STATE OF MAINE
EXECUTIVE SUMMARY AND
APPLICATION FOR WAIVER
UNDER SECTION 1332 OF THE
PATIENT PROTECTION AND AFFORDABLE CARE ACT

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of the Patient Protection and Affordable Care Act

I. Executive Summary

A. Request. The State of Maine, through its Bureau of Insurance, Department of Professional and Financial Regulation ("State") submits this Section 1332 State Innovation Waiver request to the United States Department of the 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 Patient Protection and Affordable Care Act ("ACA") for a period of five years beginning in the 2019 plan year to permit the reinstatement of Maine Guaranteed Access Reinsurance Association ("MGARA"), the State's existing reinsurance program (described in the following section). This waiver will not affect any other provision of the ACA, but will result in lowering premiums and reducing federal payment of premium tax credits ("PTC")

B. Background. Prior to the implementation of the ACA, Maine was a leader in state-level innovation designed to reduce Mainers' healthcare costs and increase their access to affordable health coverage. The State's flagship innovation was MGARA, a legislatively established private nonprofit organization operating a reinsurance program for the higher-risk segment of the State's individual health insurance market. In 2013, MGARA's presence limited what otherwise would have been a 22 percent rate increase to only a 2 percent increase. That highly successful program was placed in suspension with the advent of the ACA, to avoid the imposition of redundant costs on the Maine market through parallel federal and state reinsurance programs. The State now seeks a State Innovation Waiver under Section 1332 of the ACA (a "1332 Waiver") to permit the reinstatement of this program and to build upon the State's past health reform successes.

Under the proposed 1332 Waiver, Maine would restart the MGARA reinsurance program (the "State Program") and receive federal pass-through funding in the amount of the savings that would be generated from the resulting reduction in PTC subsidies. The proposed 1332 Waiver would be effective January 1, 2019 for an initial period of five years, with an option to renew for an additional five years.

C. Basis for Request and Goal of Reinsurance Program. During the past few years, Maine's individual health insurance market has undergone significant change. Community Health Options ("CHO"), the State's Consumer Operated and Oriented Plan (CO-OP), has emerged as the State's largest carrier serving the individual market. Anthem, formerly the State's largest carrier serving the individual market, announced on September 27, 2017, that it would not be writing ACA plans in Maine for 2018. Premiums have increased significantly throughout the market, and we have seen the implementation of narrower provider networks by health carriers.

The restart of the State Program through the 1332 Waiver will bring increased certainty and stability to Maine's individual health insurance market through a positive effect on premium

levels. By reinsuring high-cost claims, the State Program will spread risk across the broader Maine health insurance market, thereby lowering premiums. The program also spreads the most volatile component of the risk within the individual market, thereby providing stability. The program is also expected to encourage participation (or continued participation) by insurers in that market.

D. Impact of the State Program. Title 24-A M.R.S. §3953(1)(C) authorizes the Superintendent of Insurance ("Superintendent") to develop a proposal for a 1332 Waiver to facilitate resumption of the State Program, and, upon approval by the Governor, to apply for the waiver and implement it upon federal approval. The Legislation conditions resumption of the State Program on the granting of a 1332 Waiver. Total funding for the State Program for 2019 is estimated to be approximately $93 million (see funding model described in Section III below). The State estimates that the State Program will result in a net premium decrease of nine percent (9%) in 2019. Through this waiver request, Maine seeks federal pass-through funds – provided from the proceeds of net premium tax credit savings, estimated to be in excess of $33 million per year through 2027 – to partially recoup expenditures made from assessments collected under state law.

E. Compliance with Section 1332. Granting the 1332 Waiver will not impact the comprehensiveness of coverage in the Maine insurance markets. As noted above, the waiver will reduce premiums and increase affordability. As a result, the State estimates enrollment in the individual market will increase by approximately 1.1 percent in 2019, 0.9 percent in 2020, and 0.3-0.8 percent in the eight years remaining in the ten-year budget cycle over what enrollment would be without MGARA[1] (see Exhibit A, Figure 1). Due to the resulting reduction in individual health insurance premiums, including premiums for the second-lowest-cost silver plan, the federal government will see a net reduction in spending of more than $33 million for each year the five-year waiver and the State Program are in place.

