



Section 1332 Waiver Amendment Application

MAINE BUREAU OF INSURANCE

MARCH 2021

Section 1332 Waiver

- Section 1332 of the Affordable Care Act (ACA) allows a state to apply to the federal government for a waiver of certain ACA provisions to pursue innovative strategies to provide access to quality, affordable health insurance.
- A waiver must meet four guardrails:
 - Provide coverage that is at least as comprehensive as would be provided absent the waiver;
 - Must not result in changes in coverage, premiums, and cost-sharing protections that reduce the affordability of coverage;
 - Provide coverage to at least as many residents as would be covered absent the waiver; and
 - Must not increase federal spending that would occur absent the waiver.

Maine's Current 1332 Waiver

- Maine currently has a 1332 waiver that allows the Maine Guaranteed Access Reinsurance Association (MGARA) to operate a reinsurance program for the individual health insurance market.
- Through this waiver, Maine receives federal pass-through funding to support the MGARA reinsurance program.
 - Federal pass-through funds are generated from the reduction in premium tax credits paid as a result of the reinsurance program lowering individual premiums from what they would have been absent reinsurance.
- Since this waiver became effective on January 1, 2019, average premium rates for the individual market have moderated each year: 1.1% in 2019, -0.5% in 2020, and -12.5% in 2021.

MGARA Reinsurance

- MGARA is governed by Title 24-A, Chapter 54-A of the Maine Revised Statutes.
- MGARA currently reinsures individual policies covering high-risk individuals using a prospective model:
 - A carrier cedes a policy to MGARA for reinsurance when the carrier identifies an individual has one of eight specified medical conditions.
 - The carrier pays MGARA a premium for ceded policies, and in return, MGARA pays a portion of the carrier's claims if the claims exceed the specified attachment point.
- In addition to the federal funds from the 1332 waiver, MGARA assesses Maine's fully-insured and self-insured commercial health insurance markets \$4.00 per covered person per month.

Public Law 2019, Chapter 653

- In 2020, the Maine Legislature enacted PL 2019, Chapter 653 to allow the state to:
 - pool the individual and small group markets into a single risk pool; and
 - seek federal approval of an amendment to its 1332 waiver in order to extend the MGARA reinsurance program to the pooled market and transition to a retrospective reinsurance model.
- The purpose of this law is to address the decline of the small group market in Maine by extending the positive premium impacts that MGARA reinsurance has had on the individual market to the small group market.
 - From March 2017 to March 2020, there was an 18% reduction in small group membership from 61,200 to 50,200.
 - The average annual premium rate increase for the small group market was 11% in 2019, 8.8% in 2020, and 5.5% in 2021.

Proposed 1332 Waiver Amendment

- The proposed 1332 waiver amendment would extend MGARA reinsurance to a pooled individual and small group market and transition the program to a retrospective claims cost-based model, beginning January 1, 2022.
- The retrospective model would reimburse carriers for a portion of the costs of covered individuals whose claims exceed the designated attachment point.
 - The current process requiring carriers to prospectively identify high-risk individuals for reinsurance based on health conditions would no longer be required.
- Maine would continue to receive federal pass-through funding to support the MGARA reinsurance program in the amount of federal savings that would be generated from the resulting reduction in premium tax credits.
- The goal is to bring increased certainty and stability to small group insurance through a positive effect on premium levels by spreading risk across the broader health insurance market.

Actuarial & Economic Analyses

- Gorman Actuarial performed actuarial and economic analyses for the proposed 1332 waiver amendment for 2022 through 2031.
- Gorman modeled the reinsurance program to reimburse carriers 50% of claims costs between \$90,000 and \$250,000. (These parameters may be adjusted.)
- Gorman estimated that pooling the markets and applying a retrospective reinsurance program will:
 - lower the average individual market premium by **6.6%**, as compared to the baseline of no section 1332 waiver and no reinsurance program;
 - lower the average small group market premium by **4.2%**, as compared to the same baseline; and
 - generate **\$21.6 million** in net federal savings in 2022 – the amount of pass-through funding that will be used to support the MGARA reinsurance program.
- Gorman demonstrated that the proposed waiver amendment meets the four guardrails pertaining to comprehensiveness, affordability, scope, and federal deficit neutrality.

