



# **Idaho Section 1332 Waiver Application**

**April 1, 2022**

**DRAFT**

**Idaho Department of Insurance  
Dean Cameron, Director**

# Table of Contents

Section I – Executive Summary .....	1
Section II – Authorizing Legislation.....	2
Section III – Provision(s) of the Law that the State Seeks to Waive.....	2
Section IV – Compliance with Section 1332 Guardrails: Data, Analyses, and Certifications.....	3
A.    Comprehensiveness Requirement (Section 1332(b)(1)(A)).....	3
B.    Affordability Requirement (Section 1332(b)(1)(B)).....	4
C.    Scope of Coverage Requirement (Section 1332(b)(1)(C)).....	4
D.    Deficit Neutrality Requirement (Section 1332(b)(1)(D)).....	5
Section V – Impact on Health Equity.....	5
Section VI – Reporting Targets.....	6
Section VII – Implementation Plan and Timeline.....	6
Section VIII – Public Notice, Comment Process, and Communication Plan.....	9
A.    Public Notice.....	9
B.    Public Comment Process.....	9
C.    Tribal Consultation .....	10
D.    Communication Plan.....	10
Section IX – Additional Information .....	10
Section X – Administration.....	11
Appendix A: Authorizing Legislation.....	12
Appendix B: Actuarial and Economic Analyses.....	13
Appendix C: Notice for Public Comment Period.....	14
Appendix D: Records of Public Testimony .....	15
Appendix E: Presentations from the Public Comment and Information Sessions.....	16
Appendix F: Tribal Consultation Communications .....	17

## Section I – Executive Summary

The state of Idaho submits this State Innovation Waiver (section 1332 waiver) application to the Department of the Treasury and the Centers for Medicare & Medicaid Services (CMS) in the Department of Health and Human Services (collectively, “the Departments”). Idaho seeks to waive Section 1312(c)(1) under Section 1332 of the Patient Protection and Affordable Care Act (ACA). This provision of the ACA states that health insurance issuers “shall consider all enrollees in all health plans (other than grandfathered health plans) offered by such issuer in the individual market, including those enrollees who do not enroll in such plans through the Exchange, to be members of a single risk pool.”

The Idaho Individual High Risk Reinsurance Pool (“the Pool”) is statutorily created and authorized to run a state reinsurance program in which enrollees in individual coverage who are diagnosed with certain specified medical conditions are ceded to the Pool by the issuer. The issuer then pays a monthly reinsurance premium (retroactive to January of the current year). Claims for the ceded individuals – up to an annual maximum - are paid by the Pool at a set coinsurance percentage once a specified attachment point is reached. Each January, the ceding process begins fresh. Reinsurance parameters – the attachment point, coinsurance percentage and annual maximum – are set by the Pool’s Board of Directors. The Pool is funded by the reinsurance ceding premiums, a portion of collected premium tax (the program receives 25% of all premium tax collected above \$45,000,000), investments and interest income. The Pool also has authority to assess health issuers directly, if needed.

The state is submitting this section 1332 waiver in order to further increase affordability of individual health insurance in Idaho. The lower premium amounts will result in a reduction in federal monies paid out to Idaho consumers in the form of PTC, which is the basis for the pass-through funding to the Pool. Idaho anticipates that approval of this 1332 waiver will result in premiums reduced by at least 7% in each of the next ten years, compared to the anticipated premiums without the waiver. The premium reduction will similarly apply to all individual market Qualified Health Plans.

The enabling legislation makes any future reinsurance payments for individual market claims and health plans contingent upon the approval of this 1332 reinsurance waiver application. Therefore, our actuarial and economic analysis is based on a scenario with no Idaho reinsurance program versus a reinsurance program with the waiver in place.

Under the second scenario – an approved 1332 waiver – the reinsurance program will be funded by:

1. Reinsurance ceding premiums paid by participating issuers.
2. State funds, consisting of:
  - a. Ongoing annual premium tax allotment.
  - b. One time deposit of \$25 million in calendar year 2022 in the Idaho Department of Insurance’s budget to strengthen the reinsurance program under a 1332 waiver.
  - c. The reinsurance program’s existing fund, available for use at the discretion of the Board to help strengthen the savings from the reinsurance mechanism.