II. Assurances of Compliance with Section 1332 Guardrails

The State anticipates that its proposal will meet the parameters set forth in Section 1332 of the ACA and provides the following assurances:

A. Comprehensive Coverage – 1332(b)(1)(A). The proposed waiver makes no alterations to the required scope of benefits offered in the insurance market in Maine and will not result in a decrease in the number of individuals with coverage that meets the ACA's Essential Health Benefits requirements.

B. 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; on the contrary, the purpose of the waiver is to revive the State Program's favorable effect on insurance rates in Maine's individual market.

[1] Exhibit A, pp. 11-17.

C. Scope of Coverage – 1332(b)(1)(C). The proposed waiver will facilitate the provision of coverage to at least a comparable number of Maine residents as would be provided absent the waiver. The total estimated non-group enrollment increase resulting from the waiver is 1.1% in 2019 and ranges from 0.3% to 0.9% each year through 2028. Percentage enrollment increases are greatest for those persons not eligible for premium tax credits.

D. Federal Deficit Neutrality – 1332(b)(1)(D). The proposed waiver will not result in increased spending, administrative, or other expenses to the federal government. It requests pass-through payments that mirror the State Program's reduction in federal PTC subsidies for which the federal government would otherwise be responsible, net of reductions in premium-based Exchange user fees.

E. Pass-Through Funding. Under the proposed waiver, the federal government would pass through to the State, as contemplated by Section 1332(a)(3) of the ACA, its cost savings resulting from the State Program's positive effect on premium rates and corresponding reduction in the amount of PTC that would otherwise be claimed by many individual market participants in Maine in a given calendar year.

F. Effect on Federal Operational Considerations. The proposed waiver requests no changes to Maine's federally-facilitated exchange (the "Exchange") or treatment by the Internal Revenue Service.

G. Public Notice. The proposed waiver has been publicly posted, public information and comment hearings were held, and public comments were solicited in compliance with 31 CFR 33.112 and 45 CFR 155.1312. Postings on-line met national standards to assure access to individuals with disabilities.

III. Background and Description of Maine's Health Insurance Market

A. Background: Maine's Individual Market Reinsurance Program. MGARA is a key component of the reforms originally instituted in May 2011, when the Maine State Legislature passed 2011 Public Law Chapter 90, "An Act To Modify Rating Practices for Individual and Small Group Health Plans and to Encourage Value-based Purchasing of Health Care Services" ("PL90"). During its period of active operation (prior to suspension of operations due to the transitional reinsurance provided under the ACA), MGARA reduced insurance costs in Maine's individual health insurance market by providing reinsurance for a significant portion of the coverage provided through individual health insurance policies. If the 1332 Waiver request is granted, MGARA's re-activation is intended to again reduce insurance costs in Maine's individual health insurance market through operation of its reinsurance program.

Over MGARA's period of active operation (2012 and 2013), MGARA paid approximately $66 million in claims and generated a positive fund balance of approximately $5 million. Based on rate filings submitted by insurance carriers operating in Maine's individual market, the State Program generated an approximate **20% reduction in requested rates**. By way of example, Anthem Health Plans of Maine, Inc.'s ("Anthem") 2013 rate filing sought a rate increase of 1.7%. Anthem projected that without the State Program, its 2013 rate increase would have been 21.6%.

Despite this success, the State Program was rendered redundant during the pendency of the federal transitional reinsurance program (the "Federal Program") established by HHS under the ACA. Both programs offered reinsurance for the individual health insurance market in Maine, subsidized by broad-based assessments on the entire health benefit market. Although there were differences between the structures of the two programs, the Federal Program served essentially the same functions as MGARA and there was substantial overlap in the benefits that would have been paid to ceding insurers. Accordingly, MGARA suspended all but limited administrative operations effective January 1, 2014, to avoid imposing redundant costs on the Maine market through parallel federal and state individual market reinsurance programs.