MGARA Results

During years of operation in 2019-2021 MGARA:

MGARA	Federal Pass Through	Premium	Assessment	Total Funds	Claims and Expenses
2019	\$62.3	\$44.9	\$24.9	\$132.1	\$106.4
2020	\$26.3	\$39.2	\$27.3	\$93.3	\$81.5 (\$70.2 YTD)
2021	\$30.7	\$39.3*	\$27.3*	\$91.3*	\$80.9*
2022 Gorman Projected	\$21.6*	\$0.0	\$24.1*	\$45.7*	\$45.7

- Kept premium increases about 8-19% lower than they otherwise would have been for 2021.

*indicates estimates or projections

Implementation Contingencies

Going forward, implementation is contingent upon two things:

- Federal approval of the proposed 1332 waiver amendment application; and
- Adoption of rules to implement the pooled market by the Superintendent of Insurance.
 - The state is in the process of developing a rule to implement the pooled market.
 - The rule will establish the necessary conditions and procedures for implementing the pooled market and extending MGARA reinsurance to small group health insurance.
 - The state anticipates formally proposing the rule and initiating the state's rulemaking process in March of 2021.

Timeline

End Date	Milestone
Section 1332 Waiver Application Process	
March 12, 2021	Publish draft section 1332 waiver application on state website and notify the public.
March 12, 2021	Begin public comment period and tribal consultation.
March 22, 2021	Conduct first public hearing virtually.
March 29, 2021	Conduct second public hearing virtually.
April 12, 2021	End public comment period and tribal consultation.
April 16, 2021	Submit final section 1332 waiver application to the Departments.
July 2021	Target to receive approval from the Departments for the section 1332 waiver.
Legal Authority and Governance	
March 2021	File proposed rule to implement pooled market with state authority.
July 2021	File final adopted rule to implement pooled market with state authority.
Design	
September 2021	MGARA submits amended Plan of Operation to the Bureau of Insurance.
September 2021	Bureau of Insurance approves amended Plan of Operation.
Year One Implementation	
January 1, 2022	Pooled market and retrospective reinsurance program begins.

Maine Bureau of Insurance

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Augusta ME 04333

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Website: maine.gov/pfr/insurance

Draft 1332 Waiver Amendment Application available at:

maine.gov/pfr/insurance/mgara/index.html



DEPARTMENT OF

Professional & Financial Regulation

STATE OF MAINE

- OFFICE OF SECURITIES
- BUREAU OF INSURANCE
- CONSUMER CREDIT PROTECTION
- BUREAU OF FINANCIAL INSTITUTIONS
- OFFICE OF PROF. AND OCC. REGULATION

Section 1332 Waiver Amendment Application

MAINE BUREAU OF INSURANCE

MARCH 2021 (updated March 29, 2021)

Section 1332 Waiver

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- A waiver must meet four guardrails:
 - Provide coverage that is at least as comprehensive as would be provided absent the waiver;
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 - Provide coverage to at least as many residents as would be covered absent the waiver; and
 - Must not increase federal spending that would occur absent the waiver.

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- Through this waiver, Maine receives federal pass-through funding to support the MGARA reinsurance program.
 - Federal pass-through funds are generated from the reduction in premium tax credits paid as a result of the reinsurance program lowering individual premiums from what they would have been absent reinsurance.
- Since this waiver became effective on January 1, 2019, average premium rates for the individual market have moderated each year: 1.1% in 2019, -0.5% in 2020, and -12.5% in 2021.