3. Pass-through funding from the waiver, which would go into the reinsurance fund to further reduce premiums through the same mechanism.
4. If necessary, an assessment of health issuers to recoup any net loss from the previous year.

Idaho has enacted House Bill 611 that authorizes the state to apply for and implement a section 1332 waiver.

## **Section II – Authorizing Legislation**

On March 23, 2022 Idaho enacted House Bill 611 effective on July 1, 2022. This legislation allows the state to develop a section 1332 waiver application to submit to the Departments. Under this authority, Idaho is submitting a section 1332 waiver application to create a Risk Stabilization strategy to implement the Pool.

The legislation includes the following provisions:

The legislation authorizes the Pool to provide reinsurance for claims incurred after December 31, 2022 only if:

1. Idaho develops a section 1332 waiver,
2. Idaho submits the waiver to the Departments,
3. The waiver is approved by the Departments.

The legislation also specifically states that the Director of the Idaho Department of Insurance shall have the authority to develop and submit the waiver, and upon approval, to implement the waiver program.

A copy of the House Bill 611 can be found at this link

<https://legislature.idaho.gov/sessioninfo/2022/legislation/H0611/> and included in Appendix A: Authorizing Legislation.

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

Idaho requests a waiver of ACA section 1312(c)(1) to the extent it would otherwise require excluding total expected state reinsurance payments when establishing the market-wide index rate, and the Pool will lower premiums as part of the state plan.

The state is seeking federal pass-through funding to implement a state reinsurance program. These federal pass-through funds will be generated by a reduction in individual market premiums, which in turn will reduce the amount of federal funds expended on PTC for Idaho residents who enroll through Idaho's state health insurance exchange, Your Health Idaho.

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

Idaho 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 individual insurance market in Idaho 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 increase premiums nor decrease cost-sharing protections against excessive out-of-pocket costs in the individual market. Rather, Idaho anticipates that affordability for individuals enrolled off-exchange and exchange enrollees who do not qualify for PTC will be increased through lower premium rates in 2023 and future years. Idaho anticipates that for individuals who qualify for PTC, the affordability of higher actuarial value plans will also be improved through the lower premium rates.

**C. Scope of Coverage** – 1332(b)(1)(C). The proposed waiver will facilitate the provision of coverage to at least a comparable number of Idaho residents as would be provided absent the waiver. Idaho believes that an outcome of the waiver will be to increase the number of Idahoans with ACA-compliant coverage, bringing unsubsidized individuals and families into the individual market through issuers being able to offer ACA-compliant coverage at more affordable costs.

**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 reinsurance program’s reduction in federal PTC payments for which the federal government would otherwise be responsible.

The state utilized Milliman, Inc. to perform actuarial and economic analyses related to the changes that will occur after this section 1332 waiver application is approved and implemented beginning in 2023. The actuarial and economic analyses and certifications that support the state’s findings that all four of the section 1332 guardrails will be met, are included in Appendix B: Actuarial and Economic Analysis

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

Comprehensiveness refers to the scope of benefits provided by the state plan as measured by the extent to which coverage meets essential health benefit (EHB) requirements as defined in section 1302(b) of the ACA and 45 CFR 156.110. The state’s EHB benchmark with and without the section 1332 waiver can be found here: [https://www.cms.gov/CCIIO/Resources/Data-Resources/Downloads/2017-BMP\\_ID.zip](https://www.cms.gov/CCIIO/Resources/Data-Resources/Downloads/2017-BMP_ID.zip).

Under Idaho’s proposed section 1332 waiver, consumers will continue to have access to an affordable EHB-compliant plan. The waiver, by implementing an “invisible” reinsurance program rather than creating a new coverage type, ensures Idaho residents will continue to be covered by individual market plans that meet the requirements of the existing Idaho EHB benchmark.

The reinsurance program is “invisible” in that enrollees with reinsured claims are unaware and not advantaged or disadvantaged compared to other enrollees who do not have reinsured claims. The reinsurance ceding is “invisible” to the individual enrollees, and only known by the Pool and the insurers, who reflect the Pool’s reinsurance payments by reducing their individual health plan premiums market-wide.