The Federal Program ended as scheduled on December 31, 2016. Cognizant of the success of its pre-ACA health reform efforts and the unfavorable rate effects associated with the absence of any individual market reinsurance program in the State, Maine seeks to reinstate the State Program. By this Application, Maine seeks a 1332 Waiver pursuant to the provisions of Section 1332 of the Act, as discussed below.

PL90 established a four-part funding mechanism to spread the costs associated with the MGARA reinsurance program across the individual, group, and self-insurance markets. Under the proposed waiver, pass-through funds received by the State would be contributed to MGARA as a fifth revenue source, further enhancing its ability to make insurance more affordable for Maine residents and increase market stability for insurers. The funding sources are described in the following table.

Table 1

Funding Mechanism	**Description**
Organizational Assessment	One-time nominal $500 fee for each insurer licensed in 2012 for medical insurance, whether or not active in that market (not applicable prospectively)
Base Market Assessment	Assessment to health insurers and third-party administrators based on the number of insured lives covered by each in the Individual, Small Group, Large Group, and Self-insured Markets (excluding State and Federal employees), at a rate of up to $4 per covered person per month ("PMPM")
Reinsurance Premium	Insurers ceding covered persons to MGARA pay a ceding premium, currently set at 90% of the premium received from the enrollee
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, all pass-through funds will be contributed to MGARA to enhance its capabilities.

The definition of "insurer" includes any insurance company, nonprofit hospital and medical service organization, fraternal benefit society, health maintenance organization, non-ERISA self-insured employer, third-party administrator, multiple employer welfare arrangement, health reinsurer, health insurance captive, and any other State-sponsored health benefit program, whether fully insured or self-funded.

The MGARA Board of Directors retained Milliman, Inc. ("Milliman") to perform the economic and actuarial modeling contained in this Application. Milliman's Report to the Board is Exhibit A to this Application.

The current MGARA Plan of Operation is attached hereto as Exhibit B. A revised Plan of Operation will be finalized by the Board following approval of the 1332 Waiver. The revised Plan will incorporate updated payment parameters and coverage ceding processes as described below, and will be consistent with the existing Plan of Operation in most other material respects.

The State Program provides reinsurance for policies covering high-risk individuals, as identified by medical diagnosis or by the insurance carrier's underwriting judgment. When the carrier cedes a policy to MGARA, it operates like a traditional reinsurance program: the ceding carrier pays MGARA a premium, and in return, MGARA pays a portion of the carrier's claims if they exceed the specified attachment point. When reactivated in 2019, MGARA will collect a reinsurance premium for each ceded policy that is equal to 90% of the underlying insurance premium, and reimburse the ceding carrier for eligible claims incurred during the year under the policy, at the following levels:

- 90 percent of claims paid between $47,000 and $77,000; and

- 100 percent of claims paid in excess of $77,000, net of amounts recoverable from a federal high cost risk pool (60% of claims over $1 million in 2019).

The Board determines the reinsurance premium, the attachment points, and the list of medical conditions for which ceding is mandatory.[2] The ceding carrier has the responsibility, under both the statute and the Plan of Operation, to manage reinsured claims in the same manner as it manages claims that are paid from the carrier's own funds.

[2] 24-A Me. Rev. Stat. §§ 3958 & 3959(2). MGARA's enabling legislation specifies the attachment points to be used in 2012, but grants the Board the power to adjust the attachment points annually to reflect increases in costs and utilization.

Eligible claims are only those amounts that are actually paid by a ceding carrier for benefits provided to the individual. Eligible claims do not include such things as administrative expenses, attorneys' fees, or non-medical benefits. The ceding carrier's maximum exposure for any reinsured individual in a single calendar year is $50,000 (100% of the first $47,000 plus 10% of the next $30,000).

