

## **Table of Contents**

**State/Territory Name: Oregon**

**State Plan Amendment (SPA) #: 20-0011**

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form/Summary Form (with 179-like data)
- 3) Approved SPA Pages



April 24, 2020

Patrick Allen  
Director  
Oregon Health Authority  
500 Summer Street Northeast, E-15  
Salem, OR 97301-1079

Re: Oregon State Plan Amendment (SPA) OR-20-0011

Dear Mr. Allen:

We have reviewed the proposed amendment to add section 7.4 Medicaid Disaster Relief for the COVID-19 National Emergency to your Medicaid state plan, as submitted under transmittal number (TN) OR-20-0011. This amendment proposes to implement temporary policies, which are different from those policies and procedures otherwise applied under your Medicaid state plan, during the period of the Presidential and Secretarial emergency declarations related to the COVID-19 outbreak (or any renewals thereof).

On March 13, 2020, the President of the United States issued a proclamation that the COVID-19 outbreak in the United States constitutes a national emergency by the authorities vested in him by the Constitution and the laws of the United States, including sections 201 and 301 of the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and consistent with section 1135 of the Social Security Act (Act). On March 13, 2020, pursuant to section 1135(b) of the Act, the Secretary of the United States Department of Health and Human Services invoked his authority to waive or modify certain requirements of titles XVIII, XIX, and XXI of the Act as a result of the consequences of the COVID-19 pandemic, to the extent necessary, as determined by the Centers for Medicare & Medicaid Services (CMS), to ensure that sufficient health care items and services are available to meet the needs of individuals enrolled in the respective programs and to ensure that health care providers that furnish such items and services in good faith, but are unable to comply with one or more of such requirements as a result of the COVID-19 pandemic, may be reimbursed for such items and services and exempted from sanctions for such noncompliance, absent any determination of fraud or abuse. This authority took effect as of 6PM Eastern Standard Time on March 15, 2020, with a retroactive effective date of March 1, 2020. The emergency period will terminate, and this state plan provision will no longer be in effect, upon termination of the public health emergency, including any extensions.

The State of Oregon requested a modification of the requirement to submit SPAs related to the COVID-19 emergency by March 31, 2020, to obtain a SPA effective date during the first calendar quarter of 2020, pursuant to 42 C.F.R. §430.20. CMS is approving this request pursuant to section 1135(b)(5) of the Act.

The State of Oregon also requested a waiver of public notice requirements applicable to the state plan amendment (SPA) submission process. Public notice for SPAs is required under 42 C.F.R. §447.205 for changes in statewide methods and standards for setting Medicaid payment rates, 42 C.F.R. §447.57 for changes to premiums and cost sharing, and 42 C.F.R. §440.386 for changes to ABPs. These requirements help to ensure that the affected public has reasonable opportunity to comment on these SPAs. CMS recognizes that during this public health emergency, Oregon must act expeditiously to protect and serve the general public. Therefore, under section 1135(b)(1)(C) and 1135(b)(5) of the Act, CMS is approving the state's request to waive these notice requirements applicable to this SPA.

The State of Oregon also requested a waiver to modify the tribal consultation timeline applicable to this SPA submission process. Under section 1135(b)(5) of the Act, CMS is also approving the State of Oregon's request for flexibility to modify the timeframes associated with tribal consultation required under section 1902(a)(73) of the Act, including shortening the number of days before submission or conducting consultation after submission of the SPA.

These approvals under section 1135 only apply with respect to SPAs that provide or increase beneficiary access to items and services related to COVID-19 (such as cost sharing waivers, payment rate increases, or amendments to ABPs to add services or providers) and that would not restrict or limit payment or services or otherwise burden beneficiaries and providers, and that are temporary, with a specified sunset date that is not later than the last day of the declared COVID-19 emergency (or any extension thereof). Even though CMS is approving this waiver, we encourage the state to make all relevant information available to the public so they are aware of the changes.

We conducted our review of your submittal according to the statutory requirements at section 1902(a) of the Act and implementing regulations. This letter is to inform you that Oregon's Medicaid SPA Transmittal Number OR-20-0011 is approved effective March 1, 2020.

Enclosed is a copy of the CMS-179 summary form and the approved state plan pages.

Please contact Nikki Lemmon at 303-844-2641 or by email at [Nicole.lemmon@cms.hhs.gov](mailto:Nicole.lemmon@cms.hhs.gov) if you have any questions about this approval. We appreciate the efforts of you and your staff in responding to the needs of the residents of the State of Oregon and the health care community.