The covered benefits and plan designs of Qualified Health Plans (QHPs), as well as all other health coverage options, are unaffected by the waiver, being outside the authority of the Pool. Consequently, Idaho has determined that the proposed section 1332 waiver will have no impact on access to the covered benefits or actuarial value of plans offered on the Exchange.

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

Affordability refers to the state residents’ ability to pay out-of-pocket for their healthcare expenses relative to their income. Overall, state residents will have access to coverage that is as comprehensive and at least as affordable without the waiver.

The proposed section 1332 waiver will impact out-of-pocket costs by reducing gross premiums (prior to PTC) by at least an estimated 7% in 2023, compared to what it otherwise would be without the waiver. Out-of-pocket costs will also be less than what it otherwise would be in each of the subsequent years of the section 1332 waiver. Reduced gross premiums directly improve the affordability for off-exchange enrollees and exchange enrollees who do not receive PTC. Reduced gross premiums also improve the affordability for enrollees who receive PTC and choose a plan with higher actuarial value or higher cost than the second-lowest cost silver plan.

The proposed section 1332 waiver will have no impact on cost sharing. Due to the “invisible” nature of the Pool’s reinsurance program, the waiver will have no impact on affordability from a standpoint of cost sharing. Cost sharing protections against excessive out-of-pocket spending will continue to align with the ACA’s protections.

Idaho’s waiver proposal to implement the Pool is not anticipated to impact the affordability of minimum essential coverage (MEC), other than when MEC is obtained through the individual market. Medicaid, the Children’s Health Insurance Program (CHIP), and small or large group market insurance will not be affected.

Employer contributions and employee wages will not be impacted by the section 1332 waiver.

Idaho’s waiver proposal to implement the Pool will have no impact on the calculation of small business tax credits (SBTC) offered under the Small Business Health Options Program (SHOP).

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

The third guardrail specifies that meaningful healthcare coverage must be provided to a comparable number of state residents as Title I of the ACA would provide. For each year the section 1332 waiver will be in effect, Idaho forecasts additional individuals will have healthcare coverage under the section 1332 waiver than would have had healthcare coverage absent the waiver.

Idaho projects that for each year the section 1332 waiver will be in effect, the number of individuals that will have healthcare coverage under the section 1332 waiver is no less than the number of individuals that would have had healthcare coverage absent the waiver.

Idaho has examined the short- and long-term effects of the section 1332 waiver, and projects an increase in the overall number of Idaho residents with healthcare coverage with the waiver, compared to without the waiver. The waiver will improve the affordability of coverage, as explained under “B. Affordability Requirement,” which is anticipated to increase health plan enrollment, in particular in QHPs without PTC.

Idaho projects an increase in the overall number of individuals who do not receive PTC compared to without the waiver, but that is not anticipated to reduce the number of residents with healthcare coverage. The net premium for such individuals, with and without waiver, would not be substantively impacted. The waiver’s impact to eligibility of PTC would be due to sufficiently lowering market premiums with the waiver that the resulting PTC would be \$0 for certain household income levels.

Idaho can demonstrate the long-term impacts of the section 1332 waiver in the aggregate over the course of the waiver term will ensure that the coverage guardrail requirements are compliant with guidance set forth by the Departments. Those residents that obtain coverage through other means, such as Medicaid, the Children’s Health Insurance Program (CHIP), small or large group market insurance, or other types of coverage, will have the same access to coverage.

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

This proposed section 1332 waiver will not increase federal spending. Higher enrollment of individuals who do not qualify for PTC is expected to increase, however there is no impact on federal spending.

The administrative costs to facilitate the section 1332 waiver will be paid by the State of Idaho and the Pool. Because the section 1332 waiver is expected to increase overall individual market Exchange enrollment, State and Pool funds will be allocated to support the incremental enrollment growth, increased premiums, and the extension of premium subsidies to additional consumers.

Idaho’s waiver is designed to ensure that the amount of federal spending will be less than or equal to what the federal government would have paid during each year of the required 10-year budget period. The pass-through funding will be annually determined and agreed upon with the Departments, to not exceed the federal savings created by the implementation of the waiver.

