State of Maine
Section 1332 Waiver Amendment Application

[Insert date]

Department of Professional and Financial Regulation

Bureau of Insurance

Superintendent Eric Cioppa

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Section I – Executive Summary

Request

The State of Maine, through its Department of Professional and Financial Regulation, Bureau of Insurance, submits this application for a State Relief and Empowerment Waiver under Section 1332 of the Patient Protection and Affordable Care Act (section 1332 waiver) to the Department of the Treasury and the Centers for Medicare & Medicaid Services in the Department of Health and Human Services (collectively, "the Departments").

Maine currently has an approved section 1332 waiver that waived Section 1312(c)(1) of the Patient Protection and Affordable Care Act (PPACA) for a period of five years beginning January 1, 2019 to permit reinstatement of the Maine Guaranteed Access Reinsurance Association (MGARA) reinsurance program for the individual health insurance market.

Maine expressed its intent to submit this application in a letter to the Departments dated October 2, 2020. The Departments confirmed on December 28, 2020 that the application would be reviewed as a waiver amendment application. This application therefore seeks approval of a section 1332 waiver amendment that would waive PPACA Section 1312(c)(1) for a new waiver period of five years beginning January 1, 2022 to permit extension of the MGARA reinsurance program to a pooled individual and small group market and transition to a retrospective claims cost-based reinsurance program.

This waiver would not affect any other provision of the PPACA. The waiver is expected to result in a lower market-wide index rate, thereby lowering gross (*i.e.*, prior to the application of federal premium tax credits) individual premiums from what they would have been without the reinsurance program, thereby reducing the federal cost of the premium tax credits (PTCs).

Background

In 2011, Maine passed the "Maine Guaranteed Access Reinsurance Association Act" as part of Public Law 2011, Chapter 90. This law established MGARA, a private nonprofit organization responsible for operating a reinsurance program for the higher-risk segment of Maine's individual health insurance market. In 2013, the MGARA reinsurance program limited what otherwise would have been a 22 percent rate increase to only a 2 percent increase. Despite its success, this reinsurance program was placed in suspension due to the PPACA, in order to avoid redundant costs to the Maine market because of parallel federal and state reinsurance programs.

In 2018, Maine applied for, and the Departments approved, the state's current section 1332 waiver, which allowed for reinstatement of the MGARA reinsurance program for the individual market beginning January 1, 2019. By reimbursing insurers for high-cost claims, the reinsurance program spread risk across the broader Maine health insurance market, thereby lowering gross premiums and increasing access to affordable private coverage. Since the waiver became effective, average premium rates for the individual market have moderated each year: 1.1% in 2019, -0.5% in 2020, and -12.5% in 2021.

Basis for Request and Goal of Reinsurance Program

In recent years, the small group market in Maine has experienced significant declines in membership, due in part to high medical cost trends and associated premium increases. 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. On its current trajectory, the small group market may continue to see membership decline, and only those that truly need health care services may stay enrolled in the market, which will lead to a continued escalation in premiums. Because of this trend, Maine has been considering ways to help stabilize and lower premiums for the small group market. One way is to extend the positive impacts the MGARA reinsurance program has had on individual health insurance to small group health insurance.

As explained more fully in Section II, Maine Public Law 2019, Chapter 653, "An Act To Enact the Made for Maine Health Coverage Act and Improve Health Choices in Maine," provides legislative authorization for Maine's Superintendent of Insurance to adopt rules to pool the individual and small group markets in Maine and to apply for a section 1332 waiver amendment that extends the MGARA reinsurance program to this pooled market and adjusts the reinsurance program from a prospective model to a retrospective model. Pooling the markets is contingent upon the Superintendent adopting rules, as well as the Departments approving a section 1332 waiver amendment.

Maine is submitting this section 1332 waiver amendment application in accordance with Public Law 2019, Chapter 653. As proposed, this waiver would allow Maine to extend the MGARA reinsurance program to a pooled individual and small group market and transition to a retrospective claims cost-based reinsurance program. Maine would continue to receive federal pass-through funding in the amount of the savings that would be generated from the resulting reduction in PTCs.

