

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0827.01 Kip Kolkmeier x4510

SENATE BILL 18-132

SENATE SPONSORSHIP

Smallwood,

HOUSE SPONSORSHIP

Kennedy,

Senate Committees
Health & Human Services

House Committees

A BILL FOR AN ACT

101 CONCERNING A WAIVER OF FEDERAL LAW TO PERMIT INSURANCE
102 CARRIERS TO OFFER CATASTROPHIC HEALTH PLANS TO ANY
103 INDIVIDUAL RESIDING IN COLORADO.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill requires the commissioner of insurance to apply to the secretary of the United States department of health and human services for a 5-year waiver of the federal law restricting catastrophic health plans offered through the Colorado health benefit exchange. The waiver, if approved, would permit the offering of catastrophic health plans to any

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

individual residing in Colorado rather than only individuals under the age of 30 or meeting a hardship requirement. If the waiver is denied, the statutory section is repealed.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and determines that:

4 (a) Under section 1332 of the federal "Patient Protection and
5 Affordable Care Act", Pub.L. 111-148, states are permitted to apply to the
6 secretary of the United States department of health and human services
7 for a waiver of certain requirements of the federal act with respect to
8 health insurance coverage in order to allow states to pursue innovative
9 strategies for providing their residents with access to high-quality
10 affordable health care coverage;

11 (b) Section 1303 (e) of the federal act permits the offering of
12 catastrophic health plans but limits those plans to individuals under the
13 age of thirty or meeting a hardship requirement;

14 (c) A waiver under section 1332 of the federal act, often referred
15 to as a "1332 waiver" or "state innovation waiver", to allow a state to
16 waive the restrictions in section 1303 (e) of the federal act regarding
17 catastrophic health plans may be an opportunity for a state to lower
18 premiums for consumers, improve market stability, and increase
19 consumer choice; and

20 (d) It is important for the state to pursue efforts to reduce health
21 insurance premiums for consumers, improve stability in the insurance
22 market, and increase consumer choice by applying for a state innovation
23 waiver to permit insurance carriers to offer catastrophic health plans to all
24 Coloradans regardless of age or hardship.

1 **SECTION 2.** In Colorado Revised Statutes, **add** 10-16-116.5 as
2 follows:

3 **10-16-116.5. State innovation waiver for nonemployer**
4 **catastrophic health plans - notice of decision by secretary - effect of**
5 **secretary's decision - notice to revisor of statutes - definitions - rules.**

6 (1) (a) THE COMMISSIONER SHALL APPLY TO THE SECRETARY FOR A
7 FIVE-YEAR STATE INNOVATION WAIVER IN ACCORDANCE WITH SECTION
8 1332 OF THE FEDERAL ACT AND 45 CFR 155 TO WAIVE SECTION 1303 (e)
9 OF THE FEDERAL ACT AND 45 CFR 156.155 TO ENABLE INSURANCE
10 CARRIERS IN THE STATE TO OFFER CATASTROPHIC HEALTH PLANS TO ANY
11 INDIVIDUAL RESIDING IN COLORADO FOR PLAN YEARS STARTING ON OR
12 AFTER JANUARY 1, 2020. THE WAIVER APPLICATION MUST CLEARLY STATE
13 THAT OFFERING CATASTROPHIC HEALTH PLANS TO INDIVIDUALS THIRTY
14 YEARS OF AGE AND OLDER AND INDIVIDUALS WHO DO NOT MEET A
15 HARDSHIP REQUIREMENT IS CONTINGENT ON APPROVAL OF THE WAIVER
16 REQUEST.

17 (b) THE COMMISSIONER SHALL ENSURE THAT THE WAIVER
18 APPLICATION SUBMITTED PURSUANT TO THIS SECTION COMPLIES WITH THE
19 REQUIREMENTS SPECIFIED IN SECTION 1332 OF THE FEDERAL ACT AND 45
20 CFR 155.1308.

21 (2) (a) THE COMMISSIONER SHALL MAKE THE DRAFT WAIVER
22 APPLICATION AVAILABLE FOR PUBLIC REVIEW BY POSTING A COPY ON THE
23 DEPARTMENT'S WEBSITE ON OR BEFORE DECEMBER 1, 2018. THE
24 COMMISSIONER SHALL SUBMIT THE WAIVER APPLICATION TO THE
25 SECRETARY BY JANUARY 1, 2019.