Consequently, Idaho estimates that there will be no net federal spending or savings in any year the waiver is in place, compared to without the waiver.

### **Section V – Impact on Health Equity**

Idaho’s 1332 waiver will promote health equity by providing support to consumers who do not qualify for PTC for various reasons (for example, those who are not eligible for PTC due to the “family glitch” or due to unpredictable income), as health insurance issuers in the individual

market will be able to offer lower-cost health coverage. Consumers with higher-cost healthcare needs will continue to have access to the protections of the ACA against pre-existing condition exclusion periods and higher rates based on health status. The waiver will further stabilize access to and pricing of health insurance in Idaho through a reduction to premium levels and improved spreading of a volatile component of the claims risk within the pooled market.

## **Section VI – Reporting Targets**

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

The IDOI will assume responsibility for the reporting requirements, including the following:

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

## **Section VII – Implementation Plan and Timeline**

Idaho currently maintains a state reinsurance program, Idaho Individual High Risk Reinsurance Pool, in which enrollees in individual coverage who are diagnosed with certain specified medical conditions are ceded to the Pool by the issuer. Through legislation, Idaho will sunset this reinsurance program after December 31, 2022 unless a section 1332 waiver is approved.

With approval of the waiver, Idaho will be able to continue to reinsure individual market enrollees with high-cost medical conditions. The federal pass-through funds will allow the Pool to increase the amount of reinsurance through one or more of the following actions: increasing the number of medical conditions which trigger ceding, raising the coinsurance amount paid by the program, lowering the attachment point at which reinsurance begins, or raising the annual reinsurance cap.

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



1) How will the state implement the waiver proposal?

Idaho will implement through the passage of enabling legislation.

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

The Idaho Individual High Risk Reinsurance Pool will implement the program. This entity was created through legislation in 2000 and has many years of experience administering a reinsurance program. The Board membership includes the Director of the IDOI as well as insurers, insurance producers, consumer advocates, and state legislators. The entity is authorized by state insurance laws to perform certain duties.

- b. How much is the necessary funding for the Risk Stabilization Strategies program and what premium reduction is the state trying to achieve?

In order to achieve at least the 7% premium reduction in 2023 of the waiver, it is expected the Pool will need approximately \$42 million in funding from the various revenue sources available to the Pool, including the pass-through funds. The funding need is expected to increase with overall premium trend each year. The state, through the Pool Board, has discretion to assess the health market for additional funding, if needed.

- c. If state funding is required, how much funding does the state anticipate will be necessary to implement the state plan and how will the state generate the required state funding?

The state anticipates funding the program through ongoing annual premium tax allotment (anticipated to be approximately \$16 million in 2023 and increasing in future years) and a one-time deposit of \$25 million in calendar year 2022. The state can also assess the health market if additional funding is needed to achieve the target premium reduction.

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

The Pool administrator will continue to collect claims information and to pay claims, based on the criteria outlined in the Pool's Plan of Operation. The IDOI will be responsible for federal reporting.

- a. How will the state identify and pay claims?

The state will continue to identify and pay claims through the Pool's administrator, in accordance with the procedures set forth in the Pool's Plan of Operations.

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

Idaho will use both a condition-based list and an attachment point.

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

Although the waiver application does not currently include such incentives, the state will evaluate future opportunities to manage health care costs and utilization through future revisions to the waiver.

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

Idaho will specify a coinsurance amount as well as an annual cap based on available funds.

- a. When will the parameters be finalized?

These parameters are expected to be finalized prior to the start of the next calendar year and will be revised as needed on an annual basis by the Pool Board.

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

The reinsurance parameters are specified within the Pool’s Plan of Operation. The Board of Directors, based on market conditions and the target premium reduction, recommends a change in the reinsurance parameters to the Director of the Department of Insurance. The Director, after a public hearing and comment period, then approves the recommended changes through an administrative order.

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

Idaho will require issuers in the individual health insurance market to include this impact when submitting rates for the upcoming plan year.

