

Federal Flexibility and State Statutory Changes For Health System Transformation

For Oregon to implement Coordinated Care Organizations (CCO) in the Oregon Health Plan we will need to request flexibility from the federal Centers for Medicare and Medicaid Services (CMS); some changes will be required in state statute as well. This document identifies the major areas staff have identified that may require federal permission or changes in state law.

Federal flexibility

The Oregon Health Authority will seek federal approval for the following design components of Coordinated Care Organizations and Health System Transformation. This list is not comprehensive; as the Oregon legislature further develops the CCO concept additional areas may be identified where Oregon will need flexibility from CMS.

Global Budget. Capped total spending with strict year-over-year budget targets was identified as an essential element of an accountable organization. Establishing a global budget for each of the CCOs will require federal permission.

Global budgets will be pre-paid to a CCO to provide the full continuum of services for its population. Within its budget, the CCO is responsible for the cost of delivery, management and quality of care delivered to the people enrolled with the CCO. OHA will establish a process to develop global budgets and other activities associated with analysis and monitoring of CCO utilization and cost data and other financial metrics.

Integration and Scope. Oregon has the ability to accomplish some integration under its current authority, but a number of the Health System Transformation Team's innovations will require federal approval, specifically:

- Proposing to blend Medicare and Medicaid funding for people who are dually eligible for Medicare and Medicaid.
- Utilizing non-traditional personnel to deliver services, supports, and supplies not traditionally part of Medicaid. These services, supports and supplies should be included in the CCO global budget.
- Requesting safe harbor protection from antitrust, Stark, anti-kickback and Civil Monetary Penalty Laws to allow development creation and implementation of Coordinated Care Organizations and their well coordinated provider networks.

Consumer Protection. Strong consumer protections were also identified as an essential element of Coordinated Care Organizations. While federal law includes consumer protections, they are not necessarily aligned across Medicare and Medicaid. Oregon will ask to streamline and simplify due process rights such as complaints, appeals, and grievances including aligning Medicare and Medicaid while maintaining appropriate consumer protections.

Administrative simplification and Regulatory Relief. To the extent allowable, regulatory and administrative requirements will be streamlined in Oregon's delivery system redesign:

- Where regulatory and administrative requirements differ between Medicare and Medicaid, Oregon will ask to streamline and consolidate, including alignment of requirements for Quality Assurance and Performance Improvement; and
- Allow covered individuals to authorize the state and Coordinated Care Organizations to provide notices and informational materials via e-mail, text or other alternatives to mail.

Mandatory Enrollment and Churn: In order to maximize the potential value of integration and to minimize administrative costs associated with enrollment and disenrollment (churn), it will be important to maximize and stabilize enrollment in CCOs. Oregon will ask for federal flexibility to require:

- Mandatory enrollment in a CCO, with appropriate criteria for opting out; and
- Include individuals eligible for Medicare and Medicaid; and
- Require that individuals enroll in a CCO for a specified length of time, with appropriate criteria for changing CCOs.

Privacy: Current privacy laws for some special classes of diagnosis and treatment (e.g., substance abuse) act as barriers to the effective coordination of care. Oregon will request authority for CCO's to share patient identifiable information for the purposes of care coordination and treatment.

Operational Adjustments: Oregon will request the authority to make ongoing operational adjustments without first going through detailed federal approval processes.

Changes in State Law

In order to implement the Coordinated Care Organization system, state law changes will need to address:

Delivery system changes that are consistent with the new delivery system for coordinated care:

- For the medical assistance program, replacing the "prepaid managed health care" delivery system with the coordinated care organization delivery system
- Reshaping the health care delivery system to include a person-centered focus, accountability to community and consumer values, implement consumer protections, and other issues that have been developed with HSTT input
- Reforming payment methodologies that promote prevention and person-centered care, measure outcomes, and contain costs

Individuals eligible for both Medicare and Medicaid. Statute should provide explicit authority to include the health services for individuals who are dually eligible for Medicaid and Medicare within the new delivery system.

Operational components that will make coordinated care successful:

- Addressing state law barriers to information sharing by providers and the coordinated care organization;
- Requiring measures of quality of care and outcomes, and transparency, that inform decision making;
- Streamlining regulatory and administrative requirements imposed by state law.