MGARA has unlimited exposure to $1 million per calendar year for all eligible claims on ceded policies in excess of the exposure retained by the ceding carrier. In its 2018 Notice of Benefit and Payment Parameters, CMS made changes to the ACA risk adjustment program to include a high-cost risk pooling mechanism, under which carriers are reimbursed 60% of claim costs above $1,000,000 for members whose claims exceed that threshold. The current claim threshold of $1,000,000, set for the 2019 benefit year via recently finalized regulations, is subject to adjustment through rulemaking. Although the MGARA Board of Directors has not yet formally adopted a change in response to this development, based on conversations with MGARA's General Counsel, the Bureau of Insurance anticipates the MGARA program will coordinate with the federal risk adjustment program; for example, with respect to claims that exceed the federal pooling threshold (currently $1,000,000), the federal risk adjustment program could pay 60% and the MGARA program could pay 40%.

Under the MGARA program, there are currently eight designated medical conditions which require ceding of coverage. A list of the eight conditions is attached as Exhibit C. Carriers may voluntarily cede other coverage to MGARA. The 90% ceding premium was actuarially determined to be sufficient to support anticipated levels of mandatory and voluntary ceding. Together with the ceding carrier's retained risk, it has operated as a sufficient deterrent to excessive voluntary ceding.

During MGARA's operations in 2012–13, it had reinsured 90% of claims paid on ceded policies from $7,500 to $32,500 and 100% of claims in excess of $32,500. When setting the revised payment parameters for 2019, Milliman and the Board considered the significant differences in the Maine insurance market between 2013 and present, including lower deductibles, mandatory prescription drug benefits, increases in medical trend, changes in benefit design, and a significantly larger individual market. They modeled potential adjustments in attachment points, ceding premiums, and mandatory ceding conditions to determine the optimal way to provide premium relief and market stability while assuring the solvency of the program. Other factors, in particular the maximum assessment of $4 per member per month, are fixed by MGARA's enabling legislation. Based on the Milliman modeling and Board's consideration of alternatives, it was determined that the original eight ceding conditions remained optimal, that increasing ceding premiums above 90% was not necessary, and that the proposed increases in the attachment points will be sufficient to address MGARA's financial needs.

During MGARA's 2012-13 operations, carriers were able to evaluate coverage eligible or suitable for ceding to MGARA on the basis of a health statement collected at the time of application for insurance. Because the large majority of Maine's individual insurance market is now enrolled through the federally-facilitated Exchange (also known as "the Marketplace") and no health information is collected there, MGARA's reliance on health statements is no longer feasible. MGARA will be replacing reliance on the health statement with mandatory ceding

based on carriers identifying policies with ICD 10 codes associated with the mandatory ceding conditions. Mandatory ceding will be able to occur at any point in the year with reinsurance retroactive to the beginning of the policy year with respect to both coverage and premium. Discretionary ceding will remain subject to procedures set forth in MGARA's Plan of Operation. Discretionary ceding will be allowed only during the first 60 days following the effective date of the underlying primary coverage, thereby minimizing the opportunity for carriers to cede mid-term policies on which adverse claims experience has developed.

The changes in ceding procedures described above will require changes in MGARA's Plan of Operation prior to its January 1, 2019 reactivation. Proposed changes in the Plan of Operation must be filed with and approved by the Superintendent of Insurance.