Sincerely,

Anne M.

Costello -S

Anne Marie Costello

Deputy Director

Center for Medicaid & CHIP Services

Digitally signed by Anne  
M. Costello -S  
Date: 2020.04.24  
14:42:27 -04'00'

Enclosures

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>	1. TRANSMITTAL NUMBER: <b>20-0011</b>	2. STATE Oregon
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID) Medical Assistance	
<b>FOR: HEALTH CARE FINANCING ADMINISTRATION</b>	4. PROPOSED EFFECTIVE DATE <b>3/1/20</b>	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		

5. TYPE OF PLAN MATERIAL (Check One):

NEW STATE PLAN       AMENDMENT TO BE CONSIDERED AS NEW PLAN       AMENDMENT

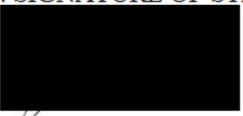
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION: 1915(i) Social Security Act	7. FEDERAL BUDGET IMPACT: a. FFY 2020 \$ 3,471,584 b. FFY 2021 \$
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  Section 7.5, Page 102-111	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable):  NEW

10. SUBJECT OF AMENDMENT: This transmittal is being submitted related to COVID-19 emergency disaster relief SPA for temporary flexibility to the (i) plan.

11. GOVERNOR'S REVIEW (Check One):

GOVERNOR'S OFFICE REPORTED NO COMMENT       OTHER, AS SPECIFIED: The Governor does not wish to review any plan materials.  
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED  
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE AGENCY OFFICIAL: 	16. RETURN TO: Oregon Health Authority Medical Assistance Programs 500 Summer Street NE E-65 Salem, OR 97301  ATTN: Jesse Anderson, State Plan Manager
13. TYPED NAME: Lori Coyner, MA	
14. TITLE: State Medicaid Director, OHA	
15. DATE SUBMITTED: 4/8/2020	

FOR REGIONAL OFFICE USE ONLY	
17. DATE RECEIVED: 4/8/20	18. DATE APPROVED: 4/24/20

PLAN APPROVED – ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL: 3/1/20	20. SIGNATURE OF REGIONAL OFFICIAL: Anne M. Costello - S M. Costello - S Date: 2020.04.24 14:43:06 -04'00'
21. TYPED NAME: Anne Marie Costello	22. TITLE: CMCS Deputy Director

23. REMARKS:

**Section 7 –General Provisions 1915(i) state plan**  
**7.5. Medicaid Disaster Relief for the COVID-19 National Emergency**

On March 13, 2020, the President of the United States issued a proclamation that the COVID-19 outbreak in the United States constitutes a national emergency by the authorities vested in him by the Constitution and the laws of the United States, including sections 201 and 301 of the National Emergencies Act (50 U.S.C. 1601 et seq.), and consistent with section 1135 of the Social Security Act (Act). On March 13, 2020, pursuant to section 1135(b) of the Act, the Secretary of the United States Department of Health and Human Services invoked his authority to waive or modify certain requirements of titles XVIII, XIX, and XXI of the Act as a result of the consequences COVID-19 pandemic, to the extent necessary, as determined by the Centers for Medicare & Medicaid Services (CMS), to ensure that sufficient health care items and services are available to meet the needs of individuals enrolled in the respective programs and to ensure that health care providers that furnish such items and services in good faith, but are unable to comply with one or more of such requirements as a result of the COVID-19 pandemic, may be reimbursed for such items and services and exempted from sanctions for such noncompliance, absent any determination of fraud or abuse. This authority took effect as of 6PM Eastern Standard Time on March 15, 2020, with a retroactive effective date of March 1, 2020. The emergency period will terminate, and waivers will no longer be available, upon termination of the public health emergency, including any extensions.

The State Medicaid agency (agency) seeks to implement the policies and procedures described below, which are different than the policies and procedures otherwise applied under the Medicaid state plan, during the period of the Presidential and Secretarial emergency declarations related to the COVID-19 outbreak (or any renewals thereof), or for any shorter period described below:

Temporary, time limited changes to 1915(i) Home and Community-Based Services Option

NOTE: States may not elect a period longer than the Presidential or Secretarial emergency declaration (or any renewal thereof). States may not propose changes on this template that restrict or limit payment, services, or eligibility, or otherwise burden beneficiaries and providers.

