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State/Territory Name: Oregon

State Plan Amendment (SPA) #: 21-0020

This file contains the following documents in the order listed:

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
601 E. 12th St., Room 355
Kansas City, Missouri 64106

CENTERS FOR MEDICARE & MEDICAID SERVICES
CENTER FOR MEDICAID & CHIP SERVICES

Medicaid and CHIP Operations Group

February 7, 2022

Patrick Allen, Director
Oregon Health Authority
500 Summer Street Northeast, E15
Salem, OR 97301-1097

RE: Approval of Oregon State Plan Amendment (SPA) Transmittal Number 21-0020

Dear Mr. Allen:

The Centers for Medicare & Medicaid Services (CMS) has completed its review of Oregon State Plan Amendment (SPA) Transmittal Number OR-21-0020. This amendment proposes to continue flexibilities granted in the Oregon 1915(k) Community First Choice State Plan Option beyond the end of the COVID-19 Public Health Emergency (PHE).

We conducted our review of your submittal according to statutory requirements in Title XIX of the Social Security Act and implementing regulations. This letter is to inform you that Oregon Medicaid SPA Transmittal Number 21-0020 is approved. The Community First Choice State Plan Option flexibilities were initially authorized through Disaster Relief SPA OR-20-0008 effective March 1, 2020. Therefore, the effective date of this SPA, that is permanently adding two meals per day, allowing e-signatures when written signature is not possible for Person-Centered Service Plan Development and adds Acute Care Hospitals as a Home and Community Based setting into the Medicaid State Plan, will be the day after the COVID-19 Public Health Emergency (PHE) ends. A copy of the approved State Plan pages and the signed CMS-179 form are enclosed. CMS will provide an updated CMS-179 and approved pages indicating the official effective date once the expiration of the PHE is known.

If you have any additional questions concerning this information, please contact me or your staff may contact Carshena Harvin at (206) 615-2400 or by email at Carshena.Harvin@cms.hhs.gov. 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,

[redacted]

George P. Failla, Jr., Director
Division of HCBS Operations and Oversight

cc: Dana Hittle, OHA
Chris Pascual, OHA
Michele Weller, CMS
Nikki Lemmon, CMS
Bill Vehrs, CMS

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

FORM APPROVED
OMB NO. 0938-0193

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL

FOR: HEALTH CARE FINANCING ADMINISTRATION

1. TRANSMITTAL NUMBER: **21-0020**

2. STATE: Oregon

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID) Medical Assistance

TO: REGIONAL ADMINISTRATOR
HEALTH CARE FINANCING ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE
One day after the end of PHE

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(k) of the Act

7. FEDERAL BUDGET IMPACT:
a. FFY 2022 $ 0
b. FFY 2023 $ 0

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:
Attachment 3.1 K, page 14, 23, 25, 26

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*:
Attachment 3.1 K, page 14, 23, 25, 26

10. SUBJECT OF AMENDMENT: This transmittal is being submitted to continue the DR 1915(k) provision after the PHE period ends.

11. GOVERNOR'S REVIEW *(Check One)*:
☐ GOVERNOR'S OFFICE REPORTED NO COMMENT
☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL
☒ OTHER, AS SPECIFIED: The Governor does not wish to review any plan materials.

12. SIGNATURE OF STATE AGENCY OFFICIAL:
[redacted]

13. TYPED NAME: Dana Hittle

14. TITLE: Interim State Medicaid Director, OHA

15. DATE SUBMITTED: 12/1/21

16. RETURN TO:
Oregon Health Authority
Medical Assistance Programs
500 Summer Street NE, E-65
Salem, OR 97301

ATTN: Jesse Anderson, State Plan Manager

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED: 12/1/21

18. DATE APPROVED: 2/7/22

PLAN APPROVED – ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL:
The day after the PHE ends

20. SIGNATURE OF REGION [redacted]

21. TYPED NAME: George P. Failla, Jr.

22. TITLE: Director, Division of HCBS Operations and Oversight

23. REMARKS:

FORM HCFA-179 (07-92)

Home-Delivered Meals (HDM). HDMs are provided for participants who live in their own homes, are home-bound, are unable to do meal preparation, and do not have another person available for meal preparation. Payment for HDMs will not be allowed when individuals are receiving CFC services in a setting where residential providers must provide meals. Home and community based residential providers must provide meal services. Provision of the home delivered meal reduces the need for reliance on paid staff during some meal times by providing meals in a cost-effective manner. Each HDM contributes an estimated one-third of the recommended daily nutritional regimen, with appropriate adjustments for weight and age. HDM providers bill the state Medicaid program directly for no more than two meals per day.

2. X Expenditures for transition costs such as rent and utility deposits, first month's rent and utilities, bedding, basic kitchen supplies, and other necessities required for an individual to make the transition from a nursing facility, institution for mental diseases, or intermediate care facility for the mentally retarded to a community-based home setting where the individual resides. These expenditures are limited to individuals transitioning from a nursing facility, IMD, or an ICF/ID to a home or community-based setting where the individual resides.

Service Limits

Service levels for home and community-based services and allowable activities for in-home services are based on the individualized functional assessment of service needs. In-Home hourly allocation may be divided between support for ADLs, IADLs, and Health-Related Tasks. The following items will be based on the individual's functional assessment and identified as being unmet by other state plan services or natural supports:

- Assistance with Activities of Daily Living (ambulation, transferring, eating, cognition /behaviors, dressing, grooming, bathing, and hygiene), and
- Instrumental Activities of Daily Living (housekeeping, laundry, medication management, transportation, meal preparation, and shopping).