B. Characteristics of Maine's Health Insurance Market.

Maine's individual market has grown significantly in the last several years, from approximately 28,500 individuals in 2013 to over 85,000 in 2017 and 78,000 as of February, 2018. Approximately 90% of the individual market is insured through the Exchange. A very high percentage of the individual market (estimated at 78%) qualifies for federal Premium Tax Credit (PTC) subsidy, with 51% of the individual market at less than 250% of the federal poverty level (FPL) and 27% between 250% FPL and 400% FPL. Approximately 73% of the Exchange individual market is enrolled in Silver Plans. Maine's individual coverage rates were increased by approximately 23% in 2017 (the first year following the cessation of the Federal Program), and again by approximately 32% in 2018. This reflects, among other things, the continued absence of an individual market reinsurance program in Maine following the cessation of the Federal Program. Granting of the 1332 Waiver is required in order to re-start the State Program.[3]

Maine's small employer health insurance market has declined over the years from approximately 94,000 insured lives in 2013 just before implementation of the Affordable Care Act to approximately 60,000 in 2018. This is partly due to self-employed individuals becoming ineligible for small group coverage, but most of the market attrition is due to other structural factors, including large premium increases in the small group market, the availability of subsidized alternatives in the individual market, and changes in the age rating methodology. Both small and large employers expressed concern during the public comment period about the cost of reinstituting MGARA's $4 per member per month assessment. However, Milliman's modeling estimates this cost to be less than 1% of the total cost of employer-sponsored insurance in Maine.[4]

Maine has been active in seeking to control health care costs. The Maine Health Data Organization maintains "Compare Maine" (www.comparemaine.org), a website which provides the public with comparative health care cost and quality information for a wide variety of medical procedures. Recent legislation addressing costs includes 2017 Public Law

[3] 24-A Me. Rev. Stat. § 3953(1)(A)(1).
[4] Exhibit A, p. 19

Ch. 232, "An Act To Encourage Maine Consumers to Comparison-shop for Certain Health Care Procedures and to Lower Health Care Costs,"[5] which when fully implemented in 2019 will encourage group insurance enrollees to use lower-cost health care providers by requiring carriers to return a portion of the savings to consumers when the actual cost of the service is less than the average cost. Another recent law, 2015 Public Law Ch. 488, "An Act To Prevent Opiate Abuse by Strengthening the Controlled Substances Monitoring Program,"[6] enacted stringent limitations on the ability of health care practitioners to write opioid prescriptions. Although this law was enacted as an opioid abuse measure rather than a cost control measure, a January 2018 Maine Bureau of Insurance study of initial results found that insurance carriers spent $2.4 million (46.7%) less on opioid and opioid derivative claims in the first half of 2017 than in the first half of 2016. Health plan members spent nearly $580,000 (36.9%) less in out-of-pocket costs during the same time periods. A copy of the study is attached as Exhibit D.

IV. Description of Proposed 1332 Waiver

As described above, during its period of operation, the State Program brought a rapid and dramatic improvement in individual market premiums in the State. A 1332 Waiver will permit the resumption of the State Program and apply its ameliorative effect to the high rates that have characterized the ACA market.

A. Overview. As contemplated by Section 1332, the State proposes to apply the federal funding that would have been paid to Maine Exchange participants absent the State Program, as pass-through payments under Section 1332(a)(3) of the ACA ("Pass-Through Payments"). This funding would be combined with MGARA's existing funding mechanism to support and enhance the State Program's continued ameliorative impacts on Maine's individual market insurance rates. Without a reinsurance program, individual health insurance premiums will continue to rise at an unsustainable rate. Consequently, more Mainers will choose or be forced to go without health insurance, further driving up rates due to adverse selection and provider cost shifting. By re-implementing the State Program, Maine will reduce the potential for further market disruption, lower the cost of individual premiums, and decrease federal government PTC obligations.

Exhibit A, Figure I-5D(ii) shows that, after factoring in the 1332 Waiver and the re-implementation of the State Program, average 2019 federal PTC payments are estimated to be $500 per member per month. Exhibit A, Figure I-5D(iii) also shows that without the 1332 Waiver and the State Program, 2019 federal PTC payments will be an estimated $65 per member per month higher.