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

Title 41, Chapter 55, Idaho Code (Idaho Individual High Risk Reinsurance Pool) establishes the reinsurance program and addresses the powers of the Board, eligibility for ceding to the Pool, and other issues related to the program. The statute can be found here: <https://legislature.idaho.gov/statutesrules/idstat/Title41/T41CH55/>

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

No, Governor Brad Little signed H611 on March 23, 2022, adding a new subsection of 41-5504, Idaho Code enabling the implementation of the waiver.

Idaho submits the proposed waiver implementation timeline, which is detailed in Table 1. Implementation Timeline below.

**Table 1. Implementation Timeline**

End Date	Milestone
<b>Section 1332 Waiver Application Process</b>	

<b>End Date</b>	<b>Milestone</b>
<b>April 2022</b>	Publish draft section 1332 waiver application on state website and notify the public.
<b>April 1, 2022</b>	Begin public comment period.
<b>April 2022</b>	Conduct public hearings facilitated in 3 major cities/counties/regions across the state complete.
<b>February, March, April, and May 2022</b>	Conduct tribal consultation.
<b>May 1, 2022</b>	End public comment period.
<b>May 2022</b>	Submit final section 1332 waiver application to the Departments.
<b>June 2022</b>	Target to receive feedback/approval from the Departments for the section 1332 waiver.
<b>July 2022</b>	If needed, revise and resubmit to CMS.
<b>July 2022</b>	Receive approval from the Departments for the section 1332 waiver.
<b>August 2022</b>	Rate Filings Due
<b>Legal Authority and Governance</b>	
<b>January 2022</b>	Establish appropriate state legal authority.
<b>January 2022</b>	Establish governance structure to support implementation.
<b>February 2022</b>	File proposed rules with state authority.
<b>Design</b>	
<b>August 2022</b>	Finalize eligibility requirements, methods of verification and redetermination.

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

### **A. Public Notice**

On April 1, 2022 the state of Idaho opened the public comment period for this section 1332 waiver application and posted the notice of the opportunity to comment on the state website <https://doi.idaho.gov/information/public/reinsurance-waiver/>. On April 1, 2022 the IDOI sent notice via email to a list of interested parties and stakeholders. The notice will be included in Appendix C: Notice for Public Comment Period. A press release was also issued to media contacts and the IDOI listserv on April 1, 2022.

### **B. Public Comment Process**

On April 18, 2022 the state of Idaho held a public hearing at the IDOI's Boise office at 700 W. State St., in the JRW East Conference Room, Boise ID 83702. The meeting was also held virtually via WebEx.

Additionally, on April 20, 2022 the state of Idaho held a public hearing at the Idaho Department of Labor Office in Idaho Falls at 1515 E. Lincoln Road, Idaho Falls, ID 83401.

Additionally, on April 26, 2022 the state of Idaho held a public hearing at the Coeur d'Alene Public Library at 702 E. Front Ave, Coeur d'Alene, ID 83814.

Public comments were received in person and in writing at the hearings and will be included in Appendix E: Records of Public Testimony.

Individual comments received through the public notice period on this Section 1332 Waiver application are included as Appendix E of this application. Comments on the Section 1332 Waiver will be summarized below after the close of the public comment period and prior to submission to the Departments.

### C. Tribal Consultation

Idaho has five federally-recognized tribes: the Coeur d'Alene Tribe; the Kootenai Tribe; the Nez Perce Tribe; the Shoshone-Bannock Tribes; and the Shoshone-Paiute Tribes. Representatives of each of these tribes were contacted and provided information about the section 1332 waiver. Consultation with, or comments from, the tribes were solicited. Communications with each tribe are included in Appendix F: Tribal Consultation Communications.

### D. Communication Plan

To educate the public about the section 1332 waiver, the state will issue a press release about the waiver application and public comment period, distribute the notice to stakeholder groups, provide information on the Department website, and provide two in-person and one hybrid public hearing in three major cities. If consumers have questions about the section 1332 waiver they may contact the Idaho Department of Insurance by phone, email, and website. If consumers have questions about how to enroll in plans offered on Idaho's state-based health insurance exchange, they may contact Your Health Idaho via phone, email, and website.

