

Application for a §1915(c) Home and Community-Based Services Waiver

PURPOSE OF THE HCBS WAIVER PROGRAM

The Medicaid Home and Community-Based Services (HCBS) waiver program is authorized in section 1915(c) of the Social Security Act. The program permits a state to furnish an array of home and community-based services that assist Medicaid beneficiaries to live in the community and avoid institutionalization. The state has broad discretion to design its waiver program to address the needs of the waiver's target population. Waiver services complement and/or supplement the services that are available to participants through the Medicaid state plan and other federal, state and local public programs as well as the supports that families and communities provide.

The Centers for Medicare & Medicaid Services (CMS) recognizes that the design and operational features of a waiver program will vary depending on the specific needs of the target population, the resources available to the state, service delivery system structure, state goals and objectives, and other factors. A state has the latitude to design a waiver program that is cost-effective and employs a variety of service delivery approaches, including participant direction of services.

Request for an Amendment to a §1915(c) Home and Community-Based Services Waiver

1. Request Information

A. The State of Oregon requests approval for an amendment to the following Medicaid home and community-based services waiver approved under authority of §1915(c) of the Social Security Act.

B. Program Title:

Behavioral (ICF/IDD) Model Waiver

C. Waiver Number: OR.40194

Original Base Waiver Number: OR.40194.

D. Amendment Number:

E. Proposed Effective Date: (mm/dd/yy)

07/01/26

Approved Effective Date of Waiver being Amended: 07/01/24

2. Purpose(s) of Amendment

Purpose(s) of the Amendment. Describe the purpose(s) of the amendment:

The purpose of this amendment is to:

- Appendix B-4 Eligibility Group -
 - o Add Medicaid eligibility group 435.229 optional targeted low income children under age 19.
- Appendix B-7 Freedom of Choice
 - o Remove the following language to streamline the process for the new case management system - The individual's or legal or designated representative's signature is obtained when possible. If it is not possible to obtain their signature on the form, confirmation of the choice can be documented in the following manner: witnessed mark of the individual or legal or designated representative, letter from the legal or designated representative indicating choice, or witnessed and documented phone conversation with the individual or legal or designated representative regarding choice.
- Appendix F-1
 - o Change wording FROM The individual or their guardian signs the Notification of Rights document (form SDS 0949) documenting that they have been informed of their right to a file a complaint or request a hearing. TO The case manager reviews the Notification of Rights with the individual or their guardian in their preferred format and document in a progress note.
- QIS sections throughout the waiver -
 - o Revise performance measures to align with new 372 format.
 - o Revise performance measure numbers to be consistent across all 6 waivers.

Appendix B: Participant Access and Eligibility

B-4: Eligibility Groups Served in the Waiver

a. **1. State Classification.** The state is a (*select one*):

- ☐ Section 1634 State
☒ SSI Criteria State
☐ 209(b) State

1. Miller Trust State.

Indicate whether the state is a Miller Trust State (*select one*):

- ☐ No
☒ Yes

b. **Medicaid Eligibility Groups Served in the Waiver.** Individuals who receive services under this waiver are eligible under the following eligibility groups contained in the state plan. The state applies all applicable federal financial participation limits under the plan. *Check all that apply:*

Eligibility Groups Served in the Waiver (excluding the special home and community-based waiver group under 42 CFR § 435.217)

☒ Parents and Other Caretaker Relatives (42 CFR § 435.110)

- ☒ Pregnant Women (42 CFR § 435.116)
- ☒ Infants and Children under Age 19 (42 CFR § 435.118)
- ☒ SSI recipients
- ☐ Aged, blind or disabled in 209(b) states who are eligible under 42 CFR § 435.121
- ☒ Optional state supplement recipients
- ☐ Optional categorically needy aged and/or disabled individuals who have income at:

Select one:

- ☐ 100% of the Federal poverty level (FPL)
- ☐ % of FPL, which is lower than 100% of FPL.