In order to reestablish the State Program, Maine seeks federal pass-through funds in the amount the federal government would have otherwise paid in PTC absent consideration of the reinsurance payments in the premiums paid by insureds in the individual market. By mitigating high-cost individual health insurance claims, the State Program will help to stabilize Maine's

[5] 2017 Public Law of Maine Chapter 232.
[6] 2015 Public Law of Maine Chapter 488 (enacted in 2016).

individual market and make premiums more affordable. With the 1332 Waiver in place and State Program in operation, Maine anticipates that individual premiums, including premiums for the second-lowest-cost silver plan, will be lower, net of the premium assessment, by 9% in 2019, 9.4% in 2020, and in the 8–9% range for 2021 through 2028 than they would have been without the 1332 Waiver and re-implementation of the State Program.

The following snapshot illustrates the projected benefits of resumption of the State Program under the proposed 1332 Waiver:

Table 2

Source	Baseline	Waiver/State Program
2019 Premium	$683 PMPM	$618 PMPM
2019 Enrollment	61,000	62,100

B. Need for the Waiver

The proposed 1332 Waiver would resolve an unintended consequence of the interface between the ACA and the State Program. The State Program, by reducing premiums in the individual market, will decrease the PTC amount that Maine's Exchange participants have the right to receive. Section 1332 of the ACA was enacted to recognize the federal government's continuing obligation to provide equivalent funding in such situations. The reduced PTC amount represents a measurable loss of federal support to Maine's insurance market, compared to the amount that would otherwise be received by Exchange participants in Maine in a given calendar year absent the State Program.

C. Impact if Waiver is Not Granted

Absent a Section 1332 Waiver, even if the law had permitted the resumption of the State Program, it would almost certainly remain in suspension. This is because, if operated without a 1332 Waiver, the State Program would impose costs on the Maine insurance market without the materialization of a corresponding market benefit, as outlined above. Maine has already experienced average annual individual market rate increases of 23% in 2017 and 32% in 2018 since the suspension of MGARA and the cessation of the federal transitional reinsurance. These increases are expected to continue and, indeed, intensify. If a 1332 Waiver is granted and the State Program resumes, it is anticipated that approximately 300 to 1,100 additional individuals will have access to affordable coverage due to the lower cost of health insurance through MGARA's ameliorative effect on rates.

D. Legislation

2017 Public Law Chapter 124, "An Act To Amend the Maine Guaranteed Access Reinsurance Act," authorizes the State Superintendent of Insurance to develop a proposal for a 1332 Waiver to facilitate resumption of the State Program, to apply for the proposed waiver upon approval by the Governor, and to implement the waiver if it receives federal approval. Consistent with

the rationale articulated above, the Legislation conditions resumption of the State Program on the granting of a 1332 Waiver. A copy of the Legislation is attached as Exhibit E hereto.

E. Pass-Through Funding and Tax Credit Proposal; Section Impacted by Waiver

Consistent with Section 1332(a)(3) of the ACA, the State requests that the aggregate amount of credits and reductions that would have been paid on behalf of Maine Exchange participants absent the resumption of the State Program, be paid to the State for the purposes of implementing the State Program under the 1332 Waiver. Table II-1 of the actuarial analysis (Exhibit A) projects a net reduction in federal expenditures of approximately $33 million in 2019 under a resumption of the State Program, and accordingly this amount is requested in the form of federal Pass-Through Payments. These funds will be leveraged by the State Program to further augment its beneficial effects on Maine's individual health insurance rates. The implementation of the State Program directly affects the cost of the baseline plan as defined in Section 36B(b)(3)(B) of the Internal Revenue Code, and it alters the rating calculations mandated under the regulations implementing Section 1312(c)(1) of the ACA, which requires "all enrollees in all health plans … offered by [an] issuer in the individual market … to be members of a single risk pool." In order to allow the benefits of MGARA to be fully realized through the rate-setting process, Maine seeks a waiver of Section 1312(c)(1) to the extent that it would otherwise require excluding expected reinsurance payments, ceding premiums, or assessments when establishing the marketwide index rate. Consideration of these payments will lower the marketwide index rate. A lower index rate will lower premiums for Maine's second lowest-cost silver plan, which will reduce the overall PTC that the federal government is obligated to pay to subsidy-eligible consumers.

