

State Innovation Waiver Reinsurance Program



Background

The most publicized effort to address the cost of insurance in 2019 was the establishment of a state reinsurance program, which essentially provides insurance for insurance companies to help cover the costs of caring for the most expensive patients. Seven states have established their own reinsurance programs with permission from the federal government. Six of the seven are funded partially or fully through assessments on insurance carriers, and the seventh is funded fully through state funding. HB 19-1168 differed from other states' programs and Colorado's reinsurance discussions from the past three years, and proponents were ultimately forced to piece together multiple funding sources and dramatically scale back the program to make it viable. CHA fought vociferously to amend the bill and ultimately took a neutral position on the legislation as passed.

What You Need to Know

HB 19-1168 creates a two-year reinsurance program paid for through an amalgamation of funding sources, including considerable federal funds and a \$40 million annual assessment on Colorado hospitals.

Implementation Timeline

2019

- May 20:** Final 1332 State Innovation Waiver Application submitted to the Centers of Medicare and Medicaid Services (CMS).
- May 31:** Payment parameters for the 2020 plan year established by the Commissioner of Insurance via emergency regulation.
- June 14:** Carriers file two sets of initial rates with the Division of Insurance (DOI) for the 2020 plan year – one set to be used if the waiver application is approved; one set if the waiver application is *not* approved.
- July 4:** Anticipated date that CMS determines the waiver application is complete.
- July 15:** DOI holds rulemaking hearing for permanent rules for the reinsurance program, including the payment parameters, for the 2020 plan year.
- Aug. 14:** Both sets of filed rates are approved by the DOI for the 2020 plan year.
- Sept. 15:** A permanent regulation containing the payment parameters for the 2020 plan year will become effective.
- Early Fall:** Anticipated timeframe that CMS grants Colorado a Section 1332 Waiver, starting with the 2020 plan year.
- Oct. 1:** DOI informs state exchange and carriers that rates reflecting an approved waiver application will be used for the 2020 plan year.
- Nov. 1:** DOI staffs the reinsurance program; annual open enrollment period begins for the 2020 plan year.

2020

- Jan. 1:** Reinsurance program begins.

This guidance does not constitute legal advice to CHA members or others. Each hospital should consult with legal counsel on these matters and have legal counsel review any policies proposed as a result of this guidance.



HB 19-1168: State Innovation Waiver Reinsurance Program Cont.

Scope of Coverage

HB 19-1168 seeks to reduce premiums by 30-35 percent in DOI geographic rating areas five and nine; by 20-25 percent in areas four, six, seven and eight; and by 15-20 percent in areas one, two and three.

1332 State Innovation Waiver Application for a Reinsurance Program

Implementation and operation of the reinsurance program is contingent upon approval of the state innovation waiver. Section 1332 of the Affordable Care Act allows states to apply for a waiver of various requirements of federal law to pursue innovative strategies for providing residents with affordable health care. On May 20, 2019, Colorado submitted a 1332 waiver application to CMS for the reinsurance program.

Funding the Reinsurance Program

The State reinsurance program is estimated to cost around \$250 million annually. HB 19-1168 created the Reinsurance Cash Fund, which consists of the following revenue sources to pay for the program:

- Federal pass-through funding of approximately \$170 million in year one and approximately \$183 million in year two;
- Special fees assessed against hospitals totaling \$20 million in fiscal year (FY) 2019-20, \$40 million in FY 2020-21 and \$20 million in FY 2021-22;
- A 2.2 percent fee on health insurance carriers if the federal government suspends the Health Insurance Provider Fee;
- Transfer of the state's Vendor Fee totaling \$15 million in FY 2020-21 and \$40 million in FY 2021-22; and
- A transfer of state premium tax increases totaling \$8.5 million in FY 2020-21 and \$10.7 million in FY 2021-22.

Special Fees Assessed Against Hospitals

- Fees assessed against hospitals cannot exceed \$40 million annually.
- No hospital system is responsible for funding, on a yearly basis, of more than 25 percent of the total assessment against hospitals.
- The Commissioner of Insurance is prohibited from funding the program through any type of fee schedule, rate setting or other cost-saving mechanism imposed on hospitals.
- The Commissioner of Insurance must promulgate rules that establish the following:
 - The reasonable time period for the billing and collection of the special fee; and
 - Determining the amount of the assessment on hospitals.
- Hospitals must pay the special fee imposed from its general revenues and are prohibited from collecting an assessment from consumers, any type of surge on its fee or passing the special fee on to consumers in any manner.
- Procedures will be created to exempt certain hospitals from the special fee based on parameters included in the bill.
- Each hospital that is subject to the special fees assessed must report quarterly to the Commissioner of Insurance the amount the hospital is responsible for funding in the benefit year.

Additional Resources

- HB 19-1168: [Final Bill](#) and [Fiscal Note](#)
- [Final Colorado 1332 State Innovation Waiver Application for a Reinsurance Program](#) (with final actuarial analysis)
- [Emergency Regulation 19-E-01, Payment Parameters for the Colorado Reinsurance Program](#) (effective May 31, 2019)
- HB 19-1168 took effect on May 17, 2019

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