

Idaho Department of Insurance



DRAFT

Fair Access to Health Coverage Waiver Application

**Pursuant to Section 1332 of the Patient Protection & Affordable Care Act,
Encouraging State Innovation**

February 12, 2018

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EXECUTIVE SUMMARY

The State of Idaho, through the Idaho Department of Insurance (IDOI) and in conjunction with Idaho's state-run health insurance exchange, Your Health Idaho, submits this Section 1332 State Innovation Waiver request to the Centers for Medicare and Medicaid Services (CMS), a division of the United States Health and Human Services (HHS), and to the United States Department of the Treasury. The goals of the proposed Section 1332 Waiver, also known as the Idaho Fair Access to Health Coverage Waiver or Fair Access Waiver, are to:

1. Increase overall participation in Idaho's individual health insurance market.
2. Provide affordable coverage options to working Idaho households with incomes below 100% of the Federal Poverty Level (FPL) who are U.S. citizens and not eligible for Medicaid, through the same mechanism by which lawfully-present aliens currently obtain affordable coverage.
3. In conjunction with Idaho's proposed Section 1115 Medicaid Waiver and Idaho Individual High Risk Pool, stabilize and decrease the cost of insurance premiums in the individual health insurance market.

As background, the Patient Protection & Affordable Care Act (ACA) expanded affordability of health coverage in several ways. Individuals and families not eligible for Medicaid under previously established eligibility categories (age, disability, parental status, etc.) became newly eligible for Medicaid provided their income did not exceed 138% FPL. Those not eligible for Medicaid or affordable employer-sponsored health insurance could qualify for help paying their health insurance premiums via Advance Premium Tax Credits (APTC), provided their incomes were from 100% to 400% FPL. Individuals and households with incomes between 100 and 250% FPL became eligible for help in paying out-of-pocket costs such as deductibles, coinsurance or copayments through cost-sharing reductions (CSRs). Lawfully-present aliens with income under 100% FPL who were ineligible for Medicaid became eligible for APTC and CSRs as if their household income were 100% FPL.

At the time of the ACA's passage, it was assumed that all U.S. citizens and lawfully-present aliens with incomes under 400% FPL and not eligible for an employer-sponsored health plan would potentially qualify for financial assistance in obtaining affordable coverage, either through public programs, i.e., Medicaid, the Children's Health Insurance Program (CHIP) or Medicare, or through an individual health plan in the commercial insurance market. However, in *National Federation of Independent Business v. Sebelius, Secretary of Health and Human Services, et al.*, 132 S.Ct. 2566 (2012), the U.S. Supreme Court, while upholding most provisions of the ACA, ruled that states could not be required to expand Medicaid to 138% FPL in order to receive funding for the existing Medicaid program. Therefore, 19 states, including Idaho, opted not to expand Medicaid.

Idaho estimates that approximately 38,000 working Idaho residents have incomes of under 100% FPL. Due to the requirement to have income of at least 100% FPL in order to qualify for APTC, these Idahoans are effectively locked out of the commercial health insurance market due to the unaffordability of coverage. While these working U.S. citizens are ineligible for APTC, lawfully-present aliens falling into the same income range are eligible for and receive APTC.

Idaho's Fair Access Waiver will extend APTC and CSR eligibility to those working citizens who file federal income tax returns with income below 100% FPL. These individuals and families, expected to be around 17,000 lives, will qualify for APTC to the same extent as those with incomes of 100% FPL. These Idahoans will also qualify for CSRs when enrolled in a silver plan through the exchange, which will provide cost sharing at a 94% actuarial value.

The Fair Access Waiver is but one component of Idaho's Health Care Plan. Idaho is applying for a Section 1115 Medicaid Waiver, submitted by the Idaho Department of Health and Welfare, which is designed to be contingent on the approval and implementation of the Fair Access Waiver. The proposed Section 1115 Waiver, called the Complex Medical Needs Waiver, adds a new Medicaid eligibility category for individuals with certain chronic medical conditions whose countable income is from 0% to 400% FPL and are not eligible for affordable employer-sponsored health coverage or other coverage such as Medicare. Moving those individuals into the Complex Medical Needs Waiver will lower federal APTC costs by substantially reducing the premium rates for individual health insurance plans, due to those costly medical conditions no longer being a part of the individual risk pool.

Additionally, Idaho has recently implemented changes to the Idaho Individual High Risk Pool (IIHRP). Insurers will be able to cede for reinsurance those enrolled in individual major medical coverage who have been diagnosed with other specific high-risk medical conditions. Idaho projects a small additional reduction in the individual market premiums due to the IIHRP, which also serves to lower federal APTC costs by reducing premiums in the individual market.

The combined approach of the Idaho Health Care Plan produces sufficient federal APTC cost savings to extend premium tax credits and cost-sharing assistance, through the Fair Access Waiver, to hardworking Idaho households with incomes below the federal poverty level while meeting all the criteria for a Section 1332 Waiver approval.

ASSURANCES

Idaho’s Fair Access Waiver is designed to meet the four key requirements of any Section 1332 Waiver: comprehensiveness, affordability, scope of coverage, and federal deficit neutrality. As demonstrated by the full economic and actuarial analyses in Appendix C of this application, the State of Idaho provides the following assurances:

Comprehensiveness. Section 1332(b)(1)(A) of the ACA requires that any waivers provide coverage at least as comprehensive as that defined in section 1302(b) of the ACA. Comprehensiveness of coverage will be unchanged by the waiver, as Idaho does not propose to waive any of the requirements concerning the ten Essential Health Benefits, and the waiver will not result in individuals losing coverage or moving to less comprehensive coverage.

Affordability. As required under section 1332(b)(1)(B) of the ACA, the proposed waiver provides for coverage and cost-sharing protections at least as affordable as those provided under Title I of the ACA. The proposed waiver will greatly increase affordability for working U.S. citizens with incomes under 100% FPL who are currently ineligible for any financial assistance programs. Affordability for other populations, such as with incomes above 400% FPL or otherwise purchasing individual health insurance coverage outside of the exchange, will also improve as a result of the premium reductions through the Idaho Health Care Plan.

Scope of Coverage. Section 1332(b)(1)(C) of the ACA requires that any Section 1332 Waiver must provide coverage to at least a comparable number of state residents as is provided under Title I of the ACA. Idaho’s proposed waiver will not decrease the number of Idahoans with health coverage. Because the waiver will make premium and cost-sharing assistance available to a greater number of very low-income Idahoans, the scope of coverage will increase.

Deficit Neutrality. Section 1332(b)(1)(D) requires that waivers be deficit neutral. Idaho’s proposed waiver will not result in increased federal spending, but is expected to result in a savings of federal money. By reducing premiums in the individual health insurance market, the waiver will result in lower APTC amounts for each qualifying household. These savings are sufficient to extend APTC eligibility to Idaho citizens with income under 100% of the poverty level.

Table 1

Projected Federal Government Expenditures Changes: 2019 through 2028 (Millions)										
Revenue / (Expense) Item	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028
Federal APTC Expenditures (Currently Eligible)	\$(98)	\$(105)	\$(112)	\$(120)	\$(128)	\$(137)	\$(147)	\$(157)	\$(168)	\$(179)
Federal APTC Expenditures (Newly Eligible)	\$94	\$100	\$106	\$112	\$119	\$127	\$134	\$142	\$151	\$160
Net Change in Federal Expenditures	\$(3)	\$(5)	\$(6)	\$(7)	\$(9)	\$(10)	\$(12)	\$(15)	\$(17)	\$(19)

Note: Total values are rounded separately

DESCRIPTION OF IDAHO'S SECTION 1332 WAIVER PROGRAM

Section 1332 of the ACA creates a new Waiver for State Innovation and authorizes the Secretaries to waive specific requirements, including Section 36B (relating to refundable credits for coverage under a qualified health plan) of the Internal Revenue Code. This waiver application is to waive a specific constraint found at 26 U.S. Code § 36B(c)(1)(B), removing the requirement that tax credits for those households under 100% FPL only be given to those with "alien status."