MGARA Reinsurance

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 - The carrier pays MGARA a premium for ceded policies, and in return, MGARA pays a portion of the carrier's claims if the claims exceed the specified attachment point.
- In addition to the federal funds from the 1332 waiver, MGARA assesses Maine's fully-insured and self-insured commercial health insurance markets \$4.00 per covered person per month.

Public Law 2019, Chapter 653

- In 2020, the Maine Legislature enacted PL 2019, Chapter 653 to allow the state to:
 - pool the individual and small group markets into a single risk pool; and
 - seek federal approval of an amendment to its 1332 waiver in order to extend the MGARA reinsurance program to the pooled market and transition to a retrospective reinsurance model.
- The purpose of this law is to address the decline of the small group market in Maine by extending the positive premium impacts that MGARA reinsurance has had on the individual market to the small group market.
 - From March 2017 to March 2020, there was an 18% reduction in small group membership from 61,200 to 50,200.
 - The average annual premium rate increase for the small group market was 11% in 2019, 8.8% in 2020, and 5.5% in 2021.

Proposed 1332 Waiver Amendment

- As originally drafted, the 1332 waiver amendment proposed to extend MGARA reinsurance to a pooled individual and small group market and transition the program to a retrospective claims cost-based model, beginning January 1, 2022.
 - Maine is now delaying the pooling of the individual and small group markets until 2023. Therefore, the proposal to extend MGARA reinsurance to a pooled individual and small group market is delayed until 2023.
 - Maine still intends to proceed with the proposal to transition MGARA reinsurance to a retrospective model beginning January 1, 2022.
- The retrospective model would reimburse carriers for a portion of the costs of covered individuals whose claims exceed the designated attachment point.
 - The current process requiring carriers to prospectively identify high-risk individuals for reinsurance based on health conditions would no longer be required.
- Maine would continue to receive federal pass-through funding to support the MGARA reinsurance program in the amount of federal savings that would be generated from the resulting reduction in premium tax credits.

Actuarial & Economic Analyses

- Gorman Actuarial performed actuarial and economic analyses for the 1332 waiver amendment as originally proposed for 2022 through 2031.
- Gorman modeled the reinsurance program to reimburse carriers 50% of claims costs between \$90,000 and \$250,000. (These parameters may be adjusted.)
- Gorman estimated that pooling the markets and applying a retrospective reinsurance program for 2022 would:
 - lower the average individual market premium by **6.6%**, as compared to the baseline of no section 1332 waiver and no reinsurance program;
 - lower the average small group market premium by **4.2%**, as compared to the same baseline; and
 - generate **\$21.6 million** in net federal savings in 2022 – the amount of pass-through funding that will be used to support the MGARA reinsurance program.
- Gorman demonstrated that the waiver amendment as originally proposed met the four guardrails pertaining to comprehensiveness, affordability, scope, and federal deficit neutrality.

MGARA Results

During years of operation in 2019-2021 MGARA:

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- Kept premium increases about 8-19% lower than they otherwise would have been for 2021.

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Implementation Contingencies

Going forward, implementation is contingent upon two things:

- Federal approval of the proposed 1332 waiver amendment application.
 - Gorman will update the actuarial and economic analyses due to the pooled market delay until 2023.
- Adoption of rules to implement the pooled market for 2023 by the Superintendent of Insurance.
 - The state is in the process of developing a rule to implement the pooled market.
 - The rule will establish the necessary conditions and procedures for implementing the pooled market and extending MGARA reinsurance to small group health insurance.

Original timeline modified due to pooled market delay until 2023; subject to further modification.

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Legal Authority and Governance	
April 2021	File proposed rule to implement pooled market in 2023 with state authority.
August 2021	File final adopted rule to implement pooled market in 2023 with state authority.
Design	
September 2021	MGARA submits amended Plan of Operation to the Bureau of Insurance.
September 2021	Bureau of Insurance approves amended Plan of Operation.
Implementation	
January 1, 2022	Retrospective reinsurance program begins.
January 1, 2023	Pooled market with reinsurance program extended to the pooled market begins.

Timeline

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