F. Effect on ACA Sections that are Not Proposed to be Waived

No other section of the ACA would be affected by the proposed 1332 Waiver.

V. Actuarial Analyses and Certifications

A. Coverage Comparability

Actuarial analysis modeling included in this Application estimates that MGARA will result in a lower number of uninsured Mainers each year than in the baseline scenario in which MGARA is not reactivated. The analysis estimates that MGARA will not have any material impacts on the number of Mainers covered under employer-sponsored plans, traditional Medicaid, Medicare, or other public programs. For the duration of the projection period, the analysis estimates approximately 300 to 1,100 additional annual enrollees in the non-group market relative to the non-MGARA scenario.

B. Affordability of Coverage

MGARA is not estimated to impact premium rates materially for employer-sponsored insurance. A state-based assessment of $4 per member per month on commercial insurers and

group health plans administered by third party administrators will be reimplemented as partial funding for MGARA. The modeling estimates this assessment will be less than 1% of an average employer's premium rate. There will be no impact on public programs such as Medicare and Medicaid. For the non-group market, there is an estimated 9% aggregate premium reduction relative to what rates would be without the waiver. Similar premium reductions are projected for each year through 2028. Net impact on any individual insured will vary greatly depending on his or her household income and interaction with the ACA's premium assistance program.

C. Scope and Comprehensiveness of Coverage

Because MGARA makes no change to insurer benefit requirements for plans offered in Maine's health insurance markets, MGARA meets the comprehensiveness requirements required for a Section 1332 waiver.

VI. Implementation Plan and Timeline

The State Program will be re-implemented by MGARA under the supervision of the Superintendent and the Maine Bureau of Insurance ("MBOI") in accordance with an amended Plan of Operation to be filed with the Superintendent for approval at the time the waiver is granted.[7]

06/02/17:	Legislation enacted.
4/2/18:	The public comment period begins.
4/13/18:	Second public comment hearing is held.
5/2/18:	The public comment period ends.
5/4/18	Tribal consultation period ends
5/9/18:	The 1332 waiver application is submitted to the federal government.
6/24/18:	The federal government determines that the waiver application is complete.
8/1/18:	CMS approves 1332 Waiver for State Program.
8/5/18:	Amended MGARA Plan of Operation approved by Superintendent of Insurance.
8/22/18	Deadline for final determination of 2019 rates.
9/1/18:	MGARA assessment notice to insurers for 2019 operations, to be paid quarterly.
12/31/18:	Insurers pay first quarterly assessment to fund the State Program.
1/1/19:	MGARA commences operation, including reporting to CMS or other federal agency or authority.
4/1/19:	The federal government funds the pass-through payments to the State Program for 2019.

[7] MGARA's current Plan of Operation is attached as Exhibit B. Proposed amendments to the Plan are described in this Application.

VII. Additional Information

A. Administrative Burden. The 1332 Waiver will cause minimal administrative burden and expense for Maine and for the federal government. The waiver will cause no additional administrative burden to employers and individual consumers because the State Program does not relate to the administrative functions or requirements typically undertaken by employers or individuals. Individual health insurers will see no additional administrative burden associated directly with the 1332 Waiver. Individual health insurers will experience additional administrative burden and associated expense as a result of the operation of the State Program resulting from ceding of policies and submission of reinsurance claims; however, the 1332 Waiver itself will not result in any additional administrative burden or cost, and the monetary benefit from the State Program's reinsurance will far exceed any resulting administrative expense.