The relevant citation, with the waived constraint stricken-through, is as follows:

26 U.S. Code § 36B(c)(1)(B)

(B) Special rule for certain individuals lawfully present in the United States

If—

- (i) a taxpayer has a household income which is not greater than 100 percent of an amount equal to the poverty line for a family of the size involved, and
- (ii) the taxpayer is ~~an alien~~ lawfully present in the United States, but is not eligible for the medicaid program under title XIX of the Social Security Act ~~by reason of such alien status,~~

the taxpayer shall, for purposes of the credit under this section, be treated as an applicable taxpayer with a household income which is equal to 100 percent of the poverty line for a family of the size involved.

By waiving the restriction that the special rule tax credit only be available to aliens, working U.S. citizens gain the same access to tax credits that was previously only available to lawfully-present aliens. These low-income (below 100% FPL) working households have no other access to affordable health insurance in states such as Idaho, which has not expanded Medicaid.

The State of Idaho, through the Idaho Department of Health and Welfare (IDHW), is already fully responsible for determining all premium tax credit eligibility. There are currently thousands of lawfully-present aliens with household incomes below 100% FPL receiving APTC and CSRs. Upon waiver approval and modifying the IDHW eligibility rules, this additional population of citizens will have access to affordable health insurance at a total cost much less than if Idaho adopted the full Medicaid expansion option.

COVERAGE AND SPENDING UNDER STATUS QUO

Without the proposed Section 1332 Waiver, an estimated 95,000 Idaho residents will have coverage through Idaho’s individual health insurance market in 2019, increasing to an estimated 100,000 in 2028, as shown in Table 2 below.

Table 2

Projected Individual Market Enrollees by Household Income Without Waiver (Thousands)										
Income Level % of FPL	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028
0% to 100%	1	1	2	2	2	2	2	2	2	2
100% to 400%	71	72	73	74	75	76	77	78	78	80
400%+	22	21	20	20	19	19	19	19	19	19
Total	95	95	95	95	96	97	98	98	99	100

Note: Total values are rounded separately

Individual market enrollees receiving APTC is estimated at 71,000 in 2019, rising to 79,000 in 2028 without the 1332 waiver. Federal spending for APTC is estimated at an aggregate \$468M APTC in 2019 without the waiver, with an increase to \$843M in 2028; see Table 3 below.

Table 3

Projected APTC Enrollment and Expenditures Without Waiver										
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028
0% to 100%										
APTC Enrollees	1K	1K	2K							
APTC PMPM	\$746	\$785	\$826	\$869	\$914	\$962	\$1,012	\$1,065	\$1,120	\$1,177
Aggregate APTC	\$13M	\$14M	\$15M	\$16M	\$17M	\$18M	\$19M	\$21M	\$22M	\$24M
100% to 400%										
APTC Enrollees	71K	71K	72K	73K	74K	75K	76K	77K	78K	79K
APTC PMPM	\$538	\$565	\$596	\$630	\$664	\$701	\$739	\$779	\$821	\$865
Aggregate APTC	\$455M	\$485M	\$518M	\$554M	\$592M	\$632M	\$675M	\$721M	\$769M	\$820M
Total										
APTC Enrollees	72K	73K	74K	75K	76K	77K	78K	79K	80K	81K
APTC PMPM	\$542	\$570	\$601	\$634	\$669	\$706	\$745	\$785	\$827	\$871
Aggregate APTC	\$468M	\$499M	\$533M	\$570M	\$609M	\$651M	\$695M	\$741M	\$791M	\$843M

Note: Total values are rounded separately

COVERAGE AND SPENDING WITH IDAHO HEALTH CARE PLAN

Implementation of the Section 1332 and Section 1115 waivers plus the Idaho Individual High Risk Pool is projected to affect the Idaho individual health insurance market beginning in 2019. There are also impacts to Medicaid enrollment and costs, which per CMS instruction are demonstrated in the Section 1115 waiver application and not part of this application. The Idaho Individual High Risk Pool provides reinsurance coverage to individual market health insurance plans, reducing the premium charged and APTC paid to individuals.

In total with the Idaho Health Care Plan, individual market enrollees are projected to increase from 118,000 in 2019 to 125,000 in 2028, which is between 24,000 and 26,000 more Idahoans per year accessing affordable health insurance than expected without the waivers. Table 4 summarizes the projected enrollment for 2019 through 2028 with full implementation of the Idaho Health Care Plan.

Table 4

Projected Individual Market Enrollees by Household Income With Waiver (Thousands)										
Income Level % of FPL	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028
0% to 100%	18	19	19	19	19	20	20	20	20	20
100% to 400%	69	70	71	72	73	74	75	76	77	78
400%	30	29	28	28	27	27	27	27	27	27
Total	118	118	118	119	120	121	121	122	124	125

Note: Total values are rounded separately

In addition to the enrollees shown in Table 4, an estimated 3,000 individuals would be Medicaid eligible through the Section 1115 waiver each year beginning in 2019; some of those would be formerly uninsured, while others would move from individual health insurance coverage to Medicaid.

Of the population already eligible for APTC (100% to 400% FPL), there would be an estimated 68,000 enrolled in individual market health insurance plans and receiving APTC in 2019, growing to 77,000 in 2028. In 2019, the average APTC of this group is projected to be \$439 per member per month (PMPM), compared to \$538 PMPM without the waiver. By 2028, the average APTC is projected to be \$701 PMPM, compared to \$865 PMPM without the waiver.

With the Idaho Health Care Plan, an estimated 18,000 Idahoans with household incomes under 100% FPL would enroll in individual market coverage with APTC, increasing to 20,000 in 2028. In 2019, the average APTC of this group is projected to be \$474 PMPM. By 2028, the average APTC is estimated at \$732 PMPM.

Total APTC-eligible enrollment is therefore projected to increase from 72,000 in 2019 without the Idaho Health Care Plan to 87,000 in 2019 with the plan. Federal spending for APTC is estimated to

decrease from \$542 PMPM in 2019 without the plan to \$446 PMPM with the plan; see Table 5 below.

Table 5

Projected APTC Enrollment and Expenditures With Waiver										
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028
0% to 100%										
APTC Enrollees	18K	19K	19K	19K	19K	20K	20K	20K	20K	20K
APTC PMPM	\$474	\$497	\$521	\$548	\$575	\$604	\$634	\$665	\$698	\$732
Aggregate APTC	\$105M	\$111M	\$118M	\$126M	\$133M	\$141M	\$150M	\$159M	\$169M	\$179M
100% to 400%										
APTC Enrollees	68K	69K	70K	71K	72K	73K	74K	75K	76K	77K
APTC PMPM	\$439	\$461	\$484	\$511	\$539	\$569	\$599	\$632	\$665	\$701
Aggregate APTC	\$360M	\$383M	\$409M	\$438M	\$467M	\$499M	\$532M	\$568M	\$605M	\$645M
Total										
APTC Enrollees	87K	88K	89K	90K	92K	93K	94K	95K	96K	97K
APTC PMPM	\$446	\$469	\$492	\$519	\$547	\$576	\$607	\$639	\$672	\$707
Aggregate APTC	\$465M	\$494M	\$527M	\$563M	\$601M	\$640M	\$682M	\$727M	\$774M	\$824M

Note: Total values are rounded separately

Table 6 summarizes the projected APTC enrollment and expenditures for 2019 through 2028, both with and without the Idaho Health Care Plan. Beginning in 2019, savings to the federal government in the form of APTC payments are estimated at \$3 million, growing to \$19 million in 2028. The full assumptions and methodologies of this projection are found in Appendix C.