## **Section IX – Additional Information**

Idaho's 1332 waiver will have no impact on the administrative burden of individuals, issuers, or employers. The waiver will not affect the implementation of the ACA provisions which are not being waived. The waiver will increase access to private insurance for Idahoans who do not qualify for PTC. This may provide additional coverage for residents of Idaho who need to obtain healthcare services out of state.

Idaho Department of Insurance staff will provide the federal government with all information necessary to administer the waiver at the federal level. The IDOI will utilize existing staffing and resources to effectively comply with the waiver requirements and support the activities of the Pool, while also seeking efficiencies and protecting against waste, fraud, and abuse.

## **Section X – Administration**

**Name:** Shannon Hohl

**Title:** Market Oversight Bureau Chief

**Telephone Number:** 208-334-4315

**Email address:** Shannon.hohl@doi.idaho.gov

DRAFT

**Appendix A: Authorizing Legislation**

DRAFT

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 611

BY BUSINESS COMMITTEE

AN ACT

RELATING TO INSURANCE; AMENDING SECTION 41-5504, IDAHO CODE, TO SPECIFY RE-  
QUIREMENTS FOR CERTAIN REINSURANCE CLAIMS; AND DECLARING AN EMERGENCY  
AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 41-5504, Idaho Code, be, and the same is hereby  
amended to read as follows:

41-5504. POWERS AND AUTHORITY. (1) The pool shall have the general  
powers and authority granted under the laws of this state to insurance com-  
panies and managed care organizations licensed to transact business, except  
the power to issue health benefit plans directly to individuals. In addition  
thereto, the pool shall have the specific authority to:

(a) Enter into contracts as are necessary or proper to carry out the  
provisions and purposes of this chapter, including the authority, with  
the approval of the director, to enter into contracts with similar pro-  
grams of other states for the joint performance of common functions or  
with persons or other organizations for the performance of administra-  
tive functions;

(b) Sue or be sued, including taking any legal actions necessary or  
proper to recover any assessments and penalties for, on behalf of, or  
against the pool or any carrier;

(c) Define the high risk medical conditions for which reinsurance will  
be provided, and to issue reinsurance policies, in accordance with the  
requirements of this chapter;

(d) Establish rules, conditions and procedures for reinsuring risks  
under the pool;

(e) Establish actuarial functions as appropriate for the operation of  
the pool;

(f) Assess carriers in accordance with the provisions of section  
41-5508, Idaho Code, and make advance interim assessments of carriers  
as may be reasonable and necessary for organizational and interim oper-  
ating expenses. Any interim assessments shall be credited as offsets  
against any regular assessments due following the close of the fiscal  
year;

(g) Appoint appropriate legal, actuarial and other committees as nec-  
essary to provide technical assistance in the operation of the pool,  
policy and other contract design, and any other function within the au-  
thority of the pool;

(h) Borrow money to effect the purposes of the pool. Any notes or other  
evidence of indebtedness of the pool not in default shall be legal in-  
vestments for carriers and may be carried as admitted assets;

1 (i) Establish rules, policies and procedures as may be necessary or  
2 convenient for the implementation of this chapter and the operation of  
3 the pool.

4 (2) Neither the board nor its employees shall be liable for any obliga-  
5 tions of the pool. No member or employee of the board shall be liable, and  
6 no cause of action of any nature may arise against them, for any act or omis-  
7 sion related to the performance of their powers and duties under this chap-  
8 ter, unless such act or omission constitutes willful or wanton misconduct.  
9 The board may provide for indemnification of, and legal representation for,  
10 its members and employees.

11 (3) No participation of a reinsuring carrier in the pool, no establish-  
12 ment of rates, forms or procedures, and no other joint or collective action  
13 required under the provisions of this chapter shall be grounds for any legal  
14 action, criminal or civil liability, or penalty against the pool or any of  
15 its reinsuring carriers either jointly or separately.