Extending the MGARA reinsurance program to a pooled individual and small group health insurance market would bring increased certainty and stability to small group health insurance in Maine through a positive effect on premium levels. By reinsuring high-cost claims for small group health insurance in addition to individual health insurance, the MGARA reinsurance program would spread risk across the broader Maine health insurance market, thereby lowering premiums. The MGARA reinsurance program would also spread the most volatile component of the risk within the pooled market, thereby providing stability, and it is also expected to encourage insurers to continue offering individual and small group health insurance in Maine.

Funding and Impact of the Reinsurance Program

Maine estimates that pooling the markets and applying a retrospective reinsurance program will lower the average individual market premium by 6.6% and will lower the average small group market premium by 4.2%, compared to the baseline of no section 1332 waiver and no reinsurance program. The reduction in individual market premium would generate $21.6 million in net federal savings in 2022. This net reduction in federal spending from lower PTCs will be used to fund the retrospective reinsurance program covering the pooled market.

In addition to federal funds generated from the reduction in PTCs, Maine would also continue to use the $4.00 per member per month (PMPM) assessment across Maine's fully-insured and self-insured commercial health insurance markets that the MGARA reinsurance program uses now under the state's current section 1332 waiver. With an assessment base of approximately 503,000 covered lives, the $4.00 PMPM assessment is expected to generate $24.1 million in revenue in 2022, the first year of the waiver. A portion of the funds (estimated to be $300,000 annually) will be used to administer the reinsurance program.

Based on these two funding sources, the total funding for the MGARA reinsurance program for 2022 is estimated to be approximately $45.4 million.

This retrospective program was modeled to reimburse insurers 50% of claims costs between $90,000 and $250,000, with the portion of claims exceeding $250,000 being the full responsibility of the insurer. These parameters may be adjusted to ensure reinsurance reimbursements to insurers do not exceed available funding. Pursuant to state law, the MGARA Board of Directors (MGARA Board) will make the final determination of attachment points, subject to approval from the Superintendent of Insurance.

Compliance with Section 1332 Waiver Guardrails

Granting the section 1332 waiver amendment will not impact the comprehensiveness, affordability, or scope of coverage in the Maine insurance markets and will not increase spending by the federal government.

Section II – Authorizing Legislation

On March 18, 2020, Public Law 2019, Chapter 653, "An Act To Enact the Made for Maine Health Coverage Act and Improve Health Choices in Maine" became effective in Maine. This legislation allows Maine to develop a section 1332 waiver application to submit to the Departments. Under this authority, Maine is submitting a section 1332 waiver amendment application. The legislation includes the provisions outlined below.

Title 24-A M.R.S. § 2781 authorizes the State of Maine to enter into "state-federal health coverage partnerships," which includes state innovation waivers under Section 1332 of the PPACA, that support the availability of affordable health coverage in Maine.

Title 24-A M.R.S. § 2792 authorizes the Superintendent of Insurance to establish a pooled market for all individual and small group health plans offered in Maine based on projections by the Superintendent that both average individual premium rates and average small group premium rates would be the same or lower than they would have been absent this section. Based on the state's understanding of the legislative intent, the state interprets the law to mean a baseline with no pooled market and no subsidized reinsurance program. Utilizing the data and findings of actuarial analyses conducted by outside consulting firms, the Superintendent projects that average individual premium rates and average small group premium rates will both be lower with the pooled market and the MGARA reinsurance program covering the pooled market than without those conditions.[1] The implementation of this section is also contingent upon the Superintendent's adoption of rules to implement the pooled market, as well as Federal approval of a state innovation waiver amendment that extends reinsurance under Title 24-A M.R.S. § 3953 to the pooled market. The state is in the process of developing a rule to implement the pooled market, which will clarify the state's interpretation of the law and establish the necessary conditions and procedures for implementation of the pooled market and the extension of 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.

Title 24-A M.R.S. § 3953(1) authorizes MGARA to operate a reinsurance program contingent on the approval of, or continued approval of, a 1332 waiver submitted by the Superintendent of Insurance.

Title 24-A M.R.S. § 3958(A-1) requires MGARA to operate a retrospective reinsurance program for the pooled market, if such pooled market is implemented in accordance with the requirements set forth in Title 24-A M.R.S. § 2792.