Table 6

Projected APTC Enrollment and Expenditures With and Without Waiver										
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028
Without Waiver										
APTC Enrollees	72K	73K	74K	75K	76K	77K	78K	79K	80K	81K
APTC PMPM	\$542	\$570	\$601	\$634	\$669	\$706	\$745	\$785	\$827	\$871
Aggregate APTC	\$468M	\$499M	\$533M	\$570M	\$609M	\$651M	\$695M	\$741M	\$791M	\$843M
With Waiver										
APTC Enrollees	87K	88K	89K	90K	92K	93K	94K	95K	96K	97K
APTC PMPM	\$446	\$469	\$492	\$519	\$547	\$576	\$607	\$639	\$672	\$707
Aggregate APTC	\$465M	\$494M	\$527M	\$563M	\$601M	\$640M	\$682M	\$727M	\$774M	\$824M
Net Change										
APTC Enrollees	15K	15K	15K	16K						
APTC PMPM	\$(96)	\$(101)	\$(109)	\$(115)	\$(123)	\$(130)	\$(138)	\$(146)	\$(155)	\$(164)
Aggregate APTC	\$(3)M	\$(5)M	\$(6)M	\$(7)M	\$(9)M	\$(10)M	\$(12)M	\$(15)M	\$(17)M	\$(19)M

Note: Net values are rounded separately

COST AND COVERAGE COMPARISON TO AN ACA MEDICAID EXPANSION

Idaho's challenge is to increase coverage options and affordability for working-age Idaho residents who are not offered employer-sponsored health coverage, while keeping state and federal spending under control. Solutions to this challenge must also be viable politically and philosophically within Idaho – emphasizing flexibility, accountability for able-bodied Idahoans in the form of cost-sharing, and controlling costs while not increasing entitlement programs. The Idaho Health Care Plan is designed to carefully balance the various needs described above, while meeting the federal requirements for Section 1332 State Innovation waivers and Section 1115 Medicaid waivers.

The ACA provided a specific mechanism to provide an affordable coverage option to Idahoans with household incomes below 138% FPL: Medicaid expansion at a higher Federal Medical Assistance Percentage (FMAP) of 90%. Idaho chose not to enact that Medicaid expansion, leaving Idahoans with incomes below 100% FPL without any real option for affordable coverage.

The Idaho Health Care Plan provides an alternative mechanism, utilizing the existing premium tax credit structure, to provide an affordable coverage option to the same low-income Idahoans that would be covered if Idaho were to expand Medicaid. Since the plan offers coverage to the same cohort as the ACA Medicaid expansion option, IDOI strongly believes that for Idaho's Section 1332 State Innovation waiver application, the deficit neutrality demonstration should account for the expected federal costs if Idaho had expanded Medicaid as allowed and expected by the ACA.

The guidance CCIIO has provided to IDOI to date is that the Idaho Health Care Plan must show federal deficit neutrality without consideration of the costs the federal government would bear had Idaho expanded Medicaid as expected by the ACA. Therefore all other sections of the application, including the full actuarial and economic projections, demonstrate federal neutrality as prescribed by CCIIO: excluding the federal costs associated with Medicaid expansion.

For informational and discussion purposes, this section provides the 2019 federal deficit neutrality and coverage estimates had Idaho been permitted to compare against the federal costs of covering the same population as the Idaho Health Care Plan through the prescribed mechanism of Medicaid expansion.

Under the first of the three scenarios compared in Table 7 below, Idaho continues with the status quo: without the Section 1332 or Section 1115 waivers, and without expanding Medicaid to households with incomes up to 138% FPL. Idaho forgoes the opportunity to bring down the cost of health insurance in the individual market or to address the unequal treatment of low-income working citizens compared to lawfully-present aliens.

The second scenario is that of Idaho accepting the ACA's Medicaid expansion, and not pursuing the Section 1332 or Section 1115 waivers. Had Idaho chosen to expand Medicaid coverage to households with incomes of 138% FPL and below, the projected federal costs are roughly \$753 million, which is \$285 million more than the status quo in 2019, and increasing each year thereafter.

The ACA Medicaid expansion includes no premium requirements for the new enrollees, which results in strong uptake of up to 120,000 new lives covered by Medicaid. Approximately 20,000 of

those new Medicaid lives would transition off of prior APTC and CSR assistance. Idaho's cost at the 90% FMAP is approximately \$52 million in 2019.

The third scenario of the Idaho Health Care Plan represents a market-based solution to offer coverage to the same population as Medicaid expansion and reduce individual market premiums for all Idahoans. More Idahoans have access to affordable healthcare than with the status quo, with lower state and federal costs than expanding Medicaid.

Table 7 provides a summary comparison of the enrollment and cost of the three scenarios. The Idaho Health Care Plan is substantially deficit neutral to the status quo, and it is a substantially less costly alternative coverage method for the same population as Medicaid expansion. While the number of lives is less under the Idaho Health Care Plan than under Medicaid Expansion, the reduction is largely attributable to the minor premium responsibility (2% of household income) and the requirement to file taxes in order to receive APTC. Both of those add a degree of personal responsibility, rather than establishing a new entitlement, which align with the goals of the Plan.

Table 7

Projected 2019 Insured Lives Receiving Subsidized Coverage			
Income Level	Status Quo	Medicaid Expansion	Idaho Health Care Plan
<100% FPL	1,000	82,000	18,000
100% to 138% FPL	20,000	41,000	20,000
139% to 400% FPL	51,000	50,000	52,000
Total	72,000	173,000	90,000
Projected 2019 Federal APTC Expenditures			
Income Level	Status Quo	Medicaid Expansion	Idaho Health Care Plan
<100% FPL	\$13,000,000	\$0	\$105,000,000
100% to 138% FPL	\$154,000,000	\$0	\$125,000,000
139% to 400% FPL	\$301,000,000	\$281,000,000	\$235,000,000
Total	\$468,000,000	\$281,000,000	\$465,000,000
Projected 2019 Federal Medicaid Expenditures			
Income Level	Status Quo	Medicaid Expansion	Idaho Health Care Plan
<100% FPL	\$0	\$313,000,000	\$21,000,000
100% to 138% FPL	\$0	\$159,000,000	\$11,000,000
139% to 400% FPL	\$0	\$0	\$39,000,000
Composite	\$0	\$472,000,000	\$71,000,000
Aggregate 2019 Federal Expenditures	\$468,000,000	\$753,000,000	\$536,000,000

Note: Values are rounded

AUTHORIZING LEGISLATION

Legislation has been submitted for presentation to and approval by the 2018 Idaho State Legislature as House Bill 464. Please see Appendix B for the full bill text.

The proposed bill enables the Director of the IDOI to apply for and implement a Section 1332 Waiver. A new section that applies to the individual health insurance market is created at Idaho Code § 41-5213, and if approved by the legislature unchanged, will read as follows:

41-5213. AUTHORITY TO APPLY FOR STATE INNOVATION WAIVER. The director may apply to the United States secretary of health and human services under the patient protection and affordable care act, 42 U.S.C. 18052 for a waiver of applicable provisions of Public Law 111-148, with respect to health insurance coverage subject to the provisions of this chapter. Contingent on federal approval of a state innovation waiver that provides United States citizens who are ineligible for medicaid equal access to the premium tax credit as legal noncitizens, the department of insurance, department of health and welfare and the Idaho health insurance exchange have authority to implement the state's plan for the state innovation waiver. If the federal department of health and human services denies Idaho's state innovation waiver, the authority to implement such waiver will sunset on July 1, 2019.

