DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850

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

Financial Management Group

October 28, 2020

Lori Coyner, Director
Oregon Health Authority
500 Summer Street Northeast, E-15
Salem, Oregon 97301-1079

Reference: TN 20-0016

Dear Ms. Coyner:

We have reviewed the referenced amendment to Attachment 4.19-D of your Medicaid State Plan. This amendment creates a bariatric rate for nursing facilities and establishes CNA staffing ratio requirements related to the facilities' bariatric census.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(2), 1902(a)(13), 1902(a)(30), and 1903(a) of the Social Security Act and the implementing Federal regulations at 42 CFR 447 Subpart C.

This letter is to inform you that Medicaid State Plan Amendment is approved effective July 1, 2020. The CMS-179 and amended plan pages are enclosed.

If you have any questions or need further assistance, please contact Gary Knight at 304.347.5723 or Gary.Knight@cms.hhs.gov.

Sincerely,

Francis T. McCullough

For

Rory Howe
Acting Director

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: **20-0016**

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: **7/1/20**

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:
42 CFR 447 Subpart C

7. FEDERAL BUDGET IMPACT:
a. FFY 2020 $ 47,975
b. FFY 2021 $ 1,134,592

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:
Attachment 4.19-D, Part 1, page 1, 7, 7.a, 11-13

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*:
Attachment 4.19-D, Part 1, page 1, 7, 11-13

10. SUBJECT OF AMENDMENT: This transmittal is being submitted to increase the Nursing Facility Basic rate to facilities who provide care to bariatric consumers.

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:
Lori Coyner

13. TYPED NAME: Lori Coyner, MA

14. TITLE: State Medicaid Director, OHA

15. DATE SUBMITTED: 8/31/2020

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:

18. DATE APPROVED: 10/28/20

PLAN APPROVED – ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL: 07/01/20

20. SIGNATURE OF REGIONAL OFFICIAL:
Francis T. McCullough For

21. TYPED NAME: Rory Howe

22. TITLE: Acting Director, FMG

23. REMARKS:

FORM HCFA-179 (07-92)

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

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES

NURSING FACILITIES

Reimbursement for services provided by Nursing Facilities is made by means of rates determined in accordance with the following principles, methods, and standards which comply with 42 CFR Part 447, Subpart C.

I. Reimbursement Principles.

The payment methodology is based on the following:

A. Reimbursement by the Senior and People with Disabilities Division of the Department of Human Services is based on a prospective, all-inclusive rate system which constitutes payment in full for services which are not reimbursed through another Medicaid payment source. The rates established for these long-term care services include reimbursement for services, supplies, and facility equipment required for care by state and federal standards. Costs which are or can be reimbursed by Medicare Part B or a third party payer are not allowed;

B. A standard, statewide flat rate which bears a fixed relationship to reported allowable costs;

C. A complex medical needs add-on rate which bears a fixed relationship to the standard flat rate;

D. A ventilator assisted program rate which bears a fixed relationship to the standard flat rate;

E. A pediatric rate for Medicaid residents under the age of 21 who are served in a pediatric facility or a self-contained pediatric unit;

F. A bariatric rate which bears a fixed relationship to the standard flat rate; and

G. Annual review and analysis of allowable costs for all participating nursing facilities. Allowable costs are the necessary costs incurred for the customary and normal operation of a facility, to the extent that they are reasonable and related to resident care.

H. All Nursing Facility Financial Statements are subject to desk review and analysis to determine that the provider has included its costs in accordance with Generally Accepted Accounting Principles and the provisions of the Oregon Administrative Rules.

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

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES

2. "Pediatric rate" means the standard, statewide payment for all long term care services provided to a Medicaid resident under the age 21 who is a resident of a pediatric nursing facility or a self-contained pediatric unit except for services reimbursed through another Title XIX payment source.

3. The pediatric rate is the all-inclusive rate constituting payment in full for a Medicaid resident under the age of 21 who is a resident of a pediatric nursing facility or a self-contained pediatric unit. The methodology for calculating the pediatric rate is described in Section III.

D. Bariatric Rate.

1. Bariatric rate means the statewide payment for all long term care services provided to a Medicaid bariatric consumer who has a physician diagnosis of obesity with BMI > 40; and meets the following criteria as defined in OAR 411-015:

(a) Two-person full assist with ambulation or transfers; and
(b) Full assist in one of the following: cognition, eating or elimination.

2. If a Medicaid resident of a nursing facility qualifies for payment at the bariatric rate and meets the requirements described in paragraph 1 of the subsection, the Division will pay the bariatric rate stated in Section III.B.1.d.

3. If a Medicaid individual meets the criteria listed in paragraph 1 of this subsection, and the Division has authorized the bariatric rate, the nursing facility must provide one (1) additional Certified Nursing Assistant, above the licensing staffing standard, for every five (5) individuals receiving the bariatric rate.

4. The Bariatric Rate is the all-inclusive rate constituting payment in full for a Medicaid resident of a nursing facility who qualifies for the services necessary to accommodate the needs of a bariatric person. The methodology for calculating the Bariatric Rate is described in Section III.

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

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES

E. Other Payments.

1. Medicare. The Division shall pay the coinsurance rate established under Medicare, Part A, Hospital Care for care rendered to an eligible client from the 21st through the 100th day of care in a Medicare certified nursing facility.