A copy of Public Law 2019, Chapter 653 can be found online at the following link www.mainelegislature.org/legis/bills/bills_129th/chapters/PUBLIC653.asp and is included in **Appendix A: Authorizing Legislation.**

Section III – Provision(s) of the Law that the State Seeks to Waive

Maine requests a waiver of PPACA section 1312(c)(1) to the extent it impacts the marketwide index rate and the MGARA reinsurance program will lower premiums for a pooled individual and small group market.

The state is seeking federal pass-through funding to support its MGARA reinsurance program, as extended to a pooled individual and small group market. These federal pass-through funds will be generated from the reduction in PTCs as a result of this reinsurance program.

MGARA's enabling legislation, Public Law 2011, Chapter 90, established a four-part funding mechanism to spread the costs associated with the MGARA reinsurance program across the fully-insured and self-insured markets. Under the proposed waiver amendment, pass-through funds received by the state would continue to be contributed to MGARA as an additional revenue source to enhance its ability to make insurance more affordable for Maine residents and increase market stability for insurers. The funding sources are described in Table 1 below.

Table 1. Funding Sources

Funding Mechanism	**Description**
Base Market Assessment	Assessment to health insurers and third-party administrators based on the number of insured

[1] These actuarial analyses can be found online at the following link www1.maine.gov/pfr/insurance/legal/notices/maine_health_ins_pooled_market_option.html.

	lives covered by each in the fully-insured individual, small group, and large group and self-insured markets (excluding State and Federal employees), at a rate of up to $4 per covered person per month (PMPM)
Deficit Assessment	Optional Assessments to cover any Net Losses — up to a maximum of $2 PMPM assessed to health insurers based on the number of insured lives covered by each
Pass-Through Funding	Under the proposed waiver amendment, all pass-through funds will be contributed to MGARA to enhance its capabilities.

The MGARA reinsurance program currently provides reinsurance for individual policies covering high-risk individuals using a prospective model that relies on carriers identifying policies with ICD 10 codes associated with mandatory ceding conditions specified by the MGARA Board and also allows for discretionary ceding. When a carrier cedes a policy to MGARA, it operates like a traditional reinsurance program with the ceding carrier paying MGARA a premium, and in return, MGARA paying a portion of the carrier's claims if the claims exceed the specified attachment point. The MGARA reinsurance program operates pursuant to a statutorily required plan of operation that the MGARA Board must adopt and the Superintendent of Insurance must approve.[2] The current MGARA Plan of Operation is included in **Appendix B: Maine Guaranteed Access Reinsurance Association Plan of Operation**.

The legislation authorizing the pooled individual and small group market, as well as this section 1332 waiver amendment application to provide reinsurance to that pooled market, requires transition to a retrospective claims cost-based reinsurance program. A revised plan of operation reflecting a retrospective reinsurance program and incorporating updated payment parameters will need be adopted by the MGARA Board and approved by the Superintendent of Insurance following approval of this section 1332 waiver amendment application and prior to the January 1, 2022 effective date.

Section IV – Compliance with Section 1332 Guardrails: Data, Analyses, and Certifications

Maine utilized Gorman Actuarial, Inc. (Gorman) to perform actuarial and economic analyses related to the changes that would occur after this section 1332 waiver amendment application is approved and implemented beginning in 2022. The actuarial and economic analyses and certifications that support the state's findings that all four of the section 1332 guardrails will be met are included in **Appendix C: Actuarial and Economic Analyses**.

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[2] *See* Title 24-A M.R.S. § 3953.

A. Comprehensiveness Requirement (Section 1332(b)(1)(A))

The first guardrail is comprehensiveness, which refers to the scope of benefits provided under the section 1332 waiver, as measured by the extent to which coverage meets essential health benefits (EHB) requirements as defined in PPACA section 1302(b) and 45 CFR 156.110. Information about Maine's EHB benchmark, which is the same with or without the section 1332 waiver, can be found at the following link:

www.maine.gov/pfr/insurance/regulated/insurance_companies/rate_form_checklists/life_health/plan_year_qhp-sadp.html

Maine has determined that the proposed section 1332 waiver amendment will not result in any changes to the EHB benchmark or actuarial value requirements, and therefore, will have no impact on the comprehensiveness of coverage available in the individual and small group markets.

