

APPENDIX K: Emergency Preparedness and Response

Background:

This standalone appendix may be utilized by the state during emergency situations to request amendment to its approved waiver. It includes actions that states can take under the existing Section 1915(c) home and community-based waiver authority in order to respond to an emergency. Other activities may require the use of various other authorities such as the Section 1115 demonstrations or the Section 1135 authorities.¹ This appendix may be completed retroactively as needed by the state.

Appendix K-1: General Information

General Information:

A. State:

Oregon

B. Waiver Title:

1915(i) Home and Community-Based Services State Plan Option

C. Control Number:

#16-0007

D. Type of Emergency

(The state may check more than one box):

<input checked="" type="radio"/>	Pandemic or Epidemic
<input type="radio"/>	Natural Disaster
<input type="radio"/>	National Security Emergency
<input type="radio"/>	Environmental
<input type="radio"/>	Other (specify):

E. Brief Description of Emergency.

In no more than one paragraph each, briefly describe the: 1) nature of emergency; 2) number of individuals affected and the state’s mechanism to identify individuals at risk; 3) roles of state, local and other entities involved in approved waiver operations; and 4) expected changes needed to service delivery methods, if applicable. The state should provide this information for each emergency checked if those emergencies affect different geographic areas and require different changes to the waiver.

- 1) nature of emergency: The Oregon Health Authority (OHA) has identified a statewide outbreak of positive cases of COVID-19 in Oregon. COVID-19 is spread from person-to-person through droplets in the air and on surfaces that people touch. This situation is unfolding quickly and the risks for people with severe and persistent mental illness are high. OHA is committed to ensuring the health and safety of the people we serve.

- 2) number of individuals affected and the state’s mechanism to identify individuals at risk: All participants in the 1915(i) HCBS State Plan Option are at risk of exposure or contracting COVID-19.
- 3) roles of state, local and other entities involved in approved waiver operations: the roles of state, local, and other entities involved in approved waiver operations are defined in the 1915(i) state plan amendment.
- 4) expected changes needed to service delivery methods, if applicable. The state should provide this information for each emergency checked if those emergencies affect different geographic areas and require different changes to the waiver. See below

F. Proposed Effective Start Date:

March 11, 2020; Anticipated End Date: March 11, 2021

G. Description of Transition Plan.

Individuals will transition to pre-emergency service status as directed by OHA.

H. Geographic Areas Affected:

Statewide

I. Description of State Disaster Plan (if available) *Reference to external documents is acceptable:*

The Office of the Governor State of Oregon Executive Order NO. 20-03 can be found at the following web page -

<https://drive.google.com/file/d/1AcKOePvhmBpuNuaBQq7yZ37E2Sog4tUe/view>

Appendix K-2: Temporary or Emergency-Specific Amendment to Approved Waiver

Temporary or Emergency-Specific Amendment to Approved Waiver:

These are changes that, while directly related to the state’s response to an emergency situation, require amendment to the approved waiver document. These changes are time limited and tied specifically to individuals impacted by the emergency. Permanent or long-ranging changes will need to be incorporated into the main appendices of the waiver, via an amendment request in the waiver management system (WMS) upon advice from CMS.

a. ___ Access and Eligibility:

i. ___ Temporarily increase the cost limits for entry into the waiver.

[Provide explanation of changes and specify the temporary cost limit.]

ii. ___ Temporarily modify additional targeting criteria.

[Explanation of changes]

b. ___ Services

i. Temporarily modify service scope or coverage.

[Complete Section A- Services to be Added/Modified During an Emergency.]

ii. ___ Temporarily exceed service limitations (including limits on sets of services as described in Appendix C-4) or requirements for amount, duration, and prior authorization to address health and welfare issues presented by the emergency. [Explanation of changes]

iii. ___ Temporarily add services to the waiver to address the emergency situation (for example, emergency counseling; heightened case management to address emergency needs; emergency medical supplies and equipment; individually directed goods and services; ancillary services to establish temporary residences for dislocated waiver enrollees; necessary technology; emergency evacuation transportation outside of the scope of non-emergency transportation or transportation already provided through the waiver).