Title 41, Chapter 55 of Idaho Code, which governs the Idaho Individual High Risk Pool, is also amended by the proposed legislation. A new subsection (4) is added to Idaho Code § 41-5503, stating that:

Contingent on approval of a waiver of applicable provisions of the patient protection and affordable care act, Public law 111-148, the board shall review the plan of operation to identify changes to paragraphs (c) through (f) of subsection (3) of this subsection necessary to better serve Idahoans enrolled in individual health benefit plans and to stabilize the individual health insurance market. The board shall submit recommended changes to the director for approval.

The proposed legislation also amends Idaho Code § 56-254, which delineates the classes of persons eligible for Medicaid in Idaho. The legislation will add a new paragraph (j) to subsection (2) of this section to identify a new category of eligible Medicaid recipients:

Effective as soon as federal approval for coverage can be obtained, persons with costly and complex medical conditions in accordance with department rule who

- (i) Are under the age of sixty-five (65) years;
- (ii) Have incomes less than the maximum allowable level for federally supported advance premium tax credits;
- (iii) Are not eligible for other coverage under this chapter; and
- (iv) Do not have access to affordable employer-sponsored coverage as defined in 26 CFR 1.36B.

Idaho Code § 56-257 addresses cost sharing for Medicaid recipients. The legislation will add a new subsection (3) concerning the establishment of premiums for individuals eligible for Medicaid under the 1115 Medicaid Waiver:

In accordance with federal medicaid law and regulations, and subject to the terms of any waivers granted by the federal centers for medicare and medicaid services, the department of health and welfare will establish premiums for medicaid participants described in section 56-254(2)(j), Idaho Code.

IMPACT IF WAIVER NOT GRANTED

If Idaho's Fair Access Waiver is not granted, working Idahoans with incomes below 100% FPL will continue to be without affordable healthcare options. There will continue to be preferred treatment of aliens over citizens regarding access to APTC and CSRs. Because Idaho has not opted to expand Medicaid, and given that premiums in the individual health insurance market have continued to rise over the past several years, coverage will only become more and more unaffordable for these low-income Idahoans.

CHARACTERISTICS OF IDAHO HEALTH INSURANCE MARKET

Per the United States Census Bureau, the overall Idaho population was estimated at 1,683,140 as of July 1, 2016. Of these Idahoans, 6.8% are under age 5; 19.2% are at least age 5 but under age 18; 58.9% are at least age 18 but under age 65; and 15.1% are age 65 and older. As of 2015, the Census Bureau estimated median household income was \$47,583, with 14.4% of Idahoans living below the federal poverty level.

Concerning the health insurance status of Idaho residents, the IDOI performs an annual survey of health insurance carriers to determine the number of Idahoans with commercial health insurance coverage, as well as the type of coverage (individual versus group, fully-insured versus self-funded, etc.). At the end of 2016, 124,589 Idaho residents were enrolled in individual coverage, including both on-exchange and off-exchange. Another 280,898 residents were enrolled in group coverage; of these, 75,985 were covered through small employers.

Self-funded employer plans covered 364,906 individuals as of the end of 2016.

Concerning coverage through public programs, per medicare.gov, CMS estimated that 183,997 Idahoans were enrolled in original Medicare and 79,687 were enrolled in Medicare Advantage plans in 2016. Per medicaid.gov, estimated Medicaid enrollment for Idahoans was 263,877 in 2016 (including children and adults), while enrollment in the Children's Health Insurance Program (CHIP) was 35,964 for the same year. 2016 TRICARE enrollment for Idahoans was 52,245, and those enrolled in VA Care numbered 44,122.

For 2018 in Idaho, four on-exchange insurers are offering a total of 121 individual and 139 small group plans.

ADMINISTRATIVE BURDEN

Idaho does not anticipate any significant increase in administrative burden as a result of the proposed waiver. The IDHW already has a system in place for the processing of applications from those seeking financial assistance for health coverage. When applications from individuals with incomes from 0% to 100% FPL are received, the IDHW already must verify income, determine Medicaid eligibility, and otherwise process the application. With the waiver in place, this process would be the same except that applicants would receive a notice of eligibility for APTC rather than a denial for all assistance. Additionally, the IDHW is often already providing other benefits to a significant number of the Idahoans who would be eligible for APTC under this waiver, such as Medicaid for the children of these individuals, or the Supplemental Nutrition Assistance Program (SNAP).

Your Health Idaho (YHI), Idaho's exchange, would similarly be able to serve these newly-eligible APTC recipients without needing to add new resources. Multiple insurers offer individual health plans through the exchange, giving these potential new enrollees ample choice in selecting coverage. YHI has over 900 certified enrollment counselors, many of them licensed insurance agents, in place to assist consumers with plan selection at open and special enrollment periods. These resources would be well able to handle an increase in applicants seeking their guidance.

EFFECT ON ACA PROVISIONS NOT WAIVED

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

EFFECT ON IDAHOANS NEEDING TO OBTAIN SERVICES OUT OF STATE

Idaho's proposed Section 1332 Waiver will not reduce the ability of Idaho residents to receive health care services out of state. Idahoans who gain access to health insurance due to the waiver will newly be able to receive covered services out of state to the extent that their health plans provide.

WASTE, FRAUD AND ABUSE

Idaho does not expect any impact on waste, fraud and abuse as a result of the proposed waiver. Effective programs are already in place to prevent and detect waste, fraud and abuse.

- The IDHW currently has in place a robust verification system for Idahoans who apply for financial assistance to ensure that only qualified applicants are approved for assistance.
- YHI conducts initial and periodic verification of non-financial criteria; consumers are disenrolled for fraud or non-payment of premiums. YHI also monitors enrollment counselors to ensure interactions with the public are ethical. The YHI Board and its Finance Committee oversee YHI's financial integrity and work to ensure funds are spent wisely; an independent auditor performs annual financial and programmatic audits for the Committee's review.
- The IDOI currently guards against waste, fraud and abuse in multiple ways. The IDOI's Consumer Services Bureau serves to protect consumers from illegal or deceptive practices, investigates allegations of individuals filing fraudulent insurance claims, and receives and researches consumer complaints against insurers and others transacting insurance business. The IDOI's Company Activities Bureau monitors the financial condition of all health insurers transacting business in Idaho, with particular emphasis including examination of those domiciled within the state, to assure company solvency. It also licenses and regulates insurance producers.

PUBLIC HEARINGS AND TRIBAL NOTICE

The draft 1332 waiver was publicly posted on the IDOI website, along with the 1115 waiver; both waivers were also posted at the IDHW website. Public hearings were held in three different locations on December 7, 2017, December 8, 2017 and December 12, 2017 (See Appendix D). Public comments were received in person and in writing at the hearings, and in writing and via email through the comment period, which ended December 15, 2017.

Separate notice to tribal representatives was provided (Appendix E), and a tribal consultation was held November 8, 2017. Further discussions with Idaho tribal representatives were held December 8, 2017 and December 12, 2017.

PUBLIC COMMENTS

Public hearings were held in three different locations on December 7, 2017, December 8, 2017 and December 12, 2017. Public comments were received in person and in writing at the hearings, and in writing and via email through the comment period, which ended December 15, 2017.

Individual comments on the 1332 waiver are included as Appendix F of this application. Since the hearings were for the purpose of public comment on the 1115 Medicaid waiver as well as the Section 1332 waiver, some commenters provided input only on the 1115 waiver or only on the 1332 waiver, while others commented on both waivers.

