduce rates by approximately 20% on individual market.

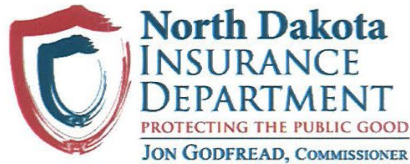
6



How would the pool operate?

- Enrollees will not know they are in the reinsurance pool
- Enrollees will have the same choices of health insurance plans that all consumers shopping on the ACA's individual market will have
- No additional costs to the enrollee
- No reduction or change in benefits or coverage
- Claims will be handled by the insurance company and the Insurance Department – no effect on the consumer other than a lower cost.

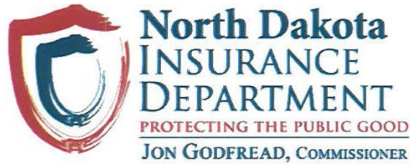
7



How is the reinsurance pool funded?

- Approximately 55% of the pool is funded by the federal government through the money we will save the federal government with this program.
- The other 45% will be funded by assessments against North Dakota health insurance companies based on their small and large group health insurance premium amount.

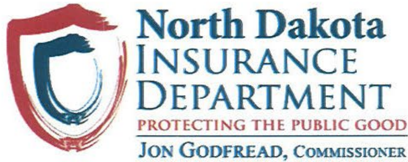
8



How does this plan get approved?

- Legislation authorizing the program is working its way through the North Dakota Legislative Assembly.
- Once state legislation is signed into law, we submit an application to the federal government.
- Comment period for feedback and consultation – opened today, closes May 6, 2019.
- Federal government must approve (HHS and Treasury)
- Hoping to have this plan approved and operating for the 2020 plan year.

9



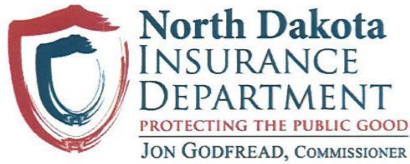
Any questions/feedback?

jrubben@nd.gov

701-328-2440

1-800-247-0560

10



Contact Us

(701) 328-2440 or (800) 247-0560

insurance@nd.gov

www.nd.gov/ndins

www.facebook.com/NDInsuranceDepartment

twitter.com/NDID

11

Attachment 12

Fargo Public Hearing on Proposed 1332 State Innovation Waiver Application
April 17, 2019

Questions/Comments from the audience during the meeting:

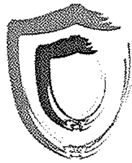
1. Will there be some communication between the insurance companies and the Reinsurance Association of North Dakota ("RAND') once an individual gets close to the $100,000 attachment point?

   Answer provided – We have not developed some of the more specific details regarding the administration of the RAND, but the Insurance Department will perform the administrative duties and will receive claims for reimbursement from the insurance companies. The RAND will be governed by a board of directors.

2. What was the most difficult part of securing approval of this plan?

   Answer provided – Securing adequate state funding through the legislative process.

Attachment 13



Proposed 1332 State Innovation Waiver Public Hearing - Fargo - April 17, 2019

Jon Godfread

Insurance Commissioner

Jeff Ubben

Deputy Insurance Commissioner

North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
JON GODFREAD, COMMISSIONER

What is a 1332 waiver?

- Allows a state to pursue innovative strategies for providing their residents with access to high quality, affordable health insurance while retaining the basic protections of the Affordable Care Act ("ACA").
- Concerns the private health insurance market only.

2

North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
JON GODFREAD, COMMISSIONER

What is a 1332 waiver?

- The proposed waiver does not affect or make any changes to Medicaid, Medicaid Expansion, Medicare, the Veteran's Administration (VA) health insurance program, or the Indian Health Services program.

3

Why would ND pursue a 1332 waiver?

- Rates for the private individual health market have skyrocketed since the enactment of the ACA.
  - Double digit rate increases per year on average since 2014.
  - Some as high as 94%
- Thousands of North Dakotans can no longer afford health insurance.

North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
JON GODFREAD, COMMISSIONER

Why pursue a 1332 waiver?

- Attract new health insurance companies to ND.
- More competition = better rates and better products.
- Individual health insurance market is unstable - this program will stabilize it.

5

North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
JON GODFREAD, COMMISSIONER

What is ND proposing?