**Request for Waivers under Section 1135**

  X   The agency seeks the following under section 1135(b)(1)(C) and/or section 1135(b)(5) of the Act:

- a.   X   SPA submission requirements – the agency requests modification of the requirement to submit the SPA by March 31, 2020, to obtain a SPA effective date during the first calendar quarter of 2020, pursuant to 42 CFR 430.20.
- b.   X   Public notice requirements – the agency requests waiver of public notice requirements that would otherwise be applicable to this SPA submission. These requirements may include those specified in 42 CFR 440.386 (Alternative Benefit Plans), 42 CFR 447.57(c) (premiums and cost sharing), and 42 CFR 447.205 (public notice of changes in statewide methods and standards for setting payment rates).
- c.   X   Tribal consultation requirements – the agency requests modification of tribal consultation timelines specified in Oregon’s Medicaid state plan, as described below:

*Oregon, with agreement from Oregon's tribes, will provide notification and an expedited consultation process.*

**Section A – Eligibility**

- 1. \_\_\_\_\_ The agency furnishes medical assistance to the following optional groups of individuals described in section 1902(a)(10)(A)(ii) or 1902(a)(10)(c) of the Act. This may include the new optional group described at section 1902(a)(10)(A)(ii)(XXIII) and 1902(ss) of the Act providing coverage for uninsured individuals.

- 2. \_\_\_\_\_ The agency furnishes medical assistance to the following populations of individuals described in section 1902(a)(10)(A)(ii)(XX) of the Act and 42 CFR 435.218:

- a. \_\_\_\_\_ All individuals who are described in section 1905(a)(10)(A)(ii)(XX)

Income standard: \_\_\_\_\_

-or-

- b. \_\_\_\_\_ Individuals described in the following categorical populations in section 1905(a) of the Act:

Income standard: \_\_\_\_\_

- 3. \_\_\_\_\_ The agency applies less restrictive financial methodologies to individuals excepted from financial methodologies based on modified adjusted gross income (MAGI) as follows.

Less restrictive income methodologies:

Less restrictive resource methodologies:

4. \_\_\_\_ The agency considers individuals who are evacuated from the state, who leave the state for medical reasons related to the disaster or public health emergency, or who are otherwise absent from the state due to the disaster or public health emergency and who intend to return to the state, to continue to be residents of the state under 42 CFR 435.403(j)(3).

5. \_\_\_\_ The agency provides Medicaid coverage to the following individuals living in the state, who are non-residents:

6. \_\_\_\_ The agency provides for an extension of the reasonable opportunity period for non-citizens declaring to be in a satisfactory immigration status, if the non-citizen is making a good faith effort to resolve any inconsistencies or obtain any necessary documentation, or the agency is unable to complete the verification process within the 90-day reasonable opportunity period due to the disaster or public health emergency.

**Section B – Enrollment**

1. \_\_\_\_ The agency elects to allow hospitals to make presumptive eligibility determinations for the following additional state plan populations, or for populations in an approved section 1115 demonstration, in accordance with section 1902(a)(47)(B) of the Act and 42 CFR 435.1110, provided that the agency has determined that the hospital is capable of making such determinations.

2. \_\_\_\_ The agency designates itself as a qualified entity for purposes of making presumptive eligibility determinations described below in accordance with sections 1920, 1920A, 1920B, and 1920C of the Act and 42 CFR Part 435 Subpart L.

3. \_\_\_\_ The agency designates the following entities as qualified entities for purposes of making presumptive eligibility determinations or adds additional populations as described below in accordance with sections 1920, 1920A, 1920B, and 1920C of the Act and 42 CFR Part 435 Page

Subpart L. Indicate if any designated entities are permitted to make presumptive eligibility determinations only for specified populations.

- 4. \_\_\_\_ The agency adopts a total of \_\_\_\_ months (not to exceed 12 months) continuous eligibility for children under age enter age \_\_\_\_ (not to exceed age 19) regardless of changes in circumstances in accordance with section 1902(e)(12) of the Act and 42 CFR 435.926.
- 5. \_\_\_\_ The agency conducts redeterminations of eligibility for individuals excepted from MAGI-based financial methodologies under 42 CFR 435.603(j) once every \_\_\_\_ months (not to exceed 12 months) in accordance with 42 CFR 435.916(b).
- 6. \_\_\_\_ The agency uses the following simplified application(s) to support enrollment in affected areas or for affected individuals (a copy of the simplified application(s) has been submitted to CMS).
  - a. \_\_\_\_ The agency uses a simplified paper application.
  - b. \_\_\_\_ The agency uses a simplified online application.
  - c. \_\_\_\_ The simplified paper or online application is made available for use in call-centers or other telephone applications in affected areas.

