

PHE Authorities and Flexibilities Memo

This memo shares which requirements or flexibilities ended prior to, or with the end of the federal Public Health Emergency May 11, 2023, and which continue. Responsible agencies are designated throughout the document: Oregon Health Authority (OHA) or Oregon Department of Human Services (ODHS).

Requirements and flexibilities that have ended or will soon end:

Public health requirements:

1. REALD reporting requirements for COVID-19 encounters in Oregon Administrative Rule (OAR) 333-018-0011. The law requiring this reporting sunsetted Jan. 1, 2023. (OHA)
While no longer required, OHA encourages providers to keep reporting these data.
2. COVID-19 Vaccination Requirement for Health Care Providers and Health Care Staff in Health Care Settings in OAR 333-019-1010. OHA suspended this requirement through a temporary rule. OHA intends to permanently repeal this rule. ¹ (OHA)
3. COVID-19 Vaccination Requirements for Teachers and School Staff in OAR 333-019-1030. OHA suspended this rule effective June 17. OHA intends to permanently repeal this rule. ¹ (OHA)
4. OHA will remove COVID-19 from the reportable conditions list effective June 30, 2023. OHA asks providers to no longer report COVID-19 cases. Providers shall still report COVID-19 pediatric deaths and multisystem inflammatory syndrome in children (MIS-C)(OAR 333-018-0016). ¹ (OHA)
5. COVID-19 masking requirements are no longer in effect in any setting.

Oregon Health Plan (OHP) eligibility and enrollment:

6. Continuous OHP enrollment and acceptance of self-attested financial eligibility criteria ended 3/30/2023 (OHA). The state resumed the following activities 4/1/2023:
 - a. Data matches of attested eligibility information with electronic verification sources available to the agency;
 - b. Requests for Information (RFIs) to applicants/beneficiaries whose information electronic matches could not verify; and
 - c. Adverse action to deny or terminate benefits when beneficiaries are no longer eligible at renewal.

For more information regarding the renewals process, [please visit OHA's End of the Public Health Emergency website](#).

¹ Change not directly attributed to the end of the public health emergency but occurring in a similar timeframe.

7. Reasonable Opportunity Period: Individuals no longer have 180 days to provide verification of citizenship/non-citizen status. The Reasonable Opportunity Period reverted back to 95 days starting 4/1/2023 (OHA).
8. Extended fair hearing timelines for OHP benefit and eligibility decisions: Fair hearing timelines returned to the original 90-day timeline, and are no longer 120 days. (OHA)
9. Contracted Community Partner organizations are no longer allowed to make presumptive eligibility determinations. (OHA)
10. Provider enrollment and screening flexibilities: (OHA)
 - a. Enrolled providers enrolled with another State Medicaid Agency or Medicare must again also be enrolled in Oregon; and
 - b. Screening requirements waived during the PHE such as site visits, application fee, criminal background checks, are now required again.

OHP coverage requirements:

11. Medicaid fee-for-service prior authorization requirements are no longer suspended. (OHA)
12. OHP no longer covers non-emergent transportation for trips to drive-through COVID-19 vaccination or testing sites. (OHA)
13. There is no longer an extension of existing prior authorizations. (OHA).

Rates:

14. Healthcare Common Procedure Coding System (HCPCS) codes for COVID-19 diagnostic test panel reimbursed at 100% of Medicare rate. Rates reverted to the agency's regular fee schedule. (OHA)
15. Stability payments ended for: (OHA)
 - a. Tribal 638 and Urban Indian Health programs using the PPS rate; and
 - b. Indian Health Service (IHS)/Tribal 638 programs using the IHS Memorandum of Understanding rate.
16. There is no longer a ten-percent rate increase to the behavioral health residential providers listed below: (OHA)
 - a. Adult mental health residential,
 - b. Substance use disorder residential programs, and
 - c. Child and adolescent mental health residential providers.
17. There is no longer a ten-percent supplemental increase for Behavior Rehabilitation Services Program providers. (OHA)
18. There is no longer a rate increase for independent Licensed Practical Nurses (LPNs), Registered Nurses (RNs) and agency LPNs to match the rate paid for Agency RNs. (OHA)
19. The five-percent rate increase will end June 30, 2023, for Office of Developmental Disabilities Services (ODDS) non-residential providers: (ODHS)
 - a. Employment Path,
 - b. Supported Employment — Individual Employment Support,
 - c. Discovery/Career Exploration Services, and
 - d. Supported Employment — Small Group Employment Support.