- "Invisible" reinsurance pool
- $100,000 attachment point
- Costs split after the $100,000 claims point at 75% from the reinsurance pool, 25% by the insurance company.
- Reduce rates by approximately 20% on individual market.

6

North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
JON GODFREAD, COMMISSIONER

How would the pool operate?

- Enrollees will not know they are in the reinsurance pool
- Enrollees will have the same choices of health insurance plans that all consumers shopping on the ACA's individual market will have
- No additional costs to the enrollee
- No reduction or change in benefits or coverage
- Claims will be handled by the insurance company and the Insurance Department - no effect on the consumer other than a lower cost.

7

How is the reinsurance pool funded?

- Approximately 55% of the pool is funded by the federal government through the money we will save the federal government with this program.
- The other 45% will be funded by assessments against North Dakota health insurance companies based on their small and large group health insurance premium amount.

8

North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
JON GODFREAD, COMMISSIONER

How does this plan get approved?

- Legislation authorizing the program has passed both chambers of the North Dakota Legislative Assembly and has been sent to the Governor.
- Once state legislation is signed into law, we submit an application to the federal government.
- Comment period for feedback and consultation - opened April 5, 2019, closes May 6, 2019.
- Federal government must approve (HHS and Treasury)
- Hoping to have this plan approved and operating for the 2020 plan year.

Any questions/feedback?

jrubben@nd.gov

701-328-2440

1-800-247-0560

10

Contact Us

(701) 328-2440 or (800) 247-0560

insurance@nd.gov

www.nd.gov/ndins

www.facebook.com/NDInsuranceDepartment

twitter.com/NDID

11

Proposed 1332 State Innovation Waiver Public Hearing - Bismarck - April 18, 2019

Jon Godfread
Insurance Commissioner
Jeff Ubben
Deputy Insurance Commissioner

North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
JON GODFREAD, COMMISSIONER

What is a 1332 waiver?

- Allows a state to pursue innovative strategies for providing their residents with access to high quality, affordable health insurance while retaining the basic protections of the Affordable Care Act ("ACA").
- Concerns the private health insurance market only.

North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
JON GODFREAD, COMMISSIONER

What is a 1332 waiver?

- The proposed waiver does not affect or make any changes to Medicaid, Medicaid Expansion, Medicare, the Veteran's Administration (VA) health insurance program, or the Indian Health Services program.

3

Why would ND pursue a 1332 waiver?

- Rates for the private individual health market have skyrocketed since the enactment of the ACA.
  - Double digit rate increases per year on average since 2014.
  - Some as high as 94%
- Thousands of North Dakotans can no longer afford health insurance.

4

North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
JON GODFREAD, COMMISSIONER

Why pursue a 1332 waiver?

- Attract new health insurance companies to ND.
- More competition = better rates and better products.
- Individual health insurance market is unstable – this program will stabilize it.

5

North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
JON GODFREAD, COMMISSIONER

What is ND proposing?

- "Invisible" reinsurance pool
- $100,000 attachment point
- Costs split after the $100,000 claims point at 75% from the reinsurance pool, 25% by the insurance company.
- Reduce rates by approximately 20% on individual market.

North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
JON GODFREAD, COMMISSIONER

How would the pool operate?

- Enrollees will not know they are in the reinsurance pool
- Enrollees will have the same choices of health insurance plans that all consumers shopping on the ACA's individual market will have
- No additional costs to the enrollee
- No reduction or change in benefits or coverage
- Claims will be handled by the insurance company and the Insurance Department – no effect on the consumer other than a lower cost.

7

How is the reinsurance pool funded?

- Approximately 55% of the pool is funded by the federal government through the money we will save the federal government with this program.
- The other 45% will be funded by assessments against North Dakota health insurance companies based on their small and large group health insurance premium amount.

8

North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
JON GODFREAD, COMMISSIONER

How does this plan get approved?

- Legislation authorizing the program has passed both chambers of the North Dakota Legislative Assembly and has been sent to the Governor.
- Once state legislation is signed into law, we submit an application to the federal government.
- Comment period for feedback and consultation - opened April 5, 2019, closes May 6, 2019.
- Federal government must approve (HHS and Treasury)
- Hoping to have this plan approved and operating for the 2020 plan year.