Comments on the Section 1332 State Innovation Waiver were generally positive:

- Providing coverage to those with incomes under 100% FPL is the right thing to do.
- By helping parents who currently fall into the coverage gap, we can also help Idaho children; children thrive only when parents are happy, healthy and stable; also research shows that when parents are insured, children are more likely to be insured.
- It makes sense to make coverage available for Idahoans who are U.S. citizens as well as for those who are lawful permanent residents.
- The waiver would be good for Idaho businesses and the economy in general.
- Many working Idaho citizens are not able to get treatment for chronic conditions, not earning enough to qualify for a tax credit and earning too much for Medicaid eligibility.
- The waiver would be beneficial to farmers, ranchers and the agricultural community in general, some of these individuals do not have income that meets or exceeds 100% FPL.
- Currently many individuals whose income is too low to qualify for a premium tax credit receive assistance through their county's Medically Indigent Program when they experience a high-cost medical event; making it affordable for these individuals to enroll in private coverage would save county funds.
- In conjunction with the 1115 Medicaid Waiver, the 1332 Waiver would help stabilize the private insurance market, with the potential to reduce premiums in the individual market.
- A health care company expressed support of the waiver on the basis that the overall health of Idahoans would be improved due to a decrease in the uninsured.
- A commenter who worked with refugee families expressed that many refugees also fall into the coverage gap, and approval of the 1332 waiver would help these individuals.
- Several insurance carriers commented in favor of the waiver on the basis that its implementation would provide affordable coverage to low-income Idahoans, improve market stability and improve the risk within the individual market.

Some caveats and concerns were expressed:

- The waiver would not help those with income under 100% FPL who do not file a federal income tax return.
- Medicaid expansion is a better solution to helping those in the coverage gap; several commenters expressed that implementation of the waiver would be a good "first step" until such time as Medicaid could be expanded.
- A robust outreach campaign will be necessary to reach those who fall in the coverage gap.
- A backup plan to provide assistance to Idahoans with incomes under 100% FPL should be prepared in case the waiver is not approved.

- A commenter expressed appreciation for the creative approach Idaho is taking, but also expressed concern that it might not meet the budget neutrality requirements and therefore not meet with CMS's approval.
- One commenter entirely opposed the waiver, stating that providing health insurance is not responsibility of the government or taxpayers.
- An individual commented that the draft waiver did not include the actuarial analysis and other detailed information and expressed that an opportunity for public comment should take place after the entire application is complete.

Representatives of Tribal members expressed the following:

- The Northwest Portland Area Indian Health Board (NPAIHB) requested a longer comment period in order to meaningfully analyze the implications on tribal providers and communities.
- NPAIHB also stated that tribal members with income under 100% FPL should be eligible for zero cost-sharing, and further, that Medicaid expansion would be a better solution to the coverage gap than the waiver.
- The Fort Hall Business Council of the Shoshone-Bannock Tribes requested more time to submit comments.

IMPLEMENTATION TIMELINE

The Idaho Section 1332 Waiver will be implemented through operational system changes at the IDHW. The IDHW processes all APTC applications already, and the required changes in that one system would cascade through the other relevant systems of YHI and carriers. No new state program or board would be needed. Beyond the legislation authorizing the waivers, the IDHW may have administrative rule changes that will need legislative approval.

Therefore, the proposed timeline for full implementation of the waiver is January 2019, as that is the first month citizens with income below 100% FPL will receive APTC and CSRs. The proposed timeline leading up to that full implementation is as follows, acknowledging that dates may change as the process continues:

November 1, 2017	Draft waiver application published on the state's website and in the four newspapers with the widest circulation in the state, public comment period begins
November 8, 2017	Separate tribal consultation held
December 6, 2017	Abbreviated public notice posted in the state's Administrative Bulletin
December 7, 2017	First public comment hearing is held in Boise, ID
December 8, 2017	Second public comment hearing is held in Pocatello, ID
December 12, 2017	Third public comment hearing is held in Coeur d'Alene, ID
December 15, 2017	Public comment period ends
February 2018	Waiver application is submitted to CMS
March 2018	CMS determines waiver application is complete
April 2018	Enacting legislation for 1115 and 1332 waivers signed
May 2018	CMS grants 1332 waiver
July 2018	IDHW 1115 waiver begins
July 2018	IDHW eligibility system finalized for 2019 open enrollment period determinations
October 2018	IDHW begins determining APTC and CSR eligibility under waiver rules
January 2019	Health coverage and APTC payments begin for newly waiver-eligible enrollees
January 2020	YHI provides 1095 documents for the 2019 coverage year to waiver-eligible enrollees at the same time as all other enrollees

REPORTING RESPONSIBILITIES

In accordance with 45 CFR 155.1308(f)(4)(vi), the IDOI will submit quarterly, annual and cumulative targets for the scope of coverage requirement, the affordability requirement, the comprehensive requirement, and the federal deficit requirement. As required, Idaho will hold public meetings six months after the proposed waiver is granted and annually thereafter. The date, time, and location of each forum will be posted on the IDOI website. The IDOI will also notify consumer and business organizations. Each meeting will be conducted at a site that allows both in-person and telephonic attendance to accommodate residents across the state. See Appendix A for additional reporting details.

APPENDICES

A. REPORTING TARGETS

Per 45 CFR 155.1308(f)(4)(vi), the IDOI will submit quarterly, annual and cumulative targets for the scope of coverage, affordability, comprehensive, and federal deficit requirements.

In addition, Idaho proposes to include in reports:

- Evidence of compliance with public forum requirements (within six months after waiver implementation and annually thereafter), including date, time, place, description of attendees, the substance of any public comments and Idaho’s response, if any.
- Information about any challenges Idaho may face in implementing and sustaining the waiver program and its plan to address the challenges.
- A description of any substantive changes in Idaho’s insurance market, such as the number of insurers serving the individual market and offering individual plans on Idaho’s exchange.
- Any other information consistent with the terms and conditions in Idaho’s approved waiver.

Comprehensiveness. Idaho does not propose to waive any of the requirements pertaining to comprehensiveness of coverage, and the waiver will not result in individuals losing coverage or moving to less comprehensive coverage.

Affordability. Idaho anticipates that the proposed waiver will greatly increase affordability for U.S. citizens with incomes under 100% FPL who will be newly eligible for premium tax credits and cost-sharing reductions. Additionally, affordability for other Idahoans purchasing coverage in the individual market, both on and off exchange, will be improved as a result of the premium reductions through the Idaho Health Care Plan.

Idaho will report on a quarterly basis the PMPM premium for ACA-compliant plans in the individual market.

2019 Individual Health Insurance Market Individual ACA Premium PMPM						
	Q1	Q2	Q3	Q4	Actual Annual	Estimated Annual
Actual Premium PMPM						\$482

Scope of Coverage. Idaho expects that, due to the increase in affordability, a greater number of Idaho residents will have coverage in the individual market. Idaho will submit quarterly reports on the individual market enrollment for both on and off exchange.

2019 Individual Market Enrollees (Thousands)						
Income Level % of FPL	Q1	Q2	Q3	Q4	Actual Annual	Estimated Annual
Actual On-Exchange						
Actual Off-Exchange						
Actual Total						118

Deficit Neutrality. Idaho’s proposed waiver, by reducing overall premiums in the individual health insurance market, will result in lower APTC amounts for each qualifying household enrolling through the exchange, taking into account that additional Idahoans (U.S. citizens with income under 100% of the poverty level) will be eligible for APTC.