2. Swing Bed Eligibility. To be eligible to receive a Medicaid payment under this rule, a hospital must:

(a) Have approval from the Centers for Medicare and Medicaid Services (CMS) to furnish skilled nursing facility services as a Medicare swing-bed hospital;

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

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES

b. The Division shall collect quarterly staffing updates from nursing facilities and monitor staffing compliance.

III. Financial Reporting, Facility Auditing, and the Calculation of the Standard Statewide Basic Rate, Complex Medical Needs Add-on Rate, Bariatric Rate and Ventilator Assisted Program Rate.

A. Financial Reporting and Facility Auditing.

1. Effective July 1, 1997, each facility files annually and for the period ending June 30 a Nursing Facility Financial Statement (Statement) reporting actual costs incurred during the facility's most recent fiscal reporting period. The Statement can be filed for a reporting period other than one year only when necessitated by a change of ownership or when directed by the Division.
2. Each Statement is subject to desk audit within six months after it has been properly completed and filed with the Division. The Division may conduct a field audit which, if performed, will normally be completed within one year of being properly completed and filed with the Division.

B. Calculation of the Standard Statewide Basic Rate, Complex Medical Needs Add-on Rate, Bariatric Rate and Ventilator Assisted Program Rate.

1. Basic Rate, Complex Medical Needs Add-on Rate, Bariatric Rate and Ventilator Assisted Program Rate.

a. Basic Rate. The rate is determined annually. The Basic Rate is based on the Statements received by the Division by October 31 for the fiscal reporting period ending on June 30 of the previous year. Statements for pediatric nursing facilities and ventilator assisted Program are not used to determine the Basic Rate. The Division desk reviews or field audits these Statements and determines for each nursing facility, its allowable costs less the costs of its self-contained pediatric unit and Ventilator Assisted Program unit, if any.

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

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES

For each facility, its allowable costs, less the costs of its self-contained pediatric unit or ventilator assisted Program (if any) is inflated from the mid-point of its fiscal reporting period to the mid-point of the following fiscal year, by projected changes in the DRI* Index.

For each facility, its Allowable Costs Per Medicaid Day is determined using the allowable costs as inflated and resident days excluding days in a self-contained pediatric unit or ventilator assisted program unit as reported in the Statement.

b. Complex Medical Needs Add-on Rate. The Complex Medical Needs Add-on Rate is 40 percent of the Basic Rate.

c. Ventilator Assisted Program rate is 200 percent of Basic Rate.

d. Bariatric rate is 185 percent of the Basic Rate

2. For the period beginning July 1, 2007 through June 30, 2016, the Rate is set at the 63rd percentile of allowable costs (both direct and indirect).

3. Nursing facility bed capacity in Oregon shall be reduced by 1,500 beds by December 31, 2015, except for bed capacity in nursing facilities operated by the Department of Veteran's Affairs and facilities that either applied to the Oregon Health Authority for a certificate of need between August 1, 2011 and December 1, 2012, or submitted a letter of intent under ORS 442.315(7) between January 15, 2013 and January 31, 2013. An official bed count measurement shall be determined and issued by the Department prior to July 1, 2016 and each quarter thereafter if the goal of reducing the nursing facility bed capacity in Oregon by 1,500 beds is not achieved.

a. (a) For the period beginning July 1, 2013 and ending June 30, 2016, the Department shall reimburse costs as set forth in section (1) of this rule at the 63rd percentile.

b. For each three-month period beginning on or after July 1, 2016 and ending June 30, 2018, in which the reduction in bed capacity in licensed facilities is less than the goal described in this section, the Department shall reimburse costs at a rate not lower than the percentile of allowable costs according to the following schedule:

(A) 63rd percentile for a reduction of 1,500 or more beds.

* DRI compiled from *the IHA Economics, Healthcare Cost Review* Report, Table 6.7 titled "CMS Nursing Home without Capital Market Basket

(B) 62nd percentile for a reduction of 1,350 or more beds but less than 1,500 beds.

(C) 61st percentile for a reduction of 1,200 or more beds but less than 1,350 beds.

(D) 60th percentile for a reduction of 1,050 or more beds but less than 1,200 beds.

(E) 59th percentile for a reduction of 900 or more beds but less than 1,050 beds.

(F) 58th percentile for a reduction of 750 or more beds but less than 900 beds.

(G) 57th percentile for a reduction of 600 or more beds but less than 750 beds.

(H) 56th percentile for a reduction of 450 or more beds but less than 600 beds.

(I) 55th percentile for a reduction of 300 or more beds but less than 450 beds.

(J) 54th percentile for a reduction of 150 or more beds but less than 300 beds.

(K) 53rd percentile for a reduction of 1 to 149 beds.

4. For the period beginning July 1, 2018 through June 30, 2026, the rate is set at the 62nd percentile of allowable costs (both direct and indirect).

C. Quality and Efficiency Incentive Program.

The Quality and Efficiency Incentive Program is designed to reimburse quality nursing facilities that voluntarily reduce bed capacity. This design increases statewide occupancy levels and enhances efficiency with the goal of slowing the growth of system-wide costs. As a result of the increased occupancy rates, nursing facilities that participate are likely to increase staffing levels and consolidate resources to improve the quality of care.

Only nursing facilities that meet strict quality criteria are eligible. A quality/qualifying nursing facility must have evidence of compliance with nursing facility regulations such that the health, safety or welfare of residents is or was not jeopardized. A quality nursing facility is determined eligible by multiple components including being a licensed facility by the Department, being in substantial compliance with annual licensing and recertification surveys and having no substantiated facility abuse within the preceding six months.