**Section C – Premiums and Cost Sharing**

- 1. \_\_\_\_ The agency suspends deductibles, copayments, coinsurance, and other cost sharing charges as follows:

- 2. \_\_\_\_ The agency suspends enrollment fees, premiums and similar charges for:
  - a. \_\_\_\_ All beneficiaries
  - b. \_\_\_\_ The following eligibility groups or categorical populations:

*Please list the applicable eligibility groups or populations.*

- 3. \_\_\_\_ The agency allows waiver of payment of the enrollment fee, premiums and similar charges for undue hardship.

**Section D – Benefits**

*Benefits:*

1. \_\_\_\_ The agency adds the following optional benefits in its state plan (include service descriptions, provider qualifications, and limitations on amount, duration or scope of the benefit):

2. \_\_\_\_ The agency makes the following adjustments to benefits currently covered in the state plan:

3. \_\_\_\_ The agency assures that newly added benefits or adjustments to benefits comply with all applicable statutory requirements, including the statewideness requirements found at 1902(a)(1), comparability requirements found at 1902(a)(10)(B), and free choice of provider requirements found at 1902(a)(23).

4. \_\_\_\_ Application to Alternative Benefit Plans (ABP). The state adheres to all ABP provisions in 42 CFR Part 440, Subpart C. This section only applies to states that have an approved ABP(s).

- a. \_\_\_\_ The agency assures that these newly added and/or adjusted benefits will be made available to individuals receiving services under ABPs.
- b. \_\_\_\_ Individuals receiving services under ABPs will not receive these newly added and/or adjusted benefits, or will only receive the following subset:

*Telehealth:*

5.  X  The agency utilizes telehealth in the following manner, which may be different than outlined in the state’s approved state plan:

Allow needs-based eligibility criteria evaluations and re-evaluations to be completed by communication methods such as telehealth/telemedicine in lieu of face to face visits and in accordance with HIPAA, as directed by OHA.  
Allow person-centered service plan (PSCP) development and completion by communication methods such as telehealth/telemedicine, in lieu of face-to-face visits and in accordance with HIPAA, as directed by OHA.  
Allow Home-Based Habilitation, HCBS Behavioral Habilitation, and Psychosocial Rehabilitation Services to be provided via telehealth/telemedicine, in lieu of face-to-face visits and in accordance with HIPAA, as directed by OHA.

*Drug Benefit:*

6. \_\_\_\_\_ The agency makes the following adjustments to the day supply or quantity limit for covered outpatient drugs. The agency should only make this modification if its current state plan pages have limits on the amount of medication dispensed.

7. \_\_\_\_\_ Prior authorization for medications is expanded by automatic renewal without clinical review, or time/quantity extensions.

8. \_\_\_\_\_ The agency makes the following payment adjustment to the professional dispensing fee when additional costs are incurred by the providers for delivery. States will need to supply documentation to justify the additional fees.

9. \_\_\_\_\_ The agency makes exceptions to their published Preferred Drug List if drug shortages occur. This would include options for covering a brand name drug product that is a multi-source drug if a generic drug option is not available.

Optional benefits described in Section D:

1.  Newly added benefits described in Section D are paid using the following methodology:

a.  Published fee schedules –  
Effective date (enter date of change): 3/1/20

Location (list published location): \_\_\_\_\_

b.  Other:

Increases to state plan payment methodologies:

2.  The agency increases payment rates for the following services:

a.  Payment increases are targeted based on the following criteria:

b. Payments are increased through:

i.  A supplemental payment or add-on within applicable upper payment limits:

- ii. \_\_\_ An increase to rates as described below.

Rates are increased:

\_\_\_ Uniformly by the following percentage: \_\_\_\_\_

\_\_\_ Through a modification to published fee schedules –

Effective date (enter date of change): \_\_\_\_\_

Location (list published location): \_\_\_\_\_

\_\_\_ Up to the Medicare payments for equivalent services.