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

The second guardrail is affordability, which refers to the ability of state residents to pay out-of-pocket for healthcare expenses relative to their income and specifies that the section 1332 waiver must provide coverage and cost-sharing protections against excessive out-of-pocket spending that are at least as affordable as would be provided without the waiver. Maine has determined that the proposed section 1332 waiver amendment 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 from a standpoint of cost-sharing for coverage. The waiver will increase affordability by reducing average premiums by 6.6% in the individual market and by 4.2% in the small group market.

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

The third guardrail is scope of coverage, which specifies that the section 1332 waiver must provide meaningful healthcare coverage to a comparable number of state residents as would be provided without the waiver. Maine projects that for each year the proposed section 1332 waiver amendment will be in effect, the number of individuals that will have healthcare coverage under the waiver is comparable to the number of individuals that would have had healthcare coverage absent the waiver. Maine has examined the short and long-term effects of the waiver, and while the state conservatively projects that the number of individuals covered will remain stable, lower premiums could increase the number of individuals covered.

Those residents that obtain coverage through other means, such as Medicaid, the Children's Health Insurance Program (CHIP), large group market insurance, or other types of coverage, will have the same access to coverage.

D. Deficit Neutrality Requirement (Section 1332(b)(1)(D))

The fourth guardrail is deficit neutrality, which specifies that the section 1332 waiver must not increase federal spending that would occur absent the waiver. Maine has determined that the proposed section 1332 waiver amendment will not increase federal spending.

The administrative costs to facilitate the section 1332 waiver amendment will be paid from the revenue generated by the $4.00 PMPM state assessment that applies across Maine's fully-insured and self-insured commercial health insurance markets.

Maine's estimates show the amount of federal spending will be less than or equal to what the federal government would have paid during each year of the required 10-year budget period. Maine estimates that federal savings will be: $22,184,201 for 2022; $22,614,806 for 2023; $23,036,845 for 2024; $23,448,502 for 2025; $23,847,806 for 2026; $24,232,619 for 2027; $24,600,629 for 2028; $24,949,337 for 2029; $25,276,038 for 2030; and $25,577,818 for 2031.

Section V – Alignment with Section 1332 Principles

Maine's section 1332 waiver will advance three of the five principles discussed in the 2018 Guidance as described below:

- **Provide increased access to affordable private market coverage:** The section 1332 waiver will promote more accessible and affordable health coverage through competitive private coverage. Extending the MGARA reinsurance program to a pooled individual and small group market would bring increased certainty and stability to small group health insurance in Maine through a positive impact on premium levels. By reinsuring high-cost claims for small group health insurance in addition to individual health insurance, the MGARA reinsurance program would spread risk across the broader Maine health insurance market, thereby lowering premiums. The MGARA reinsurance program would also spread the most volatile component of the risk within the pooled market, thereby providing stability, and it is also expected to encourage insurers to offer, or continue offering, individual and small group health insurance in Maine.

- **Encourage sustainable spending growth:** The section 1332 waiver will promote more cost-effective health coverage and restrain growth in federal spending. The legislation authorizing the pooled market and extended reinsurance program also requires each insurer reimbursed through the program to report to MGARA for each plan year the name of each high-priced item or service for which its payment exceeded the amount allowed for eligible claims and the name of the provider that received this payment. MGARA must then annually compile and publish a list of all reported names. Requiring this transparency may help to control healthcare costs and reduce prices for consumers as well as the federal government.

- **Foster state innovation:** The section 1332 waiver is a state-crafted approach to make coverage more affordable for Maine. The specific provisions of the section 1332 waiver are responsive to specific state marketplace needs. The small group market has experienced significant declines in membership and increases in average annual rates over the last several years. If these trends continue, only those groups with members that truly need healthcare services may remain in the small group market, leading to continued increases in premiums. Maine has been considering ways to stabilize and lower premiums for the small group market. Maine determined that one way to do this is to extend the positive impacts the MGARA reinsurance program has had on individual health insurance to small group health insurance through an amendment to its existing 1332 waiver.

