Dear Director Allen:

Please find below the Centers for Medicare & Medicaid Services’ (CMS) request for additional information regarding Oregon’s section 9817 initial spending plan and spending narrative submitted on June 11, 2021.

We have identified missing information which we will need to review before the initial spending plan and spending narrative can be approved. The State Medicaid Director Letter (SMDL) #21-003, section D, titled Required Reporting on Activities to Enhance, Expand, or Strengthen HCBS under the Medicaid Program provides a description of the information states should include in their initial spending plans and spending plan narratives.

**Additional Information Requested**

Please provide the following additional information related to each of these areas to facilitate our review and approval process:

- **Estimate of the total amount of funds attributable to the increased FMAP that the state anticipates claiming between April 1, 2021, and March 31, 2022**

Based on the information in the spending plan, it appears that the state anticipates claiming $301,375,202 in funds attributable to the increased FMAP. Please confirm this amount and clarify in your revised spending plan the specific HCBS on which this amount is based or confirm that this figure is based on all HCBS covered by Oregon and included in Appendix B of SMDL #21-003.

- **Estimate the anticipated expenditures for the activities the state intends to implement to enhance, expand, or strengthen HCBS under the state Medicaid program between April 1, 2021, and March 31, 2024.**

In the submission, your state listed a number of activities that it intends to implement and the anticipated cost for each. However, it is unclear whether some of these activities would enhance, expand or strengthen HCBS under the Medicaid program. CMS is requesting the following changes or clarifications to your state’s spending plan and narrative:
1. For any activities focused on behavioral health providers or people with mental or substance use disorders (particularly but not limited to the activities in the OHA tab), clearly indicate if any of the activities are focused on: behavioral health providers that are not delivering services that are listed in Appendix B of the SMDL or could be listed in Appendix B (e.g., behavioral health services that are covered under another benefit but could be covered under the rehabilitative services benefit); or individuals with mental or substance use disorders who are not receiving any of the services that are listed in Appendix B or could be listed in Appendix B. If any activities are not directly related to the services that are listed in Appendix B or could be listed in Appendix B, explain how those activities expand, enhance, or strengthen HCBS under Medicaid.

2. Spell out all abbreviations at first use to aid in CMS review of your spending plans. Abbreviations are used extensively without an accompanying explanation or definition.

3. Describe the Money Management Program and explain how expansion of the program would enhance, expand, or strengthen HCBS under Medicaid (number 5, OHA tab; number 21, APD tab).

4. Clearly indicate whether the state plans to pay for ongoing internet connectivity costs as part of any of these activities: “Flexible grant funding to support people through CDDPs3/Brokerages” (number 30, ODDS tab); “Grants to provide Personal Support Workers with devices to access EVV” (number 31, ODDS tab); and “Funding for HIPAA Compliant technology for CMEs and providers” (number 30, ODDS tab). If the state intends to pay for ongoing internet connectivity costs as part of any of these activities, CMS is not able to approve those activities at this time and will need to follow-up with the state to indicate whether this activity is approvable.

5. Provide additional information on the anticipated amount of the grants and the types of repairs and accessibility modifications that will be made with the grants to group home agencies and adult foster agencies (number 11, ODDS tab). Please note that CMS is not able to approve capital investments at this time and will need to follow-up with the state to indicate whether this activity is approvable.

6. Provide additional information about the types of maintenance costs anticipated for the CIP homes, the anticipated cost of the maintenance per home, and the number of CIP homes impacted (number 12, ODDS tab). Please note that CMS is not able to approve capital investments at this time and will need to follow-up with the state to indicate whether this activity is approvable.

7. Clearly indicate whether the state plans to pay for room and board (which CMS would not find to be a permissible use of funds) as part of either of the following activities: “Restore funding for the Fairview Trust” (number 29, ODDS tab); and the funds to address unique situations to keep individuals out of crisis (number 18, APD tab).

8. Provide additional information about the Oregon Intervention System and how this activity expands, enhances, or strengthens HCBS (number 35, ODDS tab).

9. Clearly indicate if the wage and benefit study under activity number 5 in APD tab and the infection prevention and control training curriculum under activity number 9 in the APD tab will be focused on HCBS providers, institutional providers, or both.

10. Clearly indicate if the workforce recruitment activity under activity number 6 in the APD tab will be focused on workers in HCBS settings, institutional settings, or both.

11. Clearly indicate if HCBS providers, institutional providers, or both will be eligible for funds from the “Long term care capital improvement fund” (number 8, APD tab) and the
“innovation fund to improve the Long Term Services and Supports system” (number 12, APD tab).

12. Clearly indicate if HCBS providers, institutional providers, or both would be eligible under activity number 13 in the APD tab (Allocate $500K to support training development and delivery for LTSS providers on service equity) and activities number 39 in the ODDS tab and 27 in the APD tab (self-insured healthcare plan).

CMS will need additional information before it can determine whether any of those activities or uses of funds are approvable under ARP section 9817.

General Considerations

As part of this request for additional information, CMS is noting the following:

- CMS expects your state to notify CMS as soon as possible if your state’s activities to expand, enhance, or strengthen HCBS under ARP section 9817:
  - Are focused on services other than those listed in Appendix B or that could be listed in Appendix B (e.g., behavioral health services that are covered under another benefit but could be covered under the rehabilitative services benefit). If any activities are not directly related to the services listed in Appendix B or services that could be listed in Appendix B, please explain how those activities expand, enhance, or strengthen HCBS under Medicaid;
  - Include room and board (which CMS would not find to be a permissible use of funds); and/or
  - Include activities other than those listed in Appendices C and D (e.g., capital investments, for which CMS will need to follow-up with the state to determine whether these are permissible activities or uses of funds).

CMS will need additional information before it can determine whether any of those activities or uses of funds are approvable under ARP section 9817.

- States should follow the applicable rules and processes for section 1915(c) waivers, other Medicaid HCBS authorities, including state plan amendments and section 1115 demonstrations, and other managed care authorities (as applicable), if they are making changes to an HCBS program and intend to use state funds equivalent to the funds attributable to the increased FMAP to pay the state share of the costs associated with those changes. In particular, your state should be aware:
  - Oregon will need to ensure that it complies with CMS requirements and limits related to providing Home Delivered Meals to individuals receiving section 1915(i) State Plan HCBS and that the state is supplementing and not supplanting existing state funds expended for Medicaid HCBS in effect as of April 1, 2021.
  - An increase to the PACE Medicaid capitation rate can be implemented as part of the state’s regular annual rate update or on a temporary basis as an interim rate increase, but must comply with existing submission, review, and approval requirements. States are not permitted to provide supplemental funding to PACE organizations outside of the PACE Medicaid capitation payment due to regulatory requirements.

CMS is available to provide technical assistance related to these or other issues related to the implementation of ARP section 9817.
As of today, CMS’s review is suspended until we receive your complete response. So that we may continue with the review process, please provide the requested information within 15 business days. We look forward to continuing to work with you to advance HCBS in Oregon. Please submit questions or concerns regarding this request for information to HCBSincreasedFMAP@cms.hhs.gov.

Sincerely,

[Redacted]

Director, Division of Community Systems Transformation

cc: Dana Hittle