\_\_\_ By the following factors:

*Please describe.*

*Payment for services delivered via telehealth:*

- 3. X For the duration of the emergency, the state authorizes payments for telehealth services that:

- a. X Are not otherwise paid under the Medicaid state plan;
- b. \_\_\_ Differ from payments for the same services when provided face to face;
- c. \_\_\_ Differ from current state plan provisions governing reimbursement for telehealth;

Telehealth will be used for: Case management- assessment, person-centered service planning and monitoring; Habilitation; and Psychosocial rehabilitation. This will sunset on the last day of the public health emergency.

- d. \_\_\_ Include payment for ancillary costs associated with the delivery of covered services via telehealth, (if applicable), as follows:
  - i. \_\_\_ Ancillary cost associated with the originating site for telehealth is incorporated into fee-for-service rates.
  - ii. \_\_\_ Ancillary cost associated with the originating site for telehealth is separately reimbursed as an administrative cost by the state when a Medicaid service is delivered.

Other:

4. \_\_\_\_ Other payment changes:

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**Section F – Post-Eligibility Treatment of Income**

1. \_\_\_\_ The state elects to modify the basic personal needs allowance for institutionalized individuals. The basic personal needs allowance is equal to one of the following amounts:
  - a. \_\_\_\_ The individual’s total income
  - b. \_\_\_\_ 300 percent of the SSI federal benefit rate
  - c. \_\_\_\_ Other reasonable amount: \_\_\_\_\_
  
2. \_\_\_\_ The state elects a new variance to the basic personal needs allowance. (Note: Election of this option is not dependent on a state electing the option described the option in F.1. above.)

The state protects amounts exceeding the basic personal needs allowance for individuals who have the following greater personal needs:

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**Section G – Other Policies and Procedures Differing from Approved Medicaid State Plan /Additional Information**

**Person-Centered Service Planning & Delivery**

To comply with 42 CFR 441.725(b)(9), appropriate IQA staff may obtain the individual’s verbal approval and document this approval in the case records as directed by OHA. The use of e-signatures that meets privacy and security requirements will be added as a method for the participant or legal guardian signing the ISP to indicate approval of the plan. Verbal consent is only used as authorization for providers to deliver services while awaiting receipt of the signed person-centered service plan (PCSP). Verbal consent does not substitute for electronic or hardcopy signatures on the PCSPs

PCSPs that are expiring require a contact to the individual to verify with the individual or representative that the current assessment and services, including providers, remain acceptable and approvable for the upcoming year allowing for receipt of the signed form via the use of e-signatures that meet privacy and security requirements. Services may start while waiting for the signature to be returned to the case manager, whether electronically or by mail. Signatures will include a date reflecting the ISP meeting date.

PCSP revisions will be updated within 60 days of service needs identified to mitigate harm or risk directly related to COVID-19 impacts, as directed by OHA, with individual approval obtained using the process described above.

#### **Home and Community-Based Services in Inpatient Settings**

Temporarily allow payment for the provision of Home-Based Habilitation, HCBS Behavioral Habilitation and Psychosocial Rehabilitation services to eligible individuals who are being served in an inpatient setting in order to enable direct care workers or other home and community-based providers to accompany individuals to any setting necessary.

- (a) these services will be focused on providing personal, behavioral and communication supports not otherwise provided in an acute care hospital;
- (b) the service will only be delivered in the alternate setting for up to 30 days;
- (c) identified in an individual's person-centered service plan (or comparable plan of care);
- (d) provided to meet needs of the individual that are not met through the provision of hospital services;
- (e) not a substitute for services that the hospital is obligated to provide through its conditions of participation or under Federal or State law, or under another applicable requirement; and
- (f) designed to ensure smooth transitions between acute care settings and home and community-based settings, and to preserve the individual's functional abilities.

#### **PRA Disclosure Statement**

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-1148 (Expires 03/31/2021). The time required to complete this information collection is estimated to average 1 to 2 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. Your response is required to receive a waiver under Section 1135 of the Social Security Act. All responses are public and will be made available on the CMS web site. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850. \*\*\*CMS Disclosure\*\*\* Please do not send applications, claims, payments, medical records or any documents containing sensitive information to the PRA Reports Clearance Office. Please note that any correspondence not pertaining to the information collection burden approved under the associated OMB control number listed on this form will not be reviewed, forwarded, or retained. If you have questions or concerns regarding where to submit your documents, please contact the Centers for Medicaid & CHIP Services at 410-786-3870.

TN: 20-0011  
Supersedes TN: NEW

Approval Date: 4/24/20  
Effective Date: 3/1/20