Section VI – Reporting Targets

MGARA will submit all required quarterly, annual, and cumulative targets for the guardrail requirements in accordance with 31 CFR 33.108(f)(4)(vi) and 45 CFR 155.1308(f)(4)(vi).

MGARA will assume responsibility for the reporting requirements, including the following:

- Quarterly reports (31 CFR 33.124(a) and 45 CFR 155.1324 (a)): To the extent required by the Departments, MGARA will submit quarterly reports, including reports of ongoing operational challenges, if any, and plans for, and results of, associated corrective actions.
- Annual reports (31 CFR 33.124(b) and 45 CFR 155.1324(b)): MGARA will submit annual reports documenting the following:
  (1) The current state and the progress of the section 1332 waiver to date.
  (2) Data on the state's compliance with the guardrails in PPACA section 1332(b)(1)(A)-(D), 31 CFR 33.108(f)(3)(iv)(A)-(D), and 45 CFR 155.1308(f)(3)(iv)(A)-(D).
  (3) Premiums for the second lowest-cost silver plan under the section 1332 waiver and an estimate of the premium as it would have been without the waiver for a representative consumer in each rating area.
  (4) A summary of the annual public forum required by 31 CFR 33.120(c) and 45 CFR 155.1320(c) and a summary of actions taken in response to public input.

Section VII – Implementation Plan and Timeline

The State of Maine will establish a waiver to be administered by MGARA, an existing entity.

Maine has reviewed the list of implementation questions posed by the Departments in the 2018 Discussion Paper. In order to comprehensively address implementation challenges, Maine provides responses to the applicable questions below.

1) What is the entity that will administer the program? Is it a new or existing entity? To what extent will the entity be subject to state insurance laws?

   MGARA, an existing entity that is already providing reinsurance to the individual market under Maine's existing section 1332 waiver, will continue to administer the program. MGARA was established by, and is subject to, Chapter 54-A of the Maine Insurance Code that is enforced by the Maine Bureau of Insurance. *See* Title 24-A M.R.S., Chapter 54-A, "Maine Guaranteed Access Reinsurance Association Act."

2) What will be the data collection timing and mechanism for collecting claims information and generally for pay-out?

   The MGARA Board will amend the MGARA Plan of Operation to adjust these operations as necessary for the transition from a prospective to a retrospective reinsurance program.

3) If pursuing a reinsurance waiver, will the state be using a conditions-based list and/or an attachment point model?

   An attachment point model.

4) Will the program include incentives for providers, enrollees, and plan issuers to continue managing health care cost and utilization for individuals eligible for the described reinsurance program (if any)?

   Yes. The authorizing legislation for this reinsurance program requires member insurers to report for each plan year the name of each high-priced item or service for which its payment exceeded the amount allowed for eligible claims and the name of the provider that received this payment, and requires MGARA to annually compile and publish a list of all reported names. *See* Title 24-A M.R.S. § 3958(1)(B).

5) Will the state specify a co-insurance amount, or a cap, based on available funds, similar to the federal reinsurance program?

   Yes.

   a. When will the parameters be finalized?

      The parameters will be finalized when MGARA files with Maine's Superintendent of Insurance an amended Plan of Operation that sets forth final parameters, and the Superintendent approves the amended Plan of Operation.

6) Further, does the state have the ability to adjust the parameters to account for market changes? If so, what is the schedule and process for finalizing the parameters on a year by year basis?

   Yes. Subject to the approval of Maine's Superintendent of insurance, MGARA has the statutory authority to annually adjust the level of claims and maximum limit to be retained by insurers to reflect changes in cost, utilization, available funding, and any other factors affecting the sustainable operation of the association. The MGARA Board must annually review the attachment points and coinsurance percentages and make any necessary adjustments to ensure that the retrospective reinsurance program operates on an actuarially sound basis. *See* Title 24-A M.R.S. § 3958.

7) Will the state require issuers to include the impact of the reinsurance program and/or high-risk pool in initial and/or final rates?

   Yes, in both initial and final rates. Maine requires this now for its existing section 1332 wavier.

8) Are there any legislation and/or regulations related to the state reinsurance program?

   Yes, Public Law 2019, Chapter 653, "An Act To Enact the Made for Maine Health Coverage Act and Improve Health Choices in Maine," effective March 18, 2020.

a. Are any additional regulations needed? If so, what is the timing of those regulations?