IDOI will report each quarter on the APTC expended on Idaho residents who enroll through the state’s exchange, Your Health Idaho. Expenditures will be broken out between those paid towards newly eligible APTC recipients (income under 100% of poverty level), and those for individuals who were APTC-eligible prior to the waiver’s implementation. Idaho will also report on the PMPM APTC received by both newly eligible and currently eligible APTC recipients by income cohort.

The first quarterly report will be submitted on or about June 1, 2019, and will report 2019 APTC expenditures as of the first quarter of 2019 (ending March 31, 2019). By capturing APTC expenditures on a quarterly basis, Idaho will be able to determine the extent to which the expenditures are on track to meet or exceed the annual estimated expenditures.

2019 APTC Enrollment and Expenditures						
Revenue / (Expense) Item	Q1	Q2	Q3	Q4	Actual Annual	Estimated Annual
Actual (0%-100%)						
APTC Enrollees						18K
APTC PMPM						\$474
Aggregate APTC						\$105M
Actual (100%-400%)						
APTC Enrollees						68K
APTC PMPM						\$439
Aggregate APTC						\$360M
Actual Total						
APTC Enrollees						87K
APTC PMPM						\$446
Aggregate APTC						\$465M

B. FULL LEGISLATION

STATEMENT OF PURPOSE

RS25947C1

This legislation allows the Department of Insurance agency director to apply for and implement a 1332 State Innovation Waiver to provide equal treatment of Idaho citizens as legal non-citizens and allow Idaho families 0-100% of FPL to receive an Advance Premium Tax Credit and purchase private health insurance on Idaho's Health Insurance Exchange (YHI). There are no other changes to eligibility or calculations of tax credits or insurance enrollment through the Affordable Care Act. The only change related to this waiver is to allow Idaho Citizens the same treatment and special rule that is afforded to legal non-citizens who are not eligible for Medicaid. This legislation also modifies chapter 56-256 in Idaho code to allow the Department of Health and Welfare to implement an 1115 Waiver to cover individuals under Medicaid with medically complex conditions in accordance with Department rule for individuals under the age of 65 whose income does not exceed the limit to qualify for a tax credit on the Health Insurance Exchange, who are not otherwise eligible for another Medicaid program, and who do not have access to employer-sponsored coverage. The legislation also allows the Department to implement premiums for a portion of the population under the 1115 waiver. This legislation also requires the Department of Health and Welfare to seek a separate 1115 waiver to pursue work requirements for able-bodied adults receiving Medicaid, consistent with work requirements in other public assistance programs.

FISCAL NOTE

There is a state General Fund impact for the 1115 Medicaid waiver and enabling legislation. The total estimated cost for the complex medical needs waiver is \$100,786,600 with \$71,533,300 in federal funds and \$29,253,300 in state funds (the Governor's recommendation included \$11,428,700 million from the Millennium income fund and the remainder \$17,824,600 million from the General Fund). The total anticipated Trustee and Benefi payments are estimated at \$100,000,000 with a state fund estimate at \$28,860,000 (\$71,140,000 federal funds). The expected personnel costs are four dedicated FTE for a total cost of \$276,600 (\$138,300 in state funds and \$138,300 in federal funds). Operating costs are estimated at \$510,000 (\$255,000 in state funds and \$255,000 in federal funds); \$10,000 of the operating cost estimate are one-time funds. The intent of this investment in creating a Medicaid group to cover complex conditions, is to reduce overall insurance premiums for all individual health plans in Idaho. As health insurance premiums are reduced, it will produce a savings in tax credits paid by the Federal Government through the Department of Treasury for the overall population. These savings will be re-invested to cover the cost of additional tax credits for the new population 0-100% of FPL eligible under the 1332 waiver. The savings generated in federal tax credits proves the cost to implement the 1332 waiver is budget neutral as required by the federal government. There is no state General Fund impact for the 1332 waiver.

Contact:

Russ Barron, Director
Department of Health and Welfare
(208) 334-5500
Dean Cameron, Director
Department of Insurance
(208) 334-4250

DISCLAIMER: This statement of purpose and fisca note are a mere attachment to this bill and prepared by a proponent of the bill. It is neither intended as an expression of legislative intent nor intended for any use outside of the legislative process, including judicial review (Joint Rule 18).

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 464

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO HEALTH CARE; AMENDING CHAPTER 52, TITLE 41, IDAHO CODE, BY THE
2 ADDITION OF A NEW SECTION 41-5213, IDAHO CODE, TO AUTHORIZE APPLICATION
3 FOR AND IMPLEMENTATION OF A STATE INNOVATION WAIVER; AMENDING SECTION
4 41-5503, IDAHO CODE, TO PROVIDE THAT THE BOARD OF DIRECTORS OF THE
5 IDAHO INDIVIDUAL HIGH RISK REINSURANCE POOL SHALL TAKE CERTAIN ACTION;
6 AMENDING SECTION 56-254, IDAHO CODE, TO PROVIDE MEDICAL ASSISTANCE ELI-
7 GIBILITY FOR CERTAIN INDIVIDUALS CONTINGENT ON FEDERAL APPROVAL AND TO
8 MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 56-257, IDAHO CODE, TO
9 PROVIDE THAT THE STATE DEPARTMENT OF HEALTH AND WELFARE SHALL ESTABLISH
10 PREMIUMS AND WORK REQUIREMENTS SUBJECT TO THE TERMS OF OR UPON APPROVAL
11 OF CERTAIN WAIVERS.
12

13 Be It Enacted by the Legislature of the State of Idaho:

14 SECTION 1. That Chapter 52, Title 41, Idaho Code, be, and the same is
15 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
16 ignated as Section 41-5213, Idaho Code, and to read as follows:

17 41-5213. AUTHORITY TO APPLY FOR STATE INNOVATION WAIVER. The director
18 may apply to the United States secretary of health and human services under
19 42 U.S.C. 18052 for a waiver of applicable provisions of the patient pro-
20 tection and affordable care act, Public Law 111-148, with respect to health
21 insurance coverage subject to the provisions of this chapter. Contingent on
22 federal approval of a state innovation waiver that provides United States
23 citizens who are ineligible for medicaid equal access to the premium tax
24 credit as legal noncitizens, the department of insurance, department of
25 health and welfare and the Idaho health insurance exchange have authority to
26 implement the state's plan for the state innovation waiver. If the federal
27 department of health and human services denies Idaho's state innovation
28 waiver, the authority to implement such waiver will sunset on July 1, 2019.

29 SECTION 2. That Section 41-5503, Idaho Code, be, and the same is hereby
30 amended to read as follows:

31 41-5503. PLAN OF OPERATION. (1) The board shall submit to the direc-
32 tor a plan of operation and thereafter any amendments thereto necessary or
33 suitable to assure the fair, reasonable and equitable administration of the
34 pool. The director may, after notice and hearing, approve the plan of opera-
35 tion if the director determines it to be suitable to assure the fair, reason-
36 able and equitable administration of the pool, and to provide for the sharing
37 of pool gains or losses on an equitable and proportionate basis in accordance
38 with the provisions of this chapter. The plan of operation shall become ef-
39 fective upon written approval by the director.

1 (2) If the board fails to submit a suitable plan of operation, the di-
 2 rector shall, after notice and hearing, adopt and promulgate a temporary
 3 plan of operation. The director shall approve the plan of operation submit-
 4 ted by the board, or adopt a temporary plan of operation if the board fails to
 5 submit a suitable plan. The director shall amend or rescind any plan adopted
 6 under the provisions of this section at the time a plan of operation is sub-
 7 mitted by the board and approved by the director.

