

Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

**REREVISED**

*This Version Includes All Amendments  
Adopted in the Second House*

LLS NO. 18-0827.01 Kip Kolkmeier x4510

**SENATE BILL 18-132**

**SENATE SPONSORSHIP**

**Smallwood,**

**HOUSE SPONSORSHIP**

**Kennedy,**

---

**Senate Committees**

Health & Human Services  
Appropriations

**House Committees**

Health, Insurance, & Environment  
Appropriations

---

**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, AND, IN CONNECTION**  
104 **THEREWITH, MAKING AN APPROPRIATION.**

---

**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

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.*

HOUSE  
3rd Reading Unamended  
April 18, 2018

HOUSE  
Amended 2nd Reading  
April 17, 2018

SENATE  
3rd Reading Unamended  
March 8, 2018

SENATE  
Amended 2nd Reading  
March 5, 2018

offered through the Colorado health benefit exchange. The waiver, if approved, would permit the offering of catastrophic health plans to any 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 If the waiver is denied, the statutory section is repealed.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

1 Coloradans regardless of age or hardship.

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

4 **10-16-116.5. State innovation waiver for nonemployer**  
5 **catastrophic health plans - notice of decision by secretary - effect of**  
6 **secretary's decision - notice to revisor of statutes - definitions - rules**  
7 **- state measurement for accountable, responsive, and transparent**  
8 **(SMART) government act report - repeal.** (1) (a) THE COMMISSIONER  
9 SHALL CONDUCT AN ACTUARIAL ANALYSIS TO DETERMINE IF THE SALE OF  
10 CATASTROPHIC HEALTH PLANS TO PERSONS THIRTY YEARS OF AGE AND  
11 OLDER WHO DO NOT MEET A HARDSHIP REQUIREMENT WOULD RESULT IN  
12 A REDUCTION IN THE TOTAL AMOUNT OF ADVANCED PREMIUM TAX  
13 CREDITS RECEIVED BY COLORADO RESIDENTS OR WOULD INCREASE THE  
14 AVERAGE PREMIUMS OF INDIVIDUAL HEALTH PLANS IN COLORADO. IF THE  
15 ACTUARIAL ANALYSIS DEMONSTRATES THAT THE TOTAL AMOUNT OF  
16 ADVANCED PREMIUM TAX CREDITS RECEIVED BY COLORADO RESIDENTS  
17 WILL NOT DECLINE AND THE AVERAGE PREMIUMS OF INDIVIDUAL HEALTH  
18 PLANS IN COLORADO WILL NOT INCREASE, THEN THE COMMISSIONER  
19 SHALL APPLY TO THE SECRETARY FOR A FIVE-YEAR STATE INNOVATION  
20 WAIVER IN ACCORDANCE WITH SECTION 1332 OF THE FEDERAL ACT AND 45  
21 CFR 155 TO WAIVE SECTION 1303 (e) OF THE FEDERAL ACT AND 45 CFR  
22 156.155 TO ENABLE INSURANCE CARRIERS IN THE STATE TO OFFER  
23 CATASTROPHIC HEALTH PLANS TO ANY INDIVIDUAL RESIDING IN  
24 COLORADO FOR PLAN YEARS STARTING ON OR AFTER JANUARY 1, 2020.  
25 THE WAIVER APPLICATION MUST CLEARLY STATE THAT:

26 (I) OFFERING CATASTROPHIC HEALTH PLANS TO INDIVIDUALS  
27 THIRTY YEARS OF AGE AND OLDER AND INDIVIDUALS WHO DO NOT MEET

1 A HARDSHIP REQUIREMENT IS CONTINGENT ON APPROVAL OF THE WAIVER  
2 REQUEST:

3 (II) HEALTH BENEFIT PLANS ISSUED IN ACCORDANCE WITH THE  
4 WAIVER MAY ONLY BE OFFERED AND SOLD THROUGH THE HEALTH BENEFIT  
5 EXCHANGE; AND

6 (III) HEALTH BENEFIT PLANS ISSUED IN ACCORDANCE WITH THE  
7 WAIVER ARE NOT ELIGIBLE FOR ADVANCED PREMIUM TAX CREDITS.

8 (b) THE COMMISSIONER SHALL ENSURE THAT THE WAIVER  
9 APPLICATION SUBMITTED PURSUANT TO THIS SECTION COMPLIES WITH THE  
10 REQUIREMENTS SPECIFIED IN SECTION 1332 OF THE FEDERAL ACT AND 45  
11 CFR 155.1308.

12 (2) (a) THE COMMISSIONER SHALL MAKE THE DRAFT WAIVER  
13 APPLICATION AVAILABLE FOR PUBLIC REVIEW BY POSTING A COPY ON THE  
14 DEPARTMENT'S WEBSITE ON OR BEFORE DECEMBER 1, 2018. THE  
15 COMMISSIONER SHALL SUBMIT THE WAIVER APPLICATION TO THE  
16 SECRETARY BY JANUARY 1, 2019.

