

## Oregon Appendix K Follow-Up Questions

### Global comment:

While not required, the state is welcome to resubmit these Appendix Ks as a single document. Where the APD waiver differs from the other waivers, that would need to be indicated in the document. This way, the state would only need to make changes to one document which will help expedite the review process.

Oregon's response – Oregon combined all ODDS Appendix K documents into one request.

### Please update the control numbers for each as follows:

- OR.0117.R06.03
- OR.0185.R06.03
- OR.0375.R04.02
- OR-0565.R02.04
- OR-40193.R04.02
- OR-40194.R04.02

Oregon's response – Control numbers have been updated.

### All waivers except APD

- **Section K-2.d.ii:**
  - Please write out what CME stands for.  
Oregon's response – Case Management Entity (CME). Language has been added to the document.
- **Section K-2.e.:**
  - This request will need to be modified: "Allow level of care evaluations and re-evaluations timeline requirements to be temporarily waived as directed by ODDS."  
Oregon's response – Oregon proposes the following language - Allow level of care re-evaluations timeline requirements to be extended for up to one year past the due date of the re-evaluation as directed by ODDS. Language has been added to the document.
    - Level of care evaluations and re-evaluations timelines cannot be entirely waived.
    - Timelines for completing LOC re-evaluations can be extended to the end date of this Appendix K period or up to one year past the due date of the re-evaluation; the state needs to specify the timeframe by when they will be done if delayed.
    - We cannot approve extensions for initial LOC evaluations in an Appendix K (this would require an 1135 waiver. However, the state can perform the initial LOC evaluations using telehealth.  
Oregon's response – Oregon proposes the following language - Allow level of care evaluations or re-evaluations to be completed by Communication methods in lieu

of face to face, such as telehealth, in accordance with HIPAA, as directed by ODDS. Language has been added to the document.

- After this sentence, “Allow level of care evaluations or re-evaluations to be completed by Communication methods in lieu of face to face, such as telehealth as directed by ODDS,” please add “in accordance with HIPAA.”  
Oregon’s response – This change has been made.

- **Section K-2.f:**

- Please write out what DNS stands for.  
Oregon’s response – DNS stands for Direct Nursing Service and has ben changed in the document.

- **Section K-2.g:**

- After this sentence, “Allow ISP development completion by Communication methods other than face to face such as telehealth as directed by ODDS”, please add “in accordance with HIPAA.”

Oregon’s response – This change has been made.

- This request will need to be modified: “For ISPs that are expiring, and a new ISP is unable to be developed due to ongoing COVID-19 impacts the current services and the ISP will be extended as directed by ODDS. “

- The Appendix K cannot be used to waive/extend the annual person-centered service plan recertification requirement. However, states have the ability to reset the annual plan review date to the date of the last plan modification.

Oregon’s response – Oregon proposes the following language - ISPs that are expiring require a case management 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 ISP. Language has been added to the document.

- This request will need to be modified: “ISPs/revisions may be approved with a retroactive approval date for service needs identified to mitigate harm or risk directly related to COVID-19 impacts as directed by ODDS.”

- Please specify a timeframe by when the service plan will be updated. e.g. “The changes to the service plan, including the amount, duration and scope of the service will be updated in the PCSP within [insert number of days] from the date the service was initiated.” CMS recommends within 30 days or 60 days.

Oregon’s response – Oregon proposes - ISPs/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 ODDS. Language has been added to the document.

- Verbal signatures cannot be authorized in the Appendix K. The state would need to indicate that it will develop methods for obtaining hard copies of signatures or electronic signatures. However this flexibility may be available in an 1135 waiver.  
Oregon's response – Oregon proposes the following language - ISPs that are expiring require a case management 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 ISP. Language has been added to the document.

Oregon has also requested through its 1135 waiver for this flexibility. Please see "(nn) Waive signature requirements on level of care assessments, plans of care and other required supporting documentation" in Oregon's 1135 waiver submission. The request through the 1135 has not yet been addressed. Please advise.