8 (3) The plan of operation shall:

9 (a) Establish procedures for handling and accounting of pool assets and
 10 moneys and for an annual fiscal reporting to the director;

11 (b) Establish procedures for selecting an administrator, and setting
 12 forth the powers and duties of the administrator;

13 (c) Establish procedures for reinsuring risks in accordance with the
 14 provisions of this chapter;

15 (d) Establish procedures and conditions for a carrier to cede individu-
 16 als with certain high risk medical conditions;

17 (e) Define the high risk medical conditions for which carriers are al-
 18 lowed to cede for reinsurance;

19 (f) Set forth the reinsurance parameters including, but not limited
 20 to, the initial level of claims for which the reinsuring carrier is
 21 responsible, the coinsurance percentage at which claims above the ini-
 22 tial level are reinsured by the pool, and the maximum claims limit above
 23 which the pool no longer reimburses;

24 (g) Establish procedures for collecting assessments from carriers to
 25 fund claims and administrative expenses incurred or estimated to be in-
 26 curred by the pool; and

27 (h) Provide for any additional matters necessary for the implementa-
 28 tion and administration of the pool.

29 (4) Contingent on approval of a waiver of applicable provisions of the
 30 patient protection and affordable care act, Public Law 111-148, the board
 31 shall review the plan of operation to identify changes to paragraphs (c)
 32 through (f) of subsection (3) of this section necessary to better serve
 33 Idahoans enrolled in individual health benefit plans and to stabilize the
 34 individual health insurance market. The board shall submit recommended
 35 changes to the director for approval.

36 SECTION 3. That Section 56-254, Idaho Code, be, and the same is hereby
 37 amended to read as follows:

38 56-254. ELIGIBILITY FOR MEDICAL ASSISTANCE. The department shall make
 39 payments for medical assistance to, or on behalf of, the following persons
 40 eligible for medical assistance.

41 (1) The benchmark plan for low-income children and working-age adults
 42 with no special health needs includes the following persons:

43 (a) Children in families whose family income does not exceed one hun-
 44 dred eighty-five percent (185%) of the federal poverty guideline and
 45 who meet age-related and other eligibility standards in accordance with
 46 department rule;

47 (b) Pregnant women of any age whose family income does not exceed one
 48 hundred thirty-three percent (133%) of the federal poverty guideline
 49 and who meet other eligibility standards in accordance with department

1 rule, or who meet the presumptive eligibility guidelines in accordance
2 with section 1920 of the social security act;

3 (c) Infants born to medicaid-eligible pregnant women. Medicaid eligi-
4 bility must be offered throughout the first year of life as long as the
5 infant remains in the mother's household and she remains eligible, or
6 would be eligible if she were still pregnant;

7 (d) Adults in families with dependent children, as described in sec-
8 tion 1931 of the social security act, who meet the requirements in the
9 state's assistance to families with dependent children (AFDC) plan in
10 effect on July 16, 1996;

11 (e) Families who are provided six (6) to twelve (12) months of medicaid
12 coverage following loss of eligibility under section 1931 of the social
13 security act due to earnings, or four (4) months of medicaid coverage
14 following loss of eligibility under section 1931 of the social security
15 act due to an increase in child or spousal support;

16 (f) Employees of small businesses who meet the definition of "eligible
17 adult" as described in section 56-238, Idaho Code, whose eligibility is
18 limited to the medical assistance program described in section 56-241,
19 Idaho Code;

20 (g) All other mandatory groups as defined in title XIX of the social se-
21 curity act, if not listed separately in subsection (2) or (3) of this
22 section.

23 (2) The benchmark plan for persons with disabilities or special health
24 needs includes the following persons:

25 (a) Persons under age sixty-five (65) years eligible in accordance with
26 title XVI of the social security act, as well as persons eligible for aid
27 to the aged, blind and disabled (AABD) under titles I, X and XIV of the
28 social security act;

29 (b) Persons under age sixty-five (65) years who are in need of the ser-
30 vices of a licensed nursing facility, a licensed intermediate care fa-
31 cility for the developmentally disabled, a state mental hospital, or
32 home-based and community-based care, whose income does not exceed three
33 hundred percent (300%) of the social security income (SSI) standard and
34 who meet the asset standards and other eligibility standards in accor-
35 dance with federal law and regulation, Idaho law and department rule;

36 (c) Certain disabled children described in 42 CFR 435.225 who meet re-
37 source limits for aid to the aged, blind and disabled (AABD) and income
38 limits for social security income (SSI) and other eligibility standards
39 in accordance with department rules;

40 (d) Persons under age sixty-five (65) years who are eligible for ser-
41 vices under both titles XVIII and XIX of the social security act;

42 (e) Children who are eligible under title IV-E of the social security
43 act for subsidized board payments, foster care or adoption subsidies,
44 and children for whom the state has assumed temporary or permanent re-
45 sponsibility and who do not qualify for title IV-E assistance but are in
46 foster care, shelter or emergency shelter care, or subsidized adoption,
47 and who meet eligibility standards in accordance with department rule;

48 (f) Eligible women under age sixty-five (65) years with incomes at or
49 below two hundred percent (200%) of the federal poverty level, for can-

1 cer treatment pursuant to the federal breast and cervical cancer pre-
2 vention and treatment act of 2000;

3 (g) Low-income children and working-age adults under age sixty-five
4 (65) years who qualify under subsection (1) of this section and who
5 require the services for persons with disabilities or special health
6 needs listed in section 56-255(3), Idaho Code;

7 (h) Persons over age sixty-five (65) years who choose to enroll in this
8 state plan; ~~and~~

9 (i) Effective January 1, 2018, children under age eighteen (18) years
10 with serious emotional disturbance, as defined in section 16-2403,
11 Idaho Code, in families whose income does not exceed three hundred
12 percent (300%) of the federal poverty guideline and who meet other eli-
13 gibility standards in accordance with department rule; and

14 (j) Effective as soon as federal approval for coverage can be obtained,
15 persons with costly and complex medical conditions in accordance with
16 the approved waiver who:

17 (i) Are under the age of sixty-five (65) years;

18 (ii) Have incomes less than the maximum allowable level for feder-
19 ally supported advance premium tax credits;

20 (iii) Are not eligible for other coverage under this chapter; and

21 (iv) Do not have access to affordable employer-sponsored coverage
22 as defined in 26 CFR 1.36B.

23 (3) The benchmark plan for persons over twenty-one (21) years of age who
24 have medicare and medicaid coverage includes the following persons:

25 (a) Persons eligible in accordance with title XVI of the social secu-
26 rity act, as well as persons eligible for aid to the aged, blind and dis-
27 abled (AABD) under titles I, X and XIV of the social security act;

28 (b) Persons who are in need of the services of a licensed nursing fa-
29 cility, a licensed intermediate care facility for the developmentally
30 disabled, a state mental hospital, or home-based and community-based
31 care, whose income does not exceed three hundred percent (300%) of the
32 social security income (SSI) standard and who meet the assets standards
33 and other eligibility standards in accordance with federal and state
34 law and department rule;

35 (c) Persons who are eligible for services under both titles XVIII and
36 XIX of the social security act who have enrolled in the medicare pro-
37 gram; and

38 (d) Persons who are eligible for services under both titles XVIII and
39 XIX of the social security act and who elect to enroll in this state
40 plan.