20. The five-percent rate increase for ODDS residential providers will end June 30, 2023: (ODHS)
 - a. Adult Group Home,
 - b. Behavioral Support Services,
 - c. Group Care Homes for Children,
 - d. Children’s Developmental Disabilities Foster Care, and
 - e. Day Support Activities.
21. The five-percent rate increase for community-based care will end June 30, 2023. (ODHS)
22. The ten-percent rate increase for nursing facilities, assisted living facilities and residential care facilities will end June 30, 2023. (ODHS)

Other flexibilities:

23. OHA will no longer waive Oregon vital records fees for people who died of COVID-19 in Oregon during the PHE. (OHA)
24. The following pharmacy flexibilities to reduce exposure risk have ended: (OHA)
 - a. Waived day supply limits,
 - b. Allowed early refill,
 - c. Automatically renewed prior authorizations or time/quantity extensions without clinical review, and
 - d. Exceptions to the Preferred Drug List if drug shortages occurred.
25. The following facilities will no longer be allowed to provide services in alternative settings or get fully reimbursed for services rendered to an unlicensed facility (during an emergency evacuation or due to other need to relocate residents where the placing facility continues to render services): (OHA)
 - a. Nursing facilities,
 - b. Intermediate care facilities for individuals with intellectual and developmental disabilities,
 - c. Psychiatric residential treatment facilities, and
 - d. Hospitals.
26. Reserve Service Capacity payments are no longer available to mental health and substance use disorder treatment facilities to reserve facility beds when residents are absent as authorized by the agency. (OHA)
27. Other interim stability payments for providers not mentioned above are no longer available. (OHA and ODHS)
28. Many of the federal and state flexibilities and other regulatory waivers for Oregon licensed health care facilities ended as detailed in the webinar and memo posted at www.healthoregon.org/hflc. (OHA)

Home and Community-Based Services (HCBS):

29. Extended timeframes are no longer available for Home and Community-Based Services 1915(i) initial evaluations, assessments, re-evaluations and reassessments. (OHA)
30. ODHS no longer permits delays in the annual review of 1915(j) Service Plans. Services may not continue until the annual review can occur. (ODHS)
31. ODHS no longer permits modified timeframes for completing initial assessments, reassessments of functional need, and annual review of 1915(k) Person-Centered Service Plans. (ODHS)
32. ODHS no longer permits delays in completing the initial and annual 1915(k) Level of Care determinations. (ODHS)

- 33.** There is no longer a 30-day suspension of Pre-Admission Screening and Annual Resident Review (PASRR) Level I and Level II Assessments. (ODHS)
- 34.** ODHS no longer allows representatives to render and receive payment for 1915(k) attendant services and supports. (ODHS)
- 35.** ODHS no longer permits retainer payments for three episodes of 30 days to 1915(k) providers for attendant care services. (ODHS)
- 36.** ODHS no longer allows Specified Settings for individuals who need to move to an alternative setting to keep getting needed HCBS. (ODHS)
- 37.** ODHS resumed Conflict of Interest requirements, which prohibit the entity responsible for case management and/or the Person-Centered Service Plan from receiving reimbursement for HCBS. (ODHS)
- 38.** ODHS no longer allows individuals who develop or manage service plans to provide other direct services to participants. (ODHS)
- 39.** ODHS no longer allows graduate nursing students to deliver Private Duty Nursing services. The state will return to reimbursing only licensed RNs and LPNs. (ODHS)
- 40.** Other Aging and People with Disabilities (APD) flexibilities (ODHS) that are no longer in effect:
 - a. Elevated participants to emergency status when affected by COVID-19;
 - b. Permitted monthly case management in any setting;
 - c. Waived the classification requirement for staff unless it included a Level of Care (LOC) evaluation or re-assessment;
 - d. Allowed delays in LOC re-evaluations;
 - e. Allowed LOC evaluations or re-evaluations via alternative communication methods; and
 - f. Allowed Person-Centered Service Plan development by alternative methods.
- 41.** Other ODDS flexibilities (ODHS) that are no longer in effect:
 - a. Fully virtual Individual Support Plan (ISP) meetings;
 - b. Exceptions to in-person face-to-face observation as part of needs assessment;
 - c. Ability for case managers to work in residential settings within their case management entity;
 - d. Reduced training requirements for case management entities and provider agencies;
 - e. Retroactive ISP changes;
 - f. ISP extensions without a renewal meeting;
 - g. Verbal approval in lieu of signature;
 - h. Allowing parents to work as paid caregivers for their own minor children;
 - i. COVID-19 outbreak reporting to ODDS; outbreaks still reportable to local public health authority;
 - j. Increased flexibility for remote technology for case management contacts;
 - k. Ability to receive attendant care during remote school activities;
 - l. Ability for person receiving in-home services to skip in-person home