26 (b) THE COMMISSIONER SHALL NOTIFY THE FOLLOWING OF ANY
27 FEDERAL ACTIONS REGARDING THE WAIVER REQUEST:

1 (I) THE JOINT BUDGET COMMITTEE OF THE SENATE AND HOUSE OF
2 REPRESENTATIVES OR ANY SUCCESSOR COMMITTEE;

3 (II) THE SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES OR
4 ANY SUCCESSOR COMMITTEE; AND

5 (III) THE HOUSE OF REPRESENTATIVES COMMITTEES ON HEALTH,
6 INSURANCE, AND ENVIRONMENT AND PUBLIC HEALTH CARE AND HUMAN
7 SERVICES OR ANY SUCCESSOR COMMITTEES.

8 (3) NOTWITHSTANDING THE DEFINITION OF CATASTROPHIC PLAN
9 IN SECTION 10-16-102 (10), ANY REQUIREMENT OR LIMITATION IMPOSED
10 BY SECTION 10-16-103.4 OR 10-16-116, OR ANY OTHER PROVISION OF LAW,
11 IF THE SECRETARY APPROVES THE WAIVER REQUESTED IN ACCORDANCE
12 WITH SUBSECTION (1) OF THIS SECTION, INSURANCE CARRIERS ARE
13 PERMITTED TO OFFER CATASTROPHIC HEALTH PLANS TO ANY INDIVIDUAL
14 RESIDING IN COLORADO.

15 (4) IF THE SECRETARY APPROVES THE WAIVER REQUESTED IN
16 ACCORDANCE WITH THIS SECTION, THE COMMISSIONER SHALL
17 PROMULGATE RULES NECESSARY TO PERMIT THE OFFERING OF
18 CATASTROPHIC HEALTH PLANS CONSISTENT WITH THE WAIVER AND THIS
19 SECTION.

20 (5) AS USED IN THIS SECTION:

21 (a) "CATASTROPHIC HEALTH PLAN" MEANS AN INDIVIDUAL HEALTH
22 BENEFIT PLAN THAT DOES NOT PROVIDE A BRONZE, SILVER, GOLD, OR
23 PLATINUM LEVEL OF COVERAGE, AS THOSE COVERAGES ARE DESCRIBED IN
24 SECTION 10-16-103.4.

25 (b) "SECRETARY" MEANS THE SECRETARY OF THE UNITED STATES
26 DEPARTMENT OF HEALTH AND HUMAN SERVICES.

27 (c) "STATE INNOVATION WAIVER" MEANS A WAIVER OF ONE OR

1 MORE REQUIREMENTS OF THE FEDERAL ACT AUTHORIZED BY SECTION 1332
2 OF THE FEDERAL ACT, CODIFIED IN 42 U.S.C. SEC. 18052, AND APPLICABLE
3 FEDERAL REGULATIONS.

4 (6) IF THE SECRETARY DENIES THE WAIVER REQUESTED UNDER
5 THIS SECTION OR, AFTER APPROVAL, DENIES AN APPLICATION TO EXTEND
6 THE WAIVER, THIS SECTION IS REPEALED. THE COMMISSIONER SHALL
7 NOTIFY THE REVISOR OF STATUTES IN WRITING IF THE CONDITION
8 SPECIFIED IN THIS SUBSECTION (6) OCCURS BY E-MAILING THE NOTICE TO
9 REVISOROFSTATUTES.GA@STATE.CO.US. THIS SECTION IS REPEALED ON
10 THE DATE IDENTIFIED IN THE NOTICE THAT THE WAIVER OR EXTENSION
11 WAS DENIED OR ON THE DATE OF THE NOTICE TO THE REVISOR OF
12 STATUTES IF THE NOTICE DOES NOT SPECIFY A DIFFERENT DATE.

13 **SECTION 3. Act subject to petition - effective date.** This act
14 takes effect at 12:01 a.m. on the day following the expiration of the
15 ninety-day period after final adjournment of the general assembly (August
16 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
17 referendum petition is filed pursuant to section 1 (3) of article V of the
18 state constitution against this act or an item, section, or part of this act
19 within such period, then the act, item, section, or part will not take effect
20 unless approved by the people at the general election to be held in
21 November 2018 and, in such case, will take effect on the date of the
22 official declaration of the vote thereon by the governor.