16 (4) The pool shall have no authority to provide reinsurance for any  
17 claims incurred after December 31, 2022, unless the following conditions are  
18 met:

19 (a) The state develops an application for a waiver for state innovation  
20 pursuant to 42 U.S.C. 18052 of the federal patient protection and af-  
21 fordable care act that facilitates the resumption of operations of the  
22 pool in a manner that minimizes the loss of federal funding to support  
23 the affordability of health insurance in the state;

24 (b) After proper public comment periods and consultation with inter-  
25 ested parties, including the pool board, and the approval of the gover-  
26 nor, the waiver application is submitted to the secretary of the United  
27 States department of health and human services and to the secretary of  
28 the United States department of the treasury; and

29 (c) The waiver application is approved.

30 (5) The director shall have the authority as necessary or proper to de-  
31 velop, apply for, and upon approval implement an innovation waiver under 42  
32 U.S.C. 18052 of the federal patient protection and affordable care act, in-  
33 cluding authorizing the pool to perform activities necessary for its imple-  
34 mentation.

35 SECTION 2. An emergency existing therefor, which emergency is hereby  
36 declared to exist, this act shall be in full force and effect on and after  
37 July 1, 2022.



**Appendix B: Actuarial and Economic Analyses**

**[ATTACHMENT TO BE FINALIZED PRIOR TO CMS SUBMISSION.]**

DRAFT

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

DRAFT

*State of Idaho*  
**DEPARTMENT OF INSURANCE**

**BRAD LITTLE**  
Governor

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

**DEAN L. CAMERON**  
Director

**April 1, 2022**

**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 May 2022. The purpose of the waiver is to implement a state reinsurance program to increase affordability of individual health insurance in Idaho. The proposed effective date for the waiver is January 1, 2023.

The waiver would be implemented primarily by the Idaho Individual High Risk Reinsurance Pool (“the Pool”), a state reinsurance program in which enrollees in individual coverage who are diagnosed with certain specified medical conditions are ceded to the Pool by the health insurer. The health insurer then pays a monthly premium to the Pool for that reinsurance.

Due to implementation of the program, health insurers are able to mitigate the effects of extremely high health claims on the individual risk pool, helping to stabilize the individual health insurance market and resulting in lower premiums than would otherwise occur.

The state is submitting this section 1332 waiver in order to further increase affordability of individual health insurance in Idaho. The Pool has successfully reduced premiums in the past, and Idaho anticipates that approval of this 1332 waiver will reduce premiums by at least 7% in 2023 and onward, compared to premiums without the waiver in place.

As part of the waiver process, the Department submitted legislation to authorize the Department to submit the waiver application to the federal agencies and to condition future premium reductions from the state reinsurance program upon approval of the 1332 waiver. Governor Little signed H611 on March 23, 2022.

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

**Boise Public Hearing (also virtual)**

**Location:** Idaho Department of Insurance

700 W. State St.

JRW East Conference Room

Boise, ID 83702

**Date:** April 18, 2022

**Time:** 10:00AM – 12:00PM MT

**Idaho Falls Public Hearing**

**Location:** Idaho Department of Labor

1515 E. Lincoln Rd.

Yellowstone Room

Idaho Falls, ID 83401

**Date:** April 20, 2022

**Time:** 2:30PM – 4:30PM MT

**Coeur d’Alene Public Hearing**

**Location:** Coeur d’Alene Public Library

702 E. Front Ave.

Community Room

Coeur d’Alene, ID 83814

**Date:** April 26, 2022

**Time:** 10:30AM – 12:30PM PT

**Webex Information:** (Boise Date Only)

**Link:** <https://idahogov.webex.com/idahogov/j.php?MTID=m1ca043b7088fac88c9be403e5254b9ba>

**Meeting Number (access code):** 2456 145 7410

**Password:** WWiPiPNb685

**Call In Number:** 1-415-655-0001

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

Attention: Shannon Hohl  
Market Oversight Bureau Chief  
Department of Insurance  
P.O. Box 83720; Boise, Idaho 83720-0043  
**E-mail to:** [DOI.Reform@doi.idaho.gov](mailto:DOI.Reform@doi.idaho.gov)

