

## 1332 Waiver Application Checklist

Item number	HHS Citation and Description	Applicable HHS Comments	Ohio Information
1	<p>45 CFR 155.1308 (a),(b), (c), (d)</p> <p>States should submit applications with enough time to allow for an appropriate implementation timeline</p>		<p>Ohio is submitting this application along with all required information regarding implementation of Ohio’s waiver request.</p>
2	<p>45 CFR 155.1308 (f)(2)</p> <p>Written evidence of the State’s compliance with the public notice and comment requirements, set forth in 45 CFR 155.1312</p>	<p>Include:</p> <ol style="list-style-type: none"> <li>1. A copy of the web page and/or notice that was posted. The notice must include a comprehensive description of the Section 1332 waiver application where the application is available, how to submit written comment and the timeframe to submit comments (minimum 30 days). The notice should include the location, date and time of public hearings.</li> <li>2. A report on the issues raised during the public comment process.</li> </ol>	<p>Please see Attachment # 1 for Notice of Public Hearing and copy of the web page.</p> <p>Please see Attachment #2 for a report on the issues raised during the public comment process.</p> <p>Please see Attachment #5 for a copy of all written comments.</p>
3	<p>Public Hearings</p>	<p>Include:</p> <ol style="list-style-type: none"> <li>1. Evidence that a minimum of two public hearings were convened on separate dates and locations.</li> <li>2. Report on the issues raised during the public hearings.</li> </ol>	<p>Two public hearings were held during the 30-day public comment period in two different locations. The first hearing was held on Wednesday, March 7 in Columbus, Ohio at the James A. Rhodes State Office Tower,</p>

			<p>Administrative Hearing Room, 30 E. Broad St, Columbus, OH 43215.</p> <p>The second public hearing was held on Wednesday, March 14 in Mason, OH at Sinclair Community College, Mason Campus, Community Room B, 5380 Courseview Dr. Mason, OH 45040.</p> <p>Please see Attachment #1 for Notice of Public Hearing.</p> <p>Please see Attachments #3 and #4 for a summary of the public hearings.</p> <p>Please see Attachment #5 for a copy of all written comments.</p>
4	Tribal Consultation and evidence of meaningful consultation (if the state has one or more Federally-recognized Indian tribes)	<p>Include:</p> <ol style="list-style-type: none"> <li>1. Evidence of an official meeting between the state and Tribal representatives.</li> <li>2. Report of the issues raised during the official meeting.</li> </ol>	Ohio does not have any federally recognized Indian tribes as confirmed by the most recent list of “Indian Entities Recognized and Eligible to Receive Services From the United States Bureau of Indian Affairs”, Volume 80, No. 9, dated January 14, 2015, as published by the Federal Register.

5	<p>45 CFR 155.1308(f)(3)(i), (ii)  Comprehensive description of State’s enacted legislation and program to implement a plan meeting the requirements for a Section 1332 wavier and a copy of the state’s enacted legislation</p>	<p>Include legislation establishing authority to pursue a Section1332 waiver and/or the program to implement a state plan for a waiver.</p>	<p>In 2015, the Ohio Legislature enacted Ohio Revised Code section 3901.052, requiring the Ohio Department of Insurance to apply for a 1332 waiver, and include in the application a request to waive both the individual and employer mandates.</p> <p>Please see Attachment #7 for O.R.C. 3901.052.</p>
6	<p>45 CFR 155.1308(f)(3)(iii)  List of provisions(s) of the law that the state seeks to waive and reason for the specific request(s).</p>		<p>Ohio Revised Code section 3901.052 requires the Ohio Department of Insurance to apply for a 1332 waiver, and include in the application a request to waive both the individual and employer mandates. With this application, Ohio intends to waive the individual mandate for Ohio residents, specifically Section 5000A(a) of the Internal Revenue Code, which provides:  <i>“Requirement to maintain minimum essential coverage. An applicable individual shall for each month beginning after 2013 ensure that the individual, and any dependent of the individual who is an applicable individual, is</i></p>

			<p><i>covered under minimum essential coverage for such month.”</i> Because of the law change made by Congress on December 22, 2017 that reduced the penalty for the shared responsibility payments to \$0, Ohio does not expect this waiver application to change the affordability, the number of residents with coverage, the comprehensiveness of the coverage or to negatively affect the federal deficit.</p>
7	<p>45 CFR 155.1308 (f)4(i)-(iii)</p> <p>Actuarial analysis and actuarial certifications, economic analysis, and data and assumptions</p>	<p>Include:</p> <ol style="list-style-type: none"> <li>1. An actuarial analysis and certification to support the state’s finding that the waiver complies with the coverage, comprehensiveness, and affordability requirements in each year of the waiver.</li> <li>2. An economic analysis to support the state’s finding that the waiver will not increase the federal deficit over the five year waiver period or in total over the ten-year budget period.</li> <li>3. The data and assumptions that the state relied upon to determine the effect of the waiver on coverage, comprehensiveness, affordability and deficit neutrality requirements.</li> </ol>	<p>Please see Attachment #6 for the actuarial analysis provided by Oliver Wyman.</p>

<p>8</p>	<p>45CFR 155.1308(f)(4)(iv)</p> <p>Draft Timeline for implementation of the proposed waiver.</p>	<p>Include a timeline and discussion of implementation of waiver plan.</p>	<p>Waiving the individual mandate to purchase insurance coverage would remove the requirement <i>after</i> the incentive to purchase (the penalty) has been reduced to \$0 by Congressional action.</p> <p>For that reason, Ohio is proposing a limited implementation timeline as described below.</p> <p>Pending CMS approval of Ohio’s waiver, Ohio intends to implement the waiver of the individual mandate January 1, 2019 – December 31, 2023. The Department will use all available means, including our website, press releases and social media to provide information to the public regarding the waiver, prior to open enrollment each year the waiver is in effect. The Department will also work with insurers to help provide information to consumers.</p>
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<p>9</p>	<p>45 CFR 155.1308(f)(4)(v)(A)(B)(C)(D)&amp;(E)</p>	<p>Additional information that is pertinent to your waiver.</p>	<p>Since the individual penalty for not purchasing health coverage has been reduced to \$0, Ohio does not foresee its waiver as having any negative impact. Specifically, Ohio's waiver will not:</p> <ul style="list-style-type: none"> <li>- Add administrative burden on individuals, insurers or employers.</li> <li>- Have any negative effect on the implementation of ACA provisions that are not being waived, and the proposed waiver has no adverse effect on any section of the ACA.</li> <li>- Have any negative effect on residents who need to obtain health care services out of the state. Ohio insurance law will continue to require open panel plans to provide coverage outside the state and HMOs must at least provide out of network coverage in emergency situations.</li> <li>- Have any impact on potential compliance, waste, and/or fraud and abuse related to the ACA.</li> </ul>
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<p>10</p>	<p>State’s suggested reporting targets for the four statutory requirements</p>	<p>States must propose a plan for quarterly and/or annual reporting of data to demonstrate that the waiver remains in compliance with the scope of coverage, affordability, comprehensiveness and deficit requirements. For example, a state might meet this requirement by proposing to continue to report the same data used to support the application findings required under 45 CFR 155.1308(f)(4).</p>	<p>As Ohio’s waiver request is simple and straightforward, Ohio suggests it will confirm both quarterly and annually that this application to waive the individual mandate continues to have no impact on the scope, affordability, or comprehensiveness of the coverage, as well as, deficit requirements. While Ohio does not expect operational challenges as a result of this waiver application, it will confirm in its first quarterly report. In addition, Ohio will provide evidence of compliance with the public forum provisions, as required.</p>
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