41 SECTION 4. That Section 56-257, Idaho Code, be, and the same is hereby
42 amended to read as follows:

43 56-257. COPAYMENTS -- PREMIUMS -- WORK REQUIREMENTS. (1) Within the
44 limits of federal medicaid law and regulations, the department of health and
45 welfare shall establish enforceable cost sharing in order to increase the
46 awareness and responsibility of medicaid participants for the cost of their
47 health care and to encourage use of cost-effective care in the most appropri-
48 ate setting. Copayments established by department rule may include, but not
49 be limited to, the following:

1 (a) Medicaid services including, but not limited to, chiropractic vis-
2 its, podiatrist visits, optometrist visits, physical therapy visits,
3 occupational therapy visits, speech therapy visits, outpatient hospi-
4 tal visits and physician office visits;

5 (b) Inappropriate use of emergency medicaid reimbursed services, in-
6 cluding hospital emergency room and emergency transportation; and

7 (c) Missed appointments with health care providers when it is the prac-
8 tice of the health care provider to charge such copayments to all of
9 their patients regardless of payer.

10 (2) The director may exempt, subject to federal approval, any group of
11 medicaid participants from the cost-sharing provisions in this section.

12 (3) In accordance with federal medicaid law and regulations, and sub-
13 ject to the terms of any waivers granted by the federal centers for medicare
14 and medicaid services, the department of health and welfare will establish
15 premiums for medicaid participants described in section 56-254 (2) (j), Idaho
16 Code.

17 (4) The department shall seek a waiver to establish work requirements
18 for able-bodied adult medicaid participants, which requirements shall be
19 consistent with the work requirements in the supplemental nutrition assis-
20 tance program and the temporary assistance for families in Idaho program.
21 Upon approval of the waiver, the department shall establish such require-
22 ments.

C. ACTUARIAL ANALYSIS AND CERTIFICATION AND ECONOMIC ANALYSIS

(to be added to final application)

D. PUBLIC NOTICE OF HEARING

State of Idaho
DEPARTMENT OF INSURANCE

C.L. "BUTCH" OTTER
Governor

700 West State Street, 3rd Floor
P.O. Box 83720
Boise, Idaho 83720-0043
Phone (208)334-4250
Fax (208)334-4398
Website: <http://www.doi.idaho.gov>

DEAN L. CAMERON
Director

**Idaho Department of Insurance Section 1332 State Innovation Waiver
Notice of Public Hearing and Public Comment Period**

The Idaho Department of Insurance gives notice of intent to apply to the Centers for Medicare and Medicaid Services (CMS) and to the United States Department of the Treasury for a Section 1332 State Innovation waiver on or about January 5, 2018. The purpose of the waiver is to extend eligibility for help in paying monthly health insurance premiums through Advance Premium Tax Credits (APTC) and help in paying health care out-of-pocket costs (cost-sharing reductions) to working U.S. citizens who file federal income tax returns with income below 100% of the Federal Poverty Level (FPL). The proposed effective date for the waiver is January 1, 2019.

Today, thousands of Idaho residents have incomes of under 100% FPL and are without health coverage. Due to the requirement to have income of at least 100% FPL in order to qualify for APTC, these Idahoans are effectively locked out of the commercial health insurance market due to the unaffordability of coverage. While these working U.S. citizens are ineligible for APTC, lawfully-present aliens falling into the same income range are eligible for and receive APTC. This Section 1332 waiver, if approved, would extend eligibility for federal financial assistance in maintaining in private market insurance coverage to Idaho residents with income below 100% FPL who are U.S. citizens.

The Department's comprehensive public notice, tribal notice and the waiver application are available on our website at <https://doi.idaho.gov/publicinformation/publiccomments>. The Department is seeking public comment through public hearings, the interactive form available on the website, via email or traditional mail as indicated below. Public hearings will be held at the following locations:

Boise Public Hearing

Location: Pete T. Cenarrusa Bldg.
7th Floor, Conference Rm. 7A
450 W. State St.
Date: December 7, 2017
Time: 11:00AM - 1:00 PM

Pocatello Public Hearing

Location: Horizon Plaza
Suite #230
1070 Hiline Rd.
Date: December 8, 2017
Time: 11:00AM - 1:00PM

Coeur d'Alene Public Hearing

Location: 1120 Ironwood Building
Large Conference Rm.
1120 Ironwood Dr.
Date: December 12, 2017
Time: 10:00AM - 12:00PM

Conference line for all dates and locations:

Call: 1-877-820-7831
Guest Code: 701700

Interested parties may also request hard copies of the waiver packet or submit comments via email or traditional USPS mail to:

Attention: Weston Trexler
Product Review Bureau Chief
Department of Insurance
P.O. Box 83720; Boise, Idaho 83720-0043
E-mail to: DOI.Reform@doi.idaho.gov

Public comments will be accepted until December 15, 2017.

E. TRIBAL NOTICE

State of Idaho
DEPARTMENT OF INSURANCE

C.L. "BUTCH" OTTER
Governor

700 West State Street, 3rd Floor
P.O. Box 83720
Boise, Idaho 83720-0043
Phone (208)334-4250
Fax (208)334-4398
Website: <http://www.doi.idaho.gov>

DEAN L. CAMERON
Director

November 1, 2017

Dear Tribal Representative:

The Idaho Department of Insurance intends to apply to the Centers for Medicare and Medicaid Services (CMS) and to the United States Department of the Treasury for a Section 1332 State Innovation waiver on or about January 5, 2018. The purpose of the waiver is to extend eligibility for help in paying monthly health insurance premiums through Advance Premium Tax Credits (APTC) and help in paying health care out-of-pocket costs (cost-sharing reductions) to working U.S. citizens who file federal income tax returns with income below 100% of the Federal Poverty Level (FPL). The proposed effective date for the waiver is January 1, 2019.

Today, thousands of Idaho residents have incomes of under 100% FPL and are without health coverage. Due to the requirement to have income of at least 100% FPL in order to qualify for APTC, these Idahoans are effectively locked out of the commercial health insurance market due to the unaffordability of coverage. While these working U.S. citizens are ineligible for APTC, lawfully-present aliens falling into the same income range are eligible for and receive APTC. This Section 1332 waiver, if approved, would extend eligibility for federal financial assistance in maintaining in private market insurance coverage to Idaho residents with income below 100% FPL who are U.S. citizens.

While this waiver will provide access to health insurance coverage for this population, including tribal members, no significant impact to tribal health programs or providers is anticipated. Some Idaho resident members of tribes in Idaho may be provided greater access to coverage than is currently available.

The waiver application will be reviewed as part of the Policy Update at the next quarterly Tribal meeting held by the Department of Health and Welfare, currently scheduled for November 8, 2017 in Lapwai, Idaho.

The Department's comprehensive public notice and the waiver application are available on our website at <https://doi.idaho.gov/publicinformation/publiccomments>. The Department is seeking public comment, including any input or concerns that Tribal Representatives wish to share, through public hearings, the interactive form available on the website, via email or traditional mail as indicated below. Public hearings will be held at the following locations:

Boise Public Hearing

Location: Pete T. Cenarrusa Bldg.
7th Floor, Conference Rm. 7A
450 W. State St.
Date: December 7, 2017
Time: 11:00AM - 1:00 PM

Pocatello Public Hearing

Location: Horizon Plaza
Suite #230
1070 Hilina Rd.
Date: December 8, 2017
Time: 11:00AM - 1:00PM

Coeur d'Alene Public Hearing

Location: 1120 Ironwood Building
Large Conference Rm.
1120 Ironwood Dr.
Date: December 12, 2017
Time: 10:00AM - 12:00PM

Conference line for all dates and locations:

Call: 1-877-820-7831
Guest Code: 701700

Interested parties may also request hard copies of the waiver packet or submit comments via email or traditional USPS mail to:

Attention: Weston Trexler
Product Review Bureau Chief
Department of Insurance
P.O. Box 83720; Boise, Idaho 83720-0043
E-mail to: DOI.Reform@doi.idaho.gov

Public comments will be accepted until December 15, 2017.

F. PUBLIC COMMENTS ON DRAFT WAIVER

(to be added to final application)