MGARA and the MBOI, collectively, have the resources and staff necessary to absorb the following administrative tasks that the 1332 Waiver will require the state to perform:

- Administer the State Program
- Collect and apply federal pass-through funds
- Monitor compliance with federal law
- Collect and analyze data related to the 1332 Waiver
- Perform reviews of the implementation of the 1332 Waiver
- Submit annual reports (and quarterly reports, if ultimately required) to the federal government

The 1332 Waiver will require the federal government to perform the following administrative tasks:

- Review documented complaints, if any, related to the 1332 Waiver.
- Review state reports.
- Periodically evaluate the state's 1332 Waiver program.
- 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 1332 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. Impact on Residents Who Need to Obtain Health Care Services Out-of-State. The vast majority of 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. Granting the 1332 Waiver request will not

affect insurer networks or service areas that provide coverage for services performed by out-of-state providers.

C. 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 and the Joint Standing Committee on Insurance and Financial Services 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 Joint Standing Committee on Insurance and Financial Services of the Maine Legislature regarding its operations and financial condition. MGARA and the Maine Bureau of Insurance will administer the State 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 Maine 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 Maine 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.

D. State Reporting Requirements and Targets. The Maine Bureau of Insurance 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, the State will hold public meetings six months after the proposed 1332 Waiver is granted and annually thereafter. The date, time and location of each forum will be posted on the MGARA website and the Bureau of Insurance website. The division will also notify consumer and business advocacy organizations. Each meeting will be conducted at a site that allows both in-person and telephonic attendance to accommodate residents across the State.

The Maine Bureau of Insurance 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 Section 1332 Waiver.

MBOI 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 1332 Waiver.

VIII. Public Comment and Tribal Consultation

A. Public Comment. On March 30, 2018, MBOI opened public comment on this 1332 Waiver request and posted notice of the opportunity to comment on the MBOI website and the MGARA website. On the same day, MBOI sent notice via govdelivery to its list of interested parties and stakeholders. The Notice issued is attached as Exhibit F. The list comprises more than 1500 individuals and organizations with an expressed interest in insurance-related matters.

On April 12 and 13, 2018 MBOI held public comment and information sessions in Bangor and Portland, Maine. These sessions were lightly attended and nearly all attendees were representatives of various stakeholders. Attendees included a representative of the Maine Chamber of Commerce, a representative of the Eastern Maine Health Care system, several representatives of health plans, a representative of a consumer group, an insurance producer, a legislator, and one unaffiliated member of the general public. Two members of the MGARA Board of Directors and its General Counsel attended the Portland meeting. The Superintendent of Insurance utilized a PowerPoint presentation to present the proposal and facilitate discussion during each meeting. The PowerPoint is attached as Exhibit G to this Application. Two major points were raised by attendees during the sessions: (1) reinsurance programs such as the one proposed, like any other insurance affordability initiative, redistribute the funding resources within the health care cost payment system but do not address underlying high health care costs; and (2) reinstitution of the $4 per member per month assessment is of concern to the employer representatives who spoke, though they acknowledged that similar assessments were levied by

MGARA in 2012–13 and by the federal transitional reinsurance program from 2014–16.

A thirty-day public comment period was held from April 2, 2018 through May 2, 2018. Written comments were received from the following nine interests:

- American Lung Association;
- American Cancer Society Cancer Action Network
- American Heart Association & American Stroke Association
- Anthem Blue Cross/Blue Shield
- Epilepsy Foundation & Epilepsy Foundation New England
- Maine Association of Health Plans
- Maine Hospital Association
- Maine State Chamber of Commerce, and
- National Multiple Sclerosis Society

These comments are set forth as Exhibits H-1 to H-9 to this Application.

B. Tribal Consultation

Maine has four federally-recognized tribes, the Aroostook Band of Micmacs, the Houlton Band of Maliseets, the Passamaquoddy Tribe and the Penobscot Nation. Representatives of each of these tribes were contacted, information about the proposal was provided and consultation with or comments from the tribes were solicited. No comments were received from any of the tribes. Communications with each tribe are set forth as Exhibit I-1 to I-4 of this Application.