- **Section K-2.j:**

- Per Olmstead #3, retainer payments are available for personal care services. Please specify if Employment Path services include personal care.  
Oregon's response – Personal care/assistance is a component of Employment Path Services, Supported Employment - Individual Employment Support (job Coaching), Supported Employment - Small Group Employment Support and Discovery/Career Exploration Services.
- Please specify the time limit of the retainer payment. 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.  
Oregon's response – Oregon proposes the following language - Retainer payments for services that include Personal Care - including agency provided Employment Path Services, Supported Employment - Individual Employment Support (job Coaching), Supported Employment - Small Group Employment Support and Discovery/Career Exploration Services 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. Language has been added to the document.

- **Section K-2.m:**

- Please modify this request: "Allow individuals to receive fewer than one service per month or monthly monitoring for a period of ninety (90) days without being subject to disenrollment."
  - The state cannot waive both monthly monitoring and one service per month. Doing one or the other is acceptable. Note that monthly monitoring can occur remotely.  
Oregon's response – Oregon has removed this request.
- Please provide clarification on the intent of this request: "The State may waive HCBS requirements by setting type as directed by ODDS."

- Will this affect any new settings types added after 3/17/2014? If so, please specify what those types are and what the intended restrictions would be/what requirements would be waived. (If this will not affect new setting types, this request is not necessary.)

Oregon's response – Oregon has removed this request.

- Please modify this request as noted below: "Waiver 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 441.530(b)(1)(ii)]."
  - If the state is referring to acute care hospitals or institutional stays, please move this request to Section K.2-i.
  - If the state is referring to other types of settings (e.g., quarantine sites at nursing facilities), please move this request to K-2-b-iv. When doing so please specify there will not be duplication of payment with services available in those settings.
  - Please change, "Waiver requirements prohibiting..." to "Waive requirements prohibiting..."
  - If referring to acute care settings or short term institutional stays, please add language specifying that (a) these services will be focused on providing personal, behavioral and communication supports not otherwise provided in that setting; and (b) that the service will only be delivered in the alternate setting for up to 30 days.

Oregon's response – The request is referring to acute care hospitals and CMS requested changes have been made.

This has also been requested through its 1135 waiver for this flexibility. Please see "(jj) Requirements prohibiting the provision of home and community-based services to affected beneficiaries 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(b)(1)(ii)]" in Oregon's 1135 waiver submission. The request through the 1135 has not yet been addressed. Please advise.

- **Attachment A**

- Since the state is not changing the scope of the service, Attachment A is not necessary. The state can also uncheck the box in Section K-2-b-i.

Oregon's response – Oregon has made these corrections.

#### APD Waiver

- **Section 2-b.ii.**

- Please remove or modify this request. Community Transition cannot be used to facilitate moves from one community setting to another. This service can only be used for individuals transitioning from an institutional or another provider-operated living

arrangement to a living arrangement in a private residence where the person is directly responsible for his or her own living expenses.

APD has removed this request.

- **Section K-2.d:**

- Please specify what qualifications are being waived.

APD wishes to waive the degree and experience requirements. This language has been added.

- **Section K-2.e. – Please see concerns noted for the other waivers above.**

-APD has removed waiving the evaluation timeframe requirement.

-APD is now requesting a LOC extension to the end of this Appendix K period.

-The statement “in accordance with HIPAA” has been added at the end of the section.

- **Section K-2.g: - Please see concerns noted for the other waivers above.**

-The statement “in accordance with HIPAA” has been added at the end of the first paragraph.

-APD is modifying its request to allow for staff to contact the participant or representative to determine if the current PCSP meets their needs or not. If it does meet their needs, it is considered certified.

-APD is modifying the request to allow the PCSP to be updated within 30 days from the date the service was initiated.

-APD is removing the request to obtain a verbal approval in this request, however as noted in the ODDS waivers, a request has been made through the 1135 and Oregon is awaiting CMS' response.

- **Section K-2.m: - Please move this request to section K-2.h.**

The request has been moved to K-2.h.