[Complete Section A-Services to be Added/Modified During an Emergency]

iv. ___ Temporarily expand setting(s) where services may be provided (e.g. hotels, shelters, schools, churches) Note for respite services only, the state should indicate any facility-based settings and indicate whether room and board is included:

[Explanation of modification, and advisement if room and board is included in the respite rate]:

v. ___ Temporarily provide services in out of state settings (if not already permitted in the state's approved waiver). [Explanation of changes]

c. . ___ **Temporarily permit payment for services rendered by family caregivers or legally responsible individuals if not already permitted under the waiver.** Indicate the services to which this will apply and the safeguards to ensure that individuals receive necessary services as authorized in the plan of care, and the procedures that are used to ensure that payments are made for services rendered.

d. . ___ **Temporarily modify provider qualifications (for example, expand provider pool, temporarily modify or suspend licensure and certification requirements).**

i. ___ Temporarily modify provider qualifications.

[Provide explanation of changes, list each service affected, list the provider type, and the changes in provider qualifications.]

ii. ___ Temporarily modify provider types.

[Provide explanation of changes, list each service affected, and the changes in the provider type for each service].

iii. ___ Temporarily modify licensure or other requirements for settings where waiver services are furnished.

[Provide explanation of changes, description of facilities to be utilized and list each service provided in each facility utilized.]

e. **X** Temporarily modify processes for level of care evaluations or re-evaluations (within regulatory requirements). [Describe]

Allow needs-based eligibility criteria re-evaluations to be extended for up to one year past the due date of the re-evaluation as directed by OHA.

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.

f. **X** Temporarily increase payment rates

[Provide an explanation for the increase. List the provider types, rates by service, and specify whether this change is based on a rate development method that is different from the current approved waiver (and if different, specify and explain the rate development method). If the rate varies by provider, list the rate by service and by provider].

g. **X** Temporarily modify person-centered service plan development process and individual(s) responsible for person-centered service plan development, including qualifications.

[Describe any modifications including qualifications of individuals responsible for service plan development, and address Participant Safeguards. Also include strategies to ensure that services are received as authorized.]

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.

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 up to 60 days after start date of the PCSP, as directed by OHA.

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.

To comply with 42 CFR 441.725(b)(9), appropriate IQA staff may obtain verbal approval and document this approval in the case records as directed by OHA. Please note that Oregon has requested through its 1135 waiver submission the flexibility to allow for verbal signatures. CMS has not yet responded to that particular request for flexibility.

- h. **X** **Temporarily modify incident reporting requirements, medication management or other participant safeguards to ensure individual health and welfare, and to account for emergency circumstances.**

[Explanation of changes]

Staff have been re-assigned to focus on efforts related to COVID-19. OHA is requesting a delay submission of its 1915(i) HCBS SPA evidence package that was due on March 31, 2020 to June 30, 2020.

- i. **Temporarily allow for payment for services for the purpose of supporting waiver participants in an acute care hospital or short-term institutional stay when necessary supports (including communication and intensive personal care) are not available in that setting, or when the individual requires those services for communication and behavioral stabilization, and such services are not covered in such settings.**

[Specify the services.]

Waive requirements prohibiting the provision of home and community-based 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 [42 CFR 441.710(b)(2)].

- (a) these services will be focused on providing personal, behavioral and communication supports not otherwise provided in an acute care hospital; and
(b) the service will only be delivered in the alternate setting for up to 30 days.

- j. **X** **Temporarily include retainer payments to address emergency related issues.**

[Describe the circumstances under which such payments are authorized and applicable limits on their duration. Retainer payments are available for habilitation and personal care only.]

Retainer payments for services that include habilitation and personal care shall be provided in response to the impact of the COVID-19 pandemic and shall not exceed the total amount that the provider would have received had services been provided as expected. The retainer time limit may not exceed the lesser of 30 consecutive days or

the number of days for which the State authorizes a payment for “bed-hold” in nursing facilities.

k. ___ Temporarily institute or expand opportunities for self-direction.

[Provide an overview and any expansion of self-direction opportunities including a list of services that may be self-directed and an overview of participant safeguards]

l. ___ Increase Factor C.