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

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

21 (II) THE SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES OR  
22 ANY SUCCESSOR COMMITTEE; AND

23 (III) THE HOUSE OF REPRESENTATIVES COMMITTEES ON HEALTH,  
24 INSURANCE, AND ENVIRONMENT AND PUBLIC HEALTH CARE AND HUMAN  
25 SERVICES OR ANY SUCCESSOR COMMITTEES.

26 (3) NOTWITHSTANDING THE DEFINITION OF CATASTROPHIC PLAN  
27 IN SECTION 10-16-102 (10), ANY REQUIREMENT OR LIMITATION IMPOSED

1 BY SECTION 10-16-103.4 OR 10-16-116, OR ANY OTHER PROVISION OF LAW,  
2 IF THE SECRETARY APPROVES THE WAIVER REQUESTED IN ACCORDANCE  
3 WITH SUBSECTION (1) OF THIS SECTION, INSURANCE CARRIERS ARE  
4 PERMITTED TO OFFER CATASTROPHIC HEALTH PLANS TO ANY INDIVIDUAL  
5 RESIDING IN COLORADO.

6 (4) IF THE SECRETARY APPROVES THE WAIVER REQUESTED IN  
7 ACCORDANCE WITH THIS SECTION, THE COMMISSIONER SHALL  
8 PROMULGATE RULES NECESSARY TO PERMIT THE OFFERING OF  
9 CATASTROPHIC HEALTH PLANS CONSISTENT WITH THE WAIVER AND THIS  
10 SECTION.

11 (5) AS USED IN THIS SECTION:

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

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

18 (c) "STATE INNOVATION WAIVER" MEANS A WAIVER OF ONE OR  
19 MORE REQUIREMENTS OF THE FEDERAL ACT AUTHORIZED BY SECTION 1332  
20 OF THE FEDERAL ACT, CODIFIED IN 42 U.S.C. SEC. 18052, AND APPLICABLE  
21 FEDERAL REGULATIONS.

22 (6) IF THE SECRETARY DENIES THE WAIVER REQUESTED UNDER  
23 THIS SECTION OR, AFTER APPROVAL, DENIES AN APPLICATION TO EXTEND  
24 THE WAIVER, THIS SECTION IS REPEALED. THE COMMISSIONER SHALL  
25 NOTIFY THE REVISOR OF STATUTES IN WRITING IF THE CONDITION  
26 SPECIFIED IN THIS SUBSECTION (6) OCCURS BY E-MAILING THE NOTICE TO  
27 REVISOROFSTATUTES.GA@STATE.CO.US. THIS SECTION IS REPEALED ON

1 THE DATE IDENTIFIED IN THE NOTICE THAT THE WAIVER OR EXTENSION  
2 WAS DENIED OR ON THE DATE OF THE NOTICE TO THE REVISOR OF  
3 STATUTES IF THE NOTICE DOES NOT SPECIFY A DIFFERENT DATE.

4 (7) IF THE SECRETARY APPROVES THE WAIVER, THE COMMISSIONER  
5 SHALL REPORT ON THE IMPLEMENTATION AND EFFECT OF THE WAIVER TO  
6 THE SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES AND THE  
7 HOUSE OF REPRESENTATIVES COMMITTEES ON HEALTH, INSURANCE, AND  
8 ENVIRONMENT AND PUBLIC HEALTH CARE AND HUMAN SERVICES, OR ANY  
9 SUCCESSOR COMMITTEES, DURING THE COMMITTEES' HEARINGS HELD  
10 PRIOR TO THE 2022 REGULAR SESSION OF THE GENERAL ASSEMBLY UNDER  
11 THE "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND  
12 TRANSPARENT (SMART) GOVERNMENT ACT", PART 2 OF ARTICLE 7 OF  
13 TITLE 2.

14 (8) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2023.

15 **SECTION 3. Appropriation.** For the 2018-19 state fiscal year,  
16 \$9,200 is appropriated to the department of regulatory agencies for use by  
17 the division of insurance. This appropriation is from the division of  
18 insurance cash fund created in section 10-1-103 (3), C.R.S. To implement  
19 this act, the division may use this appropriation for personal services.

20 **SECTION 4. Act subject to petition - effective date.** This act  
21 takes effect at 12:01 a.m. on the day following the expiration of the  
22 ninety-day period after final adjournment of the general assembly (August  
23 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a  
24 referendum petition is filed pursuant to section 1 (3) of article V of the  
25 state constitution against this act or an item, section, or part of this act  
26 within such period, then the act, item, section, or part will not take effect  
27 unless approved by the people at the general election to be held in

- 1 November 2018 and, in such case, will take effect on the date of the
- 2 official declaration of the vote thereon by the governor.