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Healthcare Alert

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Federal funding cuts impact Essential Health Plan benefits for New Yorkers

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New York seeks public comment on its proposal to eliminate expansion of essential health plan benefits in response to federal funding cuts.

What's the impact?

- New York State plans to end its Section 1332 Waiver and revert to the Basic Health Program due to major federal funding cuts.
- Essential Plan eligibility will be limited to residents with incomes up to 200% of the Federal Poverty Level (FPL).
- The state is seeking comments on the proposed transition through October 10, 2025.

In response to major federal funding cuts, codified in the One Big Beautiful Bill Act (H.R. 1, Public Law No: 119-21), New York State announced its intent to end its Section 1332 State Innovation Waiver (the 1332 Waiver), which allowed for the expansion of New York's Essential Plan, and reactivate its Basic Health Program (BHP). In a press release issued by NYSDOH on September 10, 2025, the state announced that the recent cuts to federal funding, which — among other things

— did not extend the enhanced premium tax credits (ePTCs) in place under the American Rescue Plan and Inflation Reduction Act, would result in the loss of more than $7.5 billion in annual federal funding to New York and the loss of coverage for an estimated 450,000 Essential Plan enrollees.

The ePTC, which is set to expire at the end of 2025, increased eligibility and provided larger subsidies to eligible enrollees. The 1332 Waiver was approved, in part, because it was anticipated to save the federal government money by spending less under the waiver than on ePTC without the waiver. In exchange, New York receives pass-through funding for individuals with estimated household incomes of up to 250% of FPL based on the anticipated savings. At the time the 1332 Waiver was approved, it was estimated that it would produce net federal savings of $66.3 billion over a five-year period. A subsequent amendment to the state's 1332 waiver was approved in 2024, which allowed the state to implement additional cost-sharing reduction efforts.

In what the state describes as an effort to preserve coverage for as many residents as possible, New York announced its proposal to (1) terminate the 1332 Waiver, reversing the expansion of the Essential Plan coverage to residents with incomes of between 200 to 250% of the FPL and cost-sharing reduction efforts for residents with incomes of between 250 to 400% of the FPL; and (2) reactivate the BHP to preserve healthcare coverage for an estimated 1.3 million New York residents and mitigate revenue losses to the healthcare delivery system.

History of the Basic Health Program, Essential Plan, and Section 1332 State Innovation Waiver

Beginning in 2015, New Yorkers with estimated household incomes of up to 200% of the FPL were eligible under the BHP for Essential Plan coverage, which provided beneficiaries with at least 10 essential health benefits, as required by the Affordable Care Act. In 2024, New York received approval for its 1332 Waiver, which provided the state with federal pass-through funds as a result of savings associated with the elimination of spending on ePTC for certain Essential Plan enrollees and the elimination of the BHP, enabling the state to expand Essential Plan eligibility to residents with incomes of between 200% and 250% of the FPL. The Essential Plan Expansion offered comprehensive health insurance for eligible middle class residents with zero monthly premiums, no deductibles, and minimal cost-sharing. Essential Plan Expansion under the 1332 Waiver was intended to run for five years, ending in December 2028.

In conjunction with its 1332 Waiver application in 2023, New York suspended its BHP effective April 1, 2024, with the intent to revert back to the BHP at the end of the 1332 Waiver period.

In late 2024, New York also received federal approval through an amended 1332 waiver application to use federal pass-through funds for enhanced cost-sharing reduction efforts focused on reducing out-of-pocket costs, co-pays, co-insurance, deductibles, and maximum out-of-pocket limits for healthcare services for individual and small group enrollees with incomes of between 250% and 400% of the FPL who were buying insurance on the New York State of Health (the "Marketplace").

With the anticipated loss of this federal funding, New York now seeks to revert to its original BHP as previously contemplated, limiting Essential Plan eligibility to those with incomes of up to 200% of the FPL. The NYSDOH announcement does not address any changes to the enhanced cost-sharing reductions. However, given that such reductions are tied to the 1332 Waiver, with a return to the BHP, we would anticipate that they will also be eliminated.

Impact on insured individuals, health plans, and providers

If the state's request is approved by the Centers for Medicare & Medicaid Services (CMS), individuals with incomes of up to 200% of the FPL will remain eligible for the Essential Plan under BHP authority beginning on July 1, 2026, with no change in coverage or benefits. Those individuals at between 200% and 250% of the FPL will lose Essential Plan eligibility, but the state indicated it would provide affected members with 90 days' notice and enhanced assistance to help affected individuals understand their coverage options and enroll in new coverage through the Marketplace, which could result in higher premiums and out-of-pocket costs. The state indicated it will work closely with CMS, health plans, providers, and community organizations to minimize coverage disruptions and ensure a smooth transition. Individuals and small group enrollees buying a qualified health through the Marketplace with incomes of between 250% and 400% of the FPL will not benefit from lower cost-sharing amounts afforded to them under the 1332 Waiver.

Providers should prepare for changes resulting from disruption in patient insurance coverage by staying abreast of the eligibility rule changes; educating affected members, particularly to ensure that impacted Essential Plan enrollees are aware of the special enrollment period and receive needed assistance with finding coverage; and reviewing operational policies and procedures, including as these relate to your financial assistance programs and collection efforts. As a result of the loss of coverage, providers are likely to see an uptick in uninsured and underinsured patients and an increase in applications for financial assistance.

Note that hospitals, per DOH Guidance, must offer financial assistance (a sliding scale) to patients, uninsured and underinsured, earning up to 400% of FPL, not including assets (e.g., cars or homes). "Underinsured" means the individual has paid medical expenses that exceeded 10% of their income in the last 12 months. The sliding scale for patients between 200–400% FPL is:

200–300% FPL	
Uninsured	Up to 10% of the Medicaid rate
Underinsured	Up to a maximum of 10% of patient's cost-sharing amount

301–400% FPL	
Uninsured	Up to 20% of the Medicaid rate
Underinsured	Up to a maximum of 20% of patient's cost-sharing amount

Along with these criteria, monthly payment plans must be less than 5% of the patient's income.

Public comments

NYSDOH will collect public comments on the proposed transition from September 10, 2025, through October 10, 2025. Comments may be emailed to NYSOH.team@health.ny.gov or mailed to:

NY State of Health
Attn: 1332 Waiver
Empire State Plaza Corning Tower, Room 2580
Albany, NY 12237

The state plans to submit its formal request to CMS on October 15, 2025. Pending CMS approval, the state anticipates the transition to the BHP to become effective on July 1, 2026.

Nixon Peabody is tracking the developments of H.R. 1 and the state implications and reactions that affect healthcare stakeholders. For more information on the content of this alert, please contact your Nixon Peabody attorney or:

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