Maine's Superintendent of Insurance must adopt a rule to implement the pooled market pursuant to Title 24-A M.R.S. § 2792. The rule must be in place prior to January 1, 2022. Maine is currently in the process of drafting the rule and anticipates formally proposing the rule and initiating the state's rulemaking process in March of 2021.

Maine submits the proposed waiver implementation timeline, which is detailed in Table 2 below.

Table 2. Implementation 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.

Section VIII – Public Notice, Comment Process, and Communication Plan

A. Public Notice

On **[insert date]** Maine opened the public comment period for this section 1332 waiver amendment application and posted the notice of the opportunity to comment on the state website **[insert link to website where state notice was posted]**. On **[insert date]**, Maine sent notice via **[insert delivery method]** to a list of **[insert number]** interested parties and stakeholders. The notice is included in **Appendix D: Notice for Public Comment Period.**

B. Public Comment Process

Due to the COVID-19 public health emergency, Maine submitted a request to the Departments pursuant to 31 CFR § 33.118 and 45 CFR § 155.1318 to modify, in part, the state public notice requirements specified in 31 CFR § 33.112 and 45 CFR § 155.1312. Specifically, Maine sought to modify the requirement to hold more than one public hearing in more than one location, and proposed to hold two public hearings virtually, rather than in-person. The Departments granted this request, and Maine held two public hearings virtually.

On **[insert date]** Maine held a public hearing at **[insert location]**. At the public hearing, **[insert number]** member(s) of the public attended, including **[insert a list of organizations and individuals in attendance].** In addition **[insert number]** members(s) of the public testified. This testimony was also submitted in writing and is included in **Appendix E: Records of Public Testimony**.

Additionally, on **[insert date]** the state of **[insert state name]** held a public hearing at **[insert location]**. At the public hearing, **[insert number]** member(s) of the public attended, including **[insert a list of organizations and individuals in attendance]**. In addition **[insert number]** members(s) of the public testified. This testimony was also submitted in writing and is included in **Appendix E: Records of Public Testimony.**

Major points of discussion included: **[List any major points of discussion raised by any attendee and how the state is addressing those comments or concerns]**.

C. Tribal Consultation

Maine has four federally recognized tribes: the Aroostook Band of Micmacs; the Houlton Band of Maliseet Indians; the Passamaquoddy Tribe; and the Penobscot Nation. Maine contacted representatives of each of these tribes and provided information about the section 1332 waiver amendment application and solicited consultation with, or comments from, the tribes. **[Indicate if comments were received, the subject of the comments and the state's response to the comments/No comments were received from any of the tribes].** Communications with each tribe are included in **Appendix G: Tribal Consultation Communications.**

D. Communication Plan

To educate insurers eligible for reinsurance reimbursement, MGARA will provide information about the new retrospective program through meetings and updates to information provided on the MGARA website. As with Maine's current reinsurance program, there will be no impact on how consumers enroll in and receive coverage. However, if consumers have questions about the 1332 waiver amendment, they may contact the Bureau of Insurance.

Section IX – Additional Information

A. Administrative Burden

The section 1332 waiver amendment will cause no additional administrative burden to employers and individual consumers because the MGARA reinsurance program does not relate to the administrative functions or requirements typically undertaken by employers or individuals. Individual health insurers will experience additional administrative burden and associated expense as a result of the operation of the MGARA reinsurance program resulting from submission of reinsurance claims; however, the waiver itself will not result in any additional administrative burden or cost, and the monetary benefit from the MGARA reinsurance program will exceed any resulting administrative expense.

MGARA and the Bureau of Insurance, collectively, have the resources and staff necessary to absorb the following administrative tasks that the waiver will require the state to perform:

- Administer the reinsurance program.
- Collect and apply federal pass-through funds.
- Monitor compliance with federal law.
- Collect and analyze data related to the waiver.
- Perform reviews of the implementation of the waiver.
- Submit quarterly and 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 waiver.
- Review state reports.
- Periodically evaluate the state's waiver.
- Calculate and facilitate the transfer of pass-through funds to the state.

