

August 9, 2023

Dana Hittle  
Medicaid Director  
Oregon Health Authority  
500 Summer Street NE, E35  
Salem, OR 97301

Dear Dana Hittle:

In response to the section 1115(a) demonstration opportunity announced to states on March 22, 2020, in State Medicaid Director Letter (SMDL) #20-002<sup>1</sup> on May 10, 2023, Oregon submitted a request for an amendment to the Oregon Health Plan section 1115(a) demonstration (Project Number 11-W-00415/21-00013/0) to address the COVID-19 Public Health Emergency (PHE) which ended on May 11, 2023<sup>2</sup>. CMS determined that the state's application is complete, consistent with the exemptions and flexibilities outlined in 42 CFR 431.416(e)(2) and 431.416(g).<sup>3</sup> CMS expects that states will offer, in good faith and in a prudent manner, a post-submission public notice process, including tribal consultation as applicable, to the extent circumstances permit. This letter serves as a time-limited approval of the state's requests, which will be approved as an amendment under the Oregon Health Plan (OHP) demonstration, and which is hereby authorized retroactively from March 1, 2020, and ending when all redeterminations for Medicaid and CHIP beneficiaries are conducted during the unwinding period.

CMS has determined that the COVID-19 PHE amendment to the OHP demonstration—including the Medicaid expenditure authority detailed below is necessary to assist the state in delivering the most effective care to its beneficiaries in light of the COVID-19 PHE. The demonstration amendment is likely to assist in promoting the objectives of the Medicaid statute because it is expected to help the state furnish medical assistance in a manner intended

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<sup>1</sup> See SMDL #20-002, "COVID-19 Public Health Emergency Section 1115(a) Opportunity for States," available at <https://www.medicare.gov/sites/default/files/Federal-Policy-Guidance/Downloads/smd20002-1115template.docx>.

<sup>2</sup> <https://aspr.hhs.gov/legal/PHE/Pages/COVID19-9Feb2023.aspx>  
<https://www.hhs.gov/about/news/2023/02/09/letter-us-governors-hhs-secretary-xavier-becerra-renewing-covid-19-public-health-emergency.html>

<sup>3</sup> Pursuant to 42 CFR 431.416(g), CMS has determined that the existence of unforeseen circumstances resulting from the COVID-19 PHE warrants an exception to the normal state and federal public notice procedures to expedite a decision on a proposed COVID-19 section 1115 demonstration or amendment. States applying for a COVID-19 section 1115 demonstration or amendment are not required to conduct a public notice and input process. CMS is also exercising its discretionary authority to expedite its normal review and approval processes to render timely decisions on state applications for COVID-19 section 1115 demonstrations or amendments. CMS will post all section 1115 demonstrations approved under this COVID-19 demonstration opportunity on the Medicaid.gov website.

to protect, to the greatest extent possible, the health, safety, and welfare of individuals who may be affected by COVID-19. This approval allows the state to align their policies for young adults in Medicaid and Children’s Health Insurance Program (CHIP), and prevent gaps in coverage during the PHE.

In addition, in light of the unprecedented emergency circumstances associated with the COVID-19 pandemic and in consequence of the time-limited nature of this demonstration amendment, CMS did not require the state to submit allotment neutrality calculations for this COVID-19 PHE amendment to the OHP demonstration. In general, CMS has determined that the costs to the federal government are likely to have been otherwise incurred and allowable. Oregon will still be required to track demonstration expenditures and will be expected to evaluate the connection between those expenditures and the state’s response to the PHE, as well as the cost-effectiveness of those expenditures. Due to the highly limited scope of the changes under the amendment, CMS is incorporating this amendment as Attachment P to the OHP Special Terms and Conditions (STC).

### ***Request CMS is Approving at this Time***

CMS is approving the Medicaid expenditure authority, as described below and consistent with the state’s implementation, retroactively starting March 1, 2020, and ending when all redeterminations are conducted for Medicaid and CHIP beneficiaries during the unwinding period.

- **Continuous Coverage for Individuals Determined Ineligible for CHIP Due to a Change in Circumstances.** Expenditures to provide continued eligibility for CHIP enrollees who were determined to be ineligible for CHIP due to a change in circumstances and who are otherwise ineligible for Medicaid and ending when all redeterminations for Medicaid and CHIP beneficiaries are conducted during the unwinding period, with the following exceptions for enrollees who:
  - a. Are deceased;
  - b. Voluntarily withdraw from benefits;
  - c. Are no longer Oregon residents; or
  - d. Were not eligible during the demonstration period but were approved erroneously because of agency error or fraud/abuse attributed to the beneficiary or their representative.

### ***Monitoring and Evaluation Requirements***

Under this amendment, the state will test whether and how the approved authority facilitates the state’s response to the PHE. To that end, CMS expects the state to undertake data collection and analyses that are meaningful; CMS believes that these will not be unduly burdensome. The state must submit an Evaluation Design to CMS no later than 60 days after the demonstration amendment is approved. As described further in Attachment O, the state is expected to describe its plans to collect quantitative and qualitative data in the Evaluation Design. The Evaluation Design should describe how the state may leverage, for example, qualitative methods and descriptive data to help address evaluation questions that will support understanding the

successes, challenges, and lessons learned in implementing the demonstration amendment. The state is required to post its Evaluation Design to the state’s website within 30 days of CMS approval of the Evaluation Design, per 42 CFR 431.424(e).