North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
JON GODFREAD, COMMISSIONER

Any questions/feedback?

jrubben@nd.gov

701-328-2440

1-800-247-0560

Contact Us

(701) 328-2440 or (800) 247-0560

insurance@nd.gov

www.nd.gov/ndins

www.facebook.com/NDInsuranceDepartment

twitter.com/NDID

11

<u>**Attachment 14**</u>

North Dakota
Insurance Department
Jon Godfread, Commissioner

April 5, 2019

FOR IMMEDIATE RELEASE

Contact: Ashley Kelsch
(701) 328-2684
amkelsch@nd.gov

Insurance Department Opens Public Comment Period on Proposed State Reinsurance Program

BISMARCK, N.D. – Insurance Commissioner Jon Godfread announced today that the North Dakota Insurance Department is opening a 31-day public comment period on the proposed state reinsurance program for the individual health insurance market. The comment period will run from April 5 to May 6, 2019.

The proposed state reinsurance program is currently working its way through the 66th Legislative Assembly. The program would be established within the parameters of the Affordable Care Act (ACA), specifically under Section 1332, which allows for state innovation waivers. The program would cover a large portion of health insurance claims falling within a defined dollar range and would be a significant step toward bringing certainty and stability back into North Dakota's individual market.

North Dakota's state-based reinsurance plan will:

- Lower rates to keep consumers in the market and attract new entrants. The program will provide significant financial relief for those not eligible for subsidies. The estimated rate reductions will average between 8-20 percent for plans purchased on the individual market.
- Retain federal subsidies for individuals with incomes between 100-400 percent of the federal poverty level (FPL), which will ensure that those with access to affordable coverage due to federal subsidies keep their coverage.
- Assist insurers in managing high-risk enrollees and create a broader pool of people to absorb all other risk. This will likely prevent insurance companies from leaving the state's individual market in the coming years, encourage additional insurers to write business on North Dakota's individual market and improve consumer access.

The Department has scheduled public hearings to discuss the proposed program and to receive feedback from the public at the following dates and locations:

Wednesday, April 17
10 a.m.-12 p.m.
Fargodome, Mezzanine Level, Meeting Room 202
1800 N University Dr.
Fargo, ND

Thursday, April 18
10 a.m.-12 p.m.
Ramkota Hotel & Conference Center,
Heart/Sheyenne Meeting Rooms
800 S 3rd St.
Bismarck, ND

-MORE-

The public is also invited to submit comments on the proposed reinsurance program during the comment period to Deputy Insurance Commissioner Jeff Ubben at jrubben@nd.gov.

The draft application to be filled with the federal government to establish the state reinsurance program can be found at www.nd.gov/ndins/proposed-north-dakota-reinsurance-program.

###

It is the mission of the North Dakota Insurance Department to protect the public good by fairly and effectively administering the laws of North Dakota. We are committed to vigorous consumer protection efforts while fostering a strong, competitive marketplace that provides consumers with choices and access to high-quality insurance products and services at competitive prices. In pursuit of our mission, we will treat all of our constituencies with the highest ethical standards and respect they deserve.

Inbox - ashleymkelsch@gmail.co | Proposed North Dakota Reinsura | Home | North Dakota State Gove
State of North Dakota [US] | https://www.nd.gov/ndins/proposed-north-dakota-reinsurance-program
North Dakota nd.gov Official Portal for North Dakota State Government

Proposed North Dakota Reinsurance Program

North Dakota 1332 Waiver Application

The North Dakota Insurance Department has scheduled public hearings to discuss the proposed program and to receive feedback from the public at the following dates and locations:

Wednesday, April 17 10 a.m.-12 p.m. Fargodome, Mezzanine Level, Meeting Room 202 1800 N University Dr. Fargo, ND	Thursday, April 18 10 a.m.-12 p.m. Ramkota Hotel & Conference Center, Heart/Sheyenne Meeting Rooms 800 S 3rd St. Bismarck, ND

The public is also invited to submit comments on the proposed reinsurance program during the comment period to Deputy Commissioner Jeff Ubben at jrubben@nd.gov.

Copyright © 2019 North Dakota Insurance Department | 600 E Boulevard Ave. | Bismarck, ND 58505-0320 | (701) 328-2440

Contact Us | Accessibility | Disclaimer | Privacy Policy | Security Policy