Maine believes that the above administrative tasks are similar to other administrative functions currently performed by the federal government, so that their effect should be insignificant. The waiver does not necessitate any changes to the Federally Facilitated Marketplace and will not affect how PTC or cost-sharing reduction payments are calculated or paid.

B. Effect on PPACA Provisions Not Being Waived

The section 1332 waiver amendment will not affect the implementation of PPACA provisions not being waived.

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

Most Maine residents receive healthcare services from Maine-based providers. Maine does share a border with New Hampshire, and is not far from Boston, which is a center for advanced health care facilities; however, insurer service areas and networks that cover border areas generally are serviced through Maine-based providers and insurers' networks make adequate provision for any service required in New Hampshire or Massachusetts. Approving the section

1332 waiver amendment will not affect insurer networks or service areas that provide coverage for services performed by out-of-state providers.

D. State Reporting Requirements and Targets

MGARA will submit the required quarterly, annual, and cumulative targets for the scope of coverage requirement, the affordability requirement, the comprehensive requirement, and the federal deficit requirement, in accordance with 45 CFR 155.1308(f)(4).

As required, MGARA and the Bureau of Insurance will hold a public forum six months after the section 1332 waiver amendment is granted and annually thereafter. The date, time, and location of each public forum will be posted on the MGARA website and the Bureau of Insurance website.

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

- Quarterly reports (45 CFR 155.1324(a)): To the extent required, the Maine Bureau of Insurance will submit quarterly reports, including reports of ongoing operational challenges, if any, and plans for, and results of, associated corrective actions.
- Annual reports (45 CFR 155.1324(b)): MBOI will submit annual reports documenting the following:
    1) The progress of the waiver.
    2) Data on compliance with Section 1332(b)(1)(B) through (D) of the ACA.
    3) Modifications, if any, to the essential health benefits for compliance with Section 1332(b)(1)(A) of the ACA.
    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 for a representative consumer in each rating area.
    5) A summary of the annual post-award public forum required by 45 CFR 155.1320(c) together with a summary of action taken in response to public input.
    6) Any additional information required by the terms of the waiver.

MGARA 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.

E. Ensuring Compliance; Preventing Waste, Fraud, and Abuse

MGARA is required under its enabling legislation to annually prepare comprehensive financial accounting statements audited by an independent certified public accountant and file the audited statements with the Superintendent of Insurance and the Joint Standing Committee on Health Coverage, Insurance and Financial Services (HCIFS Committee) of the Maine Legislature. The independent certified public accountant is required to make an annual review of MGARA's solvency and submit that review to the Superintendent. The Superintendent has authority to order MGARA to charge additional assessments as necessary to maintain solvency. MGARA is also required to report annually to the HCIFS Committee regarding its operations and financial condition. MGARA will administer the reinsurance program in accordance with its existing accounting, auditing, and reporting procedures. Auditing and reporting obligations of participating insurers are governed by MGARA's Plan of Operation and state rules and regulations.

The Bureau of Insurance is responsible for: regulating and ensuring regulatory compliance and monitoring the solvency of MGARA and all insurers; performing market conduct analysis, examinations, and investigations; and providing consumer outreach and protection. The Bureau of Insurance investigates all complaints that fall within its regulatory authority.

The federal government is responsible for calculating the savings resulting from this waiver and for ensuring that this waiver does not increase federal spending.

Section X – Administration

Name: [insert name of primary contact]

Title: [insert title of primary contact]

Telephone Number: [insert telephone number of primary contact]

Email address: [insert email for primary contact]

Appendix A: **Authorizing Legislation**

[Insert Authorizing Legislation]

Appendix B: **Maine Guaranteed Access Reinsurance Association Plan of Operation**

[Insert copy of MGARA Plan of Operation]

Appendix C: **Actuarial and Economic Analyses**

[Insert the actuarial and economic analyses]

Appendix D: **Notice for Public Comment Period**

[Insert a copy of the notice for public comment period]

Appendix E: **Records of Public Testimony**

[Insert record of public testimony]

Appendix F: **Presentations from the Public Comment and Information Sessions**

[Insert presentations from the public comment and information sessions]

Appendix G: **Tribal Consultation Communications**

[Insert copies of tribal consultation communications]