**Public comments will be accepted until May 1, 2022.**

**Appendix D: Records of Public Testimony**

**[ATTACHMENT TO BE FINALIZED PRIOR TO CMS SUBMISSION AFTER CLOSE OF PUBLIC COMMENT PERIOD.]**

DRAFT

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

**[ATTACHMENT TO BE FINALIZED PRIOR TO CMS SUBMISSION AFTER CLOSE OF PUBLIC COMMENT PERIOD.]**

DRAFT

**Appendix F: Tribal Consultation Communications**

**[ATTACHMENT TO BE FINALIZED PRIOR TO CMS SUBMISSION AFTER  
CLOSE OF PUBLIC COMMENT PERIOD.]**

DRAFT

*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

April 1, 2022

**Via Email**

Dear Tribal Representative:

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 May 2022. The purpose of the waiver is to implement a state reinsurance program to increase affordability of individual health insurance in Idaho. The proposed effective date for the waiver is January 1, 2023.

Department staff shared initial information about the proposed waiver application and process with Tribal Representatives during the February 23, 2022 Idaho Tribes/Idaho Medicaid Quarterly Meeting. This letter is intended to provide further information and invite you to provide comment on the application.

The proposed 1332 waiver does not affect the provision of tribal health care services or the benefits of any health insurance policies that tribal members may be enrolled in. There is no impact to Indian Health Services, the Federal Health Program for American Indians, and Alaska Natives. The proposed 1332 waiver, if approved by CMS, will reduce health insurance premiums for any Native Americans who buy on Idaho's individual market. The waiver is also expected to help reduce uncompensated care costs for providers by helping more people afford insurance coverage.

The waiver would be implemented primarily by the Idaho Individual High Risk Reinsurance Pool ("the Pool"), a state reinsurance program in which enrollees in individual coverage who are diagnosed with certain specified medical conditions are ceded to the Pool by the health insurer. The health insurer then pays a monthly premium to the Pool for that reinsurance.

Due to implementation of the program, health insurers are able to mitigate the effects of extremely high health claims on the individual risk pool, helping to stabilize the individual health insurance market and resulting in lower premiums than would otherwise occur.

The state is submitting this section 1332 waiver in order to further increase affordability of individual health insurance in Idaho. The Pool has successfully reduced premiums in the past, and Idaho anticipates that approval of this 1332 waiver will reduce premiums by at least 7% in 2023 and onward, compared to premiums without the waiver in place.

As part of the waiver process, the Department submitted legislation to authorize the Department to submit the waiver application to the federal agencies and to condition future premium reductions



from the state reinsurance program upon approval of the 1332 waiver. Governor Little signed H611 on March 23, 2022.

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

<b><u>Boise Public Hearing (also virtual)</u></b>	<b><u>Idaho Falls Public Hearing</u></b>	<b><u>Coeur d'Alene Public Hearing</u></b>
<b>Location:</b> Idaho Department of Insurance 700 W. State St. JRW East Conference Room Boise, ID 83702	<b>Location:</b> Idaho Department of Labor 1515 E. Lincoln Rd. Yellowstone Room Idaho Falls, ID 83401	<b>Location:</b> Coeur d'Alene Public Library 702 E. Front Ave. Community Room Coeur d'Alene, ID 83814
<b>Date:</b> April 18, 2022	<b>Date:</b> April 20, 2022	<b>Date:</b> April 26, 2022
<b>Time:</b> 10:00AM – 12:00PM MT	<b>Time:</b> 2:30PM – 4:30PM MT	<b>Time:</b> 10:30AM – 12:30PM PT

**Webex Information:** (Boise Date Only)

**Link:** <https://idahogov.webex.com/idahogov/j.php?MTID=m1ca043b7088fac88c9be403e5254b9ba>

**Meeting Number (access code):** 2456 145 7410

**Password:** WWiPiPNb685

**Call In Number:** 1-415-655-0001

We would be happy to respond to any question you may have about this proposed waiver application. If you would like to arrange a virtual meeting to discuss the proposal, please contact Shannon Hohl, Market Oversight Bureau Chief via email [Shannon.Hohl@doi.idaho.gov](mailto:Shannon.Hohl@doi.idaho.gov), or via phone 208-334-4315. We would appreciate any written comments you may have by May 1, 2022.

Sincerely,



Weston Trexler  
Deputy Director