[Explain the reason for the increase and list the current approved Factor C as well as the proposed revised Factor C]

m. X Other Changes Necessary [For example, any changes to billing processes, use of contracted entities or any other changes needed by the State to address imminent needs of individuals in the waiver program]. Explanation of changes

Suspend payment methodology from fee-for-service to a fixed monthly payment rate for BH treatment providers, residential treatment homes, and residential treatment facilities (Adult Foster Home provider rates are determined in accordance with a collective bargaining agreement). The lump sums paid will equal the average amounts billed to FFS over the past three months. Providers will need to sign and submit attestations about their continuing to provide services and the levels of care provided in order to receive this funding. Providers with cost- and slot-based contracts will continue to receive these payments and will be required to submit attestations as described above.

Depending upon the length of this emergency there may be other providers that are impacted financially to the extent that they may lose their business which could create ongoing access issues for our members. The agency needs the authority and flexibility to determine financial mechanisms to keep providers financially viable during this emergency.

Contact Person(s)

A. The Medicaid agency representative with whom CMS should communicate regarding the request:

First Name:	Dana
Last Name	Hittle
Title:	Deputy Medicaid Director
Agency:	Oregon Health Authority
Address 1:	500 Summer St. NE
Address 2:	
City	Salem
State	Oregon
Zip Code	97301
Telephone:	(503) 945-6491
E-mail	dana.hittle@dhsaha.state.or.us
Fax Number	(503) 945-5872

B. If applicable, the State operating agency representative with whom CMS should communicate regarding the waiver is:

First Name:	
Last Name	
Title:	
Agency:	
Address 1:	
Address 2:	
City	
State	
Zip Code	
Telephone:	
E-mail	
Fax Number	

8. Authorizing Signature

Signature: _____
State Medicaid Director or Designee

Date: _____

First Name:	Lori
Last Name	Coyner
Title:	State Medicaid Director
Agency:	Oregon Health Authority
Address 1:	500 Summer St NE
Address 2:	

City	Salem
State	Oregon
Zip Code	97301
Telephone:	(503) 947-2340
E-mail	lori.a.coyner@dhsaha.state.or.us
Fax Number	(503) 373-7327

Section A---Services to be Added/Modified During an Emergency

Complete for each service added during a time of emergency. For services in the approved waiver which the state is temporarily modifying, enter the entire service definition and highlight the change. State laws, regulations and policies referenced in the specification are readily available to CMS upon request through the Medicaid agency or the operating agency (if applicable).

Service Specification			
Service Title:			
Provider Category(s) (check one or both):	<input type="checkbox"/>		
Specify whether the service may be provided by (<i>check each that applies</i>):	<input type="checkbox"/>		
Provider Qualifications (provide the following information for each type of provider):			
Provider Type:	License (specify)	Certificate (<i>specify</i>)	Other Standard (<i>specify</i>)
Service Delivery Method (<i>check each that applies</i>):	<input type="checkbox"/>	Participant-directed as specified in Appendix E	<input type="checkbox"/>
			Provider managed
Service Specification			
Service Title:			
Complete this part for a renewal application or a new waiver that replaces an existing waiver. Select one:			
Service Definition (Scope):			

Specify applicable (if any) limits on the amount, frequency, or duration of this service:				
Provider Specifications				
Provider Category(s) (check one or both):	<input type="checkbox"/>	Individual. List types:	<input type="checkbox"/>	Agency. List the types of agencies:
Specify whether the service may be provided by (<i>check each that applies</i>):	<input type="checkbox"/>	Legally Responsible Person	<input type="checkbox"/>	Relative/Legal Guardian
Provider Qualifications (provide the following information for each type of provider):				
Provider Type:	License (specify)	Certificate (<i>specify</i>)	Other Standard (<i>specify</i>)	
Verification of Provider Qualifications				
Provider Type:	Entity Responsible for Verification:		Frequency of Verification	
Service Delivery Method				
Service Delivery Method (<i>check each that applies</i>):	<input type="checkbox"/>	Participant-directed as specified in Appendix E	<input type="checkbox"/>	Provider managed

ⁱ Numerous changes that the state may want to make necessitate authority outside of the scope of section 1915(c) authority. States interested in changes to administrative claiming or changes that require section 1115 or section 1135 authority should engage CMS in a discussion as soon as possible. Some examples may include: (a) changes to administrative activities, such as the establishment of a hotline; (b) suspension of general Medicaid rules that are not addressed under section 1915(c) such as payment rules or eligibility rules or suspension of provisions of section 1902(a) to which 1915(c) is typically bound.