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State/Territory: OREGON

AMOUNT, DURATION, AND SCOPE OF MEDICAL AND REMEDIAL CARE AND SERVICES PROVIDED TO THE CATEGORICALLY NEEDY

Community First Choice State Plan Option

(Natural supports cannot supplant needed paid services unless the natural supports are unpaid supports that are provided voluntarily to the individual.) This requirement does not require that caregivers that were previously unpaid should become paid caregivers under the CFC benefit, nor does this require that caregivers need to be paid beyond the paid hours authorized in the plan.
(6) Reflect risk factors and measures in place to minimize them, including individualized backup plans.
(7) Be understandable to the individual receiving services and supports, and the individuals important in supporting him or her.
(8) Identify the individual and/or entity responsible for monitoring the plan.
(9) Be finalized and agreed to in writing by the individual and signed by all individuals and providers responsible for its implementation. E-signature will be used when a written signature is not possible.

Person-Centered Service Plan Development Process: Local, state or contracted case management entities have the responsibility for determining the individual's level of care, performing a functional needs assessment and developing a person-centered service plan in accordance with the individual's choice of services to be provided. The service planning process includes evaluating all available resources and funding mechanisms to meet the individual's needs. A primary goal is to develop a person-centered service plan that identifies strengths, desires, goals and existing supports and to develop a comprehensive plan that honors the dignity, strength and autonomy of the individual and that supports their right to be as integrated in the community as they choose.
The individual or designated representative decides who may or may not be included in person-centered service plan development discussions and contribute to the individual's person-centered service plan. Person-centered plan coordinators assist the individual in selecting and notifying other participants in the assessment and planning process. Person-centered plan coordinators meet with each individual (and family or representative, as appropriate) on a schedule that assures eligibility determinations and assessments are completed within 45 days of request of services.

The person-centered plan coordinator must address the needs of the participant through the PCSP and provide the participant a copy of the plan. The eligible individual will have the opportunity to review and modify the plan. The person-centered plan coordinator will work with the individual to identify the individual's goals, needs and preferences for the way that services are provided and received. Local, state or contracted case management entities give individuals information about the array of options available to them and provide choice counseling. The person-centered plan coordinator will ensure that providers have a copy of the relevant tasks from the service plan for which they are responsible.

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Community First Choice State Plan Option

Person-centered plan coordinators inquire and identify risks such as environmental hazards that may jeopardize safety or health. For participants living at home or in some foster homes, person-centered plan coordinators gather information about emergency plans in the event of a natural disaster. Administrative Rules require Community-Based facility providers to prepare emergency plans for response to natural disasters.

The State assures that conflict of interest standards for the functional needs assessment and development of the person-centered service plan applies to all individuals and entities, both public and private. The State will ensure that the individuals conducting the functional needs assessment and person-centered service plan do not have a conflict of interest.

vii. Home and Community-based Settings

CFC Services will be provided in a home or community setting, which does not include a nursing facility, hospital providing long-term care services, institution for mental diseases, or an intermediate care facility for the intellectually disabled. Settings will include the individual's home or in the community. Licensed, Certified or Endorsed Community-based settings include-

Assisted Living Facility (ALF)
Adult Foster Care (AFC)
Adult Day Center
Day Habilitation Provider
Residential Care Facilities (RCF)
Residential Treatment Facility/Home for Mentally or Emotionally Disturbed Persons
Supported Living Providers
Adult Group Home (GCH)
Group Care Homes for Children (GCH)
Developmental Disabilities Adult Foster Care
Children's Developmental Disability Foster Care
Children's Developmental Disability Host Home
Acute Care Hospital

Licensed or certified community-based settings maintain the following characteristics:

a. **The setting is integrated in and facilitates the individual's full access to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, in the same manner as individuals without disabilities**.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
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Individuals will have the ability to choose from services in their own home, a family home, or in a licensed setting. By statute, all licensed settings are integrated into communities. Individuals can also choose to receive services in an acute care hospital as long as the services are identified in the individual's person-centered service plan, address needs that are not met through the provision of hospital services, are not duplicative of services the hospital is obligated to provide and are designed to ensure smooth transitions between acute care settings and home and community-based settings while preserving the individual's functional abilities. Individuals have the ability to fully engage in their community including engaging in any community activity such as seeking/retaining employment, social activities, religious services and community events. Providers in licensed settings are to provide or arrange for transportation if the individual cannot. Individuals retain control over their personal resources unless they have chosen not to or have been determined by the courts or the Social Security Administration to be unable to manage their personal resources.

Through regular visits with the individual, occurring no less frequently than annually, person-centered plan coordinators ensure that individuals have access to the greater community and have the opportunity to engage in community life and control their own resources. Licensing staff ensure compliance with statutes, regulations and rules that ensure that providers do not impinge on the liberties of the individuals residing in the facility. OAR specifies services that must be provided for residents. Additionally, residents receiving CFC services in CBC residential settings all have resident rights and protection under Oregon Revised Statute Chapter 443.

Oregon statute allows for the State to determine the location of residential facilities: Siting of licensed residential facilities. (1) To prevent the perpetuation of segregated housing patterns, the Department of Human Services, in consultation with the Oregon Health Authority, shall determine the location and type of licensed residential facilities and the location of facilities.

b. The setting is selected by the individual from among all available alternatives and is identified in the person-centered service plan;

While developing the service plan for each individual, the person-centered plan coordinators fully informs individuals of all of the many choices that are available to them. If an individual chooses a licensed setting, the person-centered plan coordinator provides information about each of the licensed settings available to the individual. Individuals may review and tour as many settings as they would like anywhere in the state. The individual selects the provider of their choice. Person-centered plan coordinators enter the choice into the person-centered service plan.