Specify percentage:

- ☐ Working individuals with disabilities who buy into Medicaid (BBA working disabled group as provided in section 1902(a)(10)(A)(ii)(XIII) of the Act)
- ☐ Working individuals with disabilities who buy into Medicaid (TWWIIA Basic Coverage Group as provided in section 1902(a)(10)(A)(ii)(XV) of the Act)
- ☐ Working individuals with disabilities who buy into Medicaid (TWWIIA Medical Improvement Coverage Group as provided in section 1902(a)(10)(A)(ii)(XVI) of the Act)
- ☐ Disabled individuals age 18 or younger who would require an institutional level of care (TEFRA 134 eligibility group as provided in section 1902(e)(3) of the Act)
- ☐ Medically needy in 209(b) States (42 CFR § 435.330)
- ☐ Medically needy in 1634 States and SSI Criteria States (42 CFR § 435.320, § 435.322 and § 435.324)
- ☒ Other specified groups (include only statutory/regulatory reference to reflect the additional groups in the state plan that may receive services under this waiver)

Specify:

the following:

435.145 for Children with adoption assistance, foster care, or guardianship care under title IV-E and *435.229 optional targeted low-income children under age 19*.

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Added eligibility group to align with Oregon's Medicaid State Plan.

Appendix B: Participant Access and Eligibility

B-7: Freedom of Choice

Freedom of Choice. As provided in 42 CFR § 441.302(d), when an individual is determined to be likely to require a level of care for this waiver, the individual or his or her legal representative is:

- i. informed of any feasible alternatives under the waiver; and
- ii. given the choice of either institutional or home and community-based services.

a. Procedures. Specify the state's procedures for informing eligible individuals (or their legal representatives) of the feasible alternatives available under the waiver and allowing these individuals to choose either institutional or waiver services. Identify the form(s) that are employed to document freedom of choice. The form or forms are available to CMS upon request through the Medicaid agency or the operating agency (if applicable).

Oregon assures that individuals who are eligible for services under the waiver will be informed, during the eligibility process and initial completion of the level of care evaluation, of feasible alternatives for long-term services and supports and given a choice as to which type of services they are eligible to receive. When an individual is determined to require the level of care provided in an ICF/IID, the individual or his or her legal or designated representative will be:

- 1) Informed of any feasible alternatives available under the waiver and Medicaid State Plan; and
- 2) Given the choice of either institutional or home and community-based services.

Case managers document the offer of choice on the choice form. The offer of choice is given before an individual is enrolled onto a waiver. The choice form is used to document that the offer of choice was presented to the individual or legal or designated representative, and how they indicated their choice of service.

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Removed the following language: "The individual's or legal or designated representative's signature is obtained when possible. If it is not possible to obtain their signature on the form, confirmation of the choice can be documented in the following manner: witnessed mark of the individual or legal or designated representative, letter from the legal or designated representative indicating choice, or witnessed and documented phone conversation with the individual or legal or designated representative regarding choice."

Appendix F: Participant Rights

Appendix F-1: Opportunity to Request a Fair Hearing

The state provides an opportunity to request a Fair Hearing under 42 CFR Part 431, Subpart E to individuals: (a) who are not given the choice of home and community-based services as an alternative to the institutional care specified in Item 1-F of the request; (b) are denied the service(s) of their choice or the provider(s) of their choice; or, (c) whose services are denied, suspended, reduced or terminated. The state provides notice of action as required in 42 CFR §431.210.

Procedures for Offering Opportunity to Request a Fair Hearing. Describe how the individual (or his/her legal representative) is informed of the opportunity to request a fair hearing under 42 CFR Part 431, Subpart E. Specify the notice(s) that are used to offer individuals the opportunity to request a Fair Hearing. State laws, regulations, policies and notices referenced in the description are available to CMS upon request through the operating or Medicaid agency.

ODHS has implemented procedures to inform individuals of their right to request a Fair Hearing upon application, at the initial Level of Care (LOC), every 12 months during the Individual Support Plan (ISP) meeting and upon request, by providing the FACT sheet (SDS 0948). ***The case manager reviews the Notification of Rights with the individual or their guardian in their preferred format and document in a progress note.***

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Replaced "The individual or their guardian signs the Notification of Rights document (form SDS 0949) documenting that they have been informed of their right to a file a complaint or request a hearing." **with** "The case manager reviews the Notification of Rights with the individual or their guardian in their preferred format and document in a progress note."