



November 15, 2021

The Honorable Michael Conway  
Commissioner  
Division of Insurance  
1560 Broadway, Suite 850  
Denver, CO 80202

**Re: Colorado 1332 State Innovation Waiver Amendment Request**

Dear Commissioner Conway:

Thank you for the opportunity to submit comments on Colorado's 1332 state innovation waiver application amendment to implement the Colorado Option program.

The undersigned organizations represent millions of individuals facing serious, acute and chronic health conditions in Colorado. We have a unique perspective on what individuals and families need to prevent disease, cure illness and manage chronic health conditions. The diversity of our organizations and the populations we serve enable us to draw upon a wealth of knowledge and expertise that is an invaluable resource as we work to find solutions to expand access to high-quality coverage.

Our organizations are committed to ensuring that any changes to the healthcare system achieve coverage that is adequate, affordable and accessible for patients and consumers. We have supported Colorado's previous efforts to strengthen its marketplace through a reinsurance program, and we are pleased that the state is continuing to innovate to improve coverage for consumers via the Colorado Option program. Our organizations offer the following comments on the waiver:

Guardrails

Our organizations are pleased to see that Colorado's waiver would expand the number of people with coverage in the state as well as improve the affordability of that coverage. Excluding the impact of the state's reinsurance program, the state estimates that individual market enrollment would increase by 1.6% and individual market premiums would decrease by 16.6% by 2025. These changes will not only benefit many patients and consumers directly, it will also strengthen the individual marketplace in Colorado as a whole.

As you know, this waiver amendment is just one piece of the broader Colorado Option program, which requires participating individual and small group market insurers to offer some plans with standardized features and meet additional network adequacy protections intended to ensure that the plans are culturally responsive and reflect the diversity of the enrollees in the network's service area. This waiver, particularly waiving the "de minimis" variation in the actuarial value of plans in a given metal tier, can

help to drive enrollment towards these new plans and increase the chances that the Colorado Option program can make progress on health equity.

Our organizations strongly support Colorado's efforts to improve health equity through this proposal. As discussed in more detail below, the state estimates that 88% of the individuals who will benefit from the increased financial assistance supported by the waiver's pass-through funding will be people of color. Additionally, the changes Colorado is pursuing concurrently related to standard plans and network adequacy are purposefully designed to improve access to services needed by communities of color and construct culturally responsive networks.

#### Subsidy Program

Our organizations support the use of waiver savings to expand coverage to individuals with incomes below 300% of the federal poverty level who are currently not eligible for federal subsidies. This could include individuals who are in the family glitch (76,000 individuals in Colorado),<sup>1</sup> as well as other individuals who cannot afford the employer-sponsored coverage offered to them but do not qualify for subsidies. The cost of employer-sponsored coverage can be a significant burden for patients and consumers – in Colorado, the average annual employee premium contribution is \$5,016, in addition to an average \$3,059 in employee spending to meet a deductible – and we appreciate Colorado's efforts to address this issue.<sup>2</sup> Funds can also be used to expand financial assistance for individuals who are ineligible for federal subsidies due to their immigration status. Nearly half of this population is estimated to be uninsured, and without coverage, these individuals must rely on safety net providers and often go without the care that they need.<sup>3</sup> Our organizations support Colorado's plans to expand financial assistance through the Colorado Option program.

Colorado's application also requests comment on whether the state should use a portion of its pass-through funding to provide additional support to Coloradans eligible for federal subsidies, but for whom coverage remains unaffordable. We believe premium affordability for this population would be advanced substantially in the event the additional federal financial assistance provided by the American Rescue Plan Act is extended beyond 2022, and our organizations are actively advocating for Congress to pass such an extension this year. Affordability of coverage in Colorado will also depend on the final design of the standard plans currently being developed by the state. Many of our organizations have previously shared comments on standards plans with the Division of Insurance, including comments on the out-of-pocket costs associated with those plans.<sup>4</sup> We look forward to continuing to provide feedback on the best use of the pass-through funding as these other factors impacting affordability become clearer.

#### Reinsurance

Colorado's application also extends its reinsurance program for another year, through 2027. Many of our organizations have previously supported this program; we believe it has contributed to ensuring a stronger, more robust marketplace, which is essential for people with pre-existing conditions to access comprehensive coverage that includes all of the treatments and services that they need to stay healthy at an affordable cost. A recent data brief released by the Center for Medicare & Medicaid Services shows that states with reinsurance waivers have experienced significantly lower individual market premiums than they would have otherwise and have seen gains in insurer participation.<sup>5</sup> We are pleased that this has held true in Colorado, where premiums have been about 20% lower in 2020 and 2021 as a result of the waiver, and the state has seen a new entrant into the individual market. Our organizations continue to support Colorado's reinsurance program.

### Public Comment Process

On November 1, Colorado posted an updated version of its 1332 waiver application on its website to identify an additional federal provision it requests to waive. While this change does not have a material impact on our comments, we recommend that the state extend the comment period to ensure that patients and others impacted by the proposal can have a meaningful opportunity to provide feedback.

Thank you for the opportunity to provide comments.

Sincerely,

American Heart Association  
American Lung Association  
Arthritis Foundation  
Epilepsy Foundation of Colorado & Wyoming  
Hemophilia Federation of America  
National Multiple Sclerosis Society  
National Organization for Rare Disorders  
The Leukemia & Lymphoma Society

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<sup>1</sup> Cynthia Cox et al. The ACA Family Glitch and Affordability of Employer Sponsored Coverage. Kaiser Family Foundation. April 7, 2021. Available at: <https://www.kff.org/health-reform/issue-brief/the-aca-family-glitch-and-affordability-of-employer-coverage/>

<sup>2</sup> Sara R. Collins et al. State Trends in Employer Premiums and Deductibles, 2010–2019. Nov. 20, 2020. Commonwealth Fund. Available at: <https://www.commonwealthfund.org/publications/issue-briefs/2020/nov/state-trends-employer-premiums-deductibles-2010-2019>.

<sup>3</sup> Health Coverage of Immigrants. Kaiser Family Foundation. July 15, 2021. Available at: <https://www.kff.org/racial-equity-and-health-policy/fact-sheet/health-coverage-of-immigrants/>

<sup>4</sup> Patient Group Comments to Commissioner Conway re: Draft Standard Plan Regulation. October 20, 2021. Available at: <https://www.lung.org/getmedia/4f94aa33-3c5a-4a09-b459-67b597a2c480/2021-10-colorado-comment-letter-on-standard-plans.pdf>.

<sup>5</sup> Centers for Medicare and Medicaid Services, Center for Consumer Information and Insurance Oversight (CCIIO). State Innovation waivers: State-Based Reinsurance Programs. August 2021. Available at: <https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Downloads/1332-Data-Brief-Aug2021.pdf>.