Furthermore, in alignment with the approved Evaluation Design, no later than one year after the end of the amendment approval period, the state must submit a Final Report. The Final Report will consolidate the monitoring and evaluation reporting requirements for these authorities. The Final Report will undertake qualitative and descriptive assessment on the demonstration implementation, lessons learned, and best practices for similar situations. The Final Report should also outline any challenges and limitations that might be encountered in the planning and conduct of the monitoring and evaluation activities. Per 42 CFR 431.420(f), the state must comply with any requests for data from CMS or its federal evaluation contractors. Per the standard Public Access requirement associated with section 1115 demonstration deliverables, the state will post the CMS-approved Final Report to its website within 30 calendar days of CMS approval.

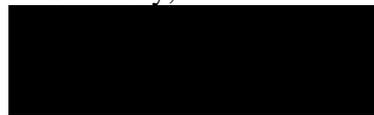
Approval of this demonstration amendment is subject to the limitations specified in the approved expenditure authority and the enclosed Attachment P to the STCs. The state may deviate from its Medicaid state plan requirements only to the extent specific in the approved expenditure authority and the enclosed STCs for the demonstration. This approval is conditioned upon continued compliance with the previously approved STCs, which set forth in detail the nature, character, and extent of anticipated federal involvement in the project.

The award is subject to CMS receiving written acceptance of this award within 15 days of the date of this approval letter. Your project officer is Felicia Pailen. Felicia is available to answer any questions concerning implementation of the state’s section 1115(a) demonstration amendment and her contact information is as follows:

Centers for Medicare & Medicaid Services  
Center for Medicaid and CHIP Services  
Mail Stop S2-25-26  
7500 Security Boulevard  
Baltimore, Maryland 21244-1850  
Email: [Felicia.Pailen@cms.hhs.gov](mailto:Felicia.Pailen@cms.hhs.gov)

We appreciate your state’s commitment to addressing the significant challenges posed by the COVID-19 pandemic, and we look forward to our continued partnership on the OHP section 1115(a) demonstration. If you have any questions regarding this approval, please contact Ms. Mehreen Rashid, Acting Director, State Demonstrations Group, Center for Medicaid and CHIP Services, at (410) 786-9686.

Sincerely,

A solid black rectangular box used to redact the signature of Daniel Tsai.

Daniel Tsai

Deputy Administrator and Director

Enclosure

cc: Nikki Lemmon, State Monitoring Lead, Medicaid and CHIP Operations Group

## Attachment O

### Time-limited Expenditure Authority and Associated Requirements for the COVID-19 Public Health Emergency (PHE) Demonstration Amendment

#### Expenditure Authority

Under the authority of section 1115(a)(2) of the Social Security Act (the Act), expenditures made by the state for the items identified below, which are not otherwise included as expenditures under section 1903 of the Act shall, for the period retroactively from March 1, 2020 and ending when all redeterminations for Medicaid and CHIP are conducted during the unwinding period.

1. **Continuous Coverage for Individuals Determined Ineligible for CHIP Due to a Change in Circumstances.** Expenditures to provide continued eligibility for CHIP enrollees who were determined to be ineligible for CHIP due to a change in circumstances and who are otherwise ineligible for Medicaid due to income above 133 percent of the federal poverty level (FPL) between March 1, 2020 and ending the earlier of the date when all redeterminations for Medicaid and CHIP beneficiaries are conducted during the unwinding period or May 31, 2024, with the following exceptions for enrollees who:
  - a. Are deceased;
  - b. Voluntarily withdraw from benefits;
  - c. Are no longer Oregon residents;
  - d. Were not eligible during the demonstration period, but were approved erroneously because of agency error or fraud or abuse attributed to the beneficiary or beneficiary's representative; or
  - e. Turned 19 years of age during the demonstration period.

#### Monitoring and Evaluation Requirements

1. **Evaluation Design.** The state must submit an Evaluation Design to CMS within 60 days of the demonstration amendment approval. CMS will provide technical assistance on developing the Evaluation Design. For this demonstration amendment, the state will test whether and how the approved authority facilitated the state's response to the COVID-19 PHE, and helped promote the objectives of Medicaid. To that end, the evaluation will address thoughtful evaluation questions that support understanding the successes and challenges in implementing the expenditure authority. The state is required to post its Evaluation Design to the state's website within 30 days of CMS approval of the Evaluation Design, per 42 CFR 431.424(e).
2. **Final Report.** The state is required to submit a Final Report, which will consolidate monitoring and evaluation reporting requirements for these authorities. The state must submit the draft Final Report no later than one year after the expiration of the demonstration approval period. The Final Report should include a background description of the scope and objectives of the amendment, and in alignment with

proposed evaluation questions and approaches in the approved Evaluation Design, an assessment of the implementation of the demonstration amendment, lessons learned thereof, and best practices for similar situations. The state will be required to track expenditures associated with this amendment, including but not limited to, administrative costs and program expenditures. The Final Report shall include an assessment of the linkage between those expenditures and the state's response to the PHE. The state should customize the content of the Final Report to align with the specific scope of the demonstration amendment. CMS will provide additional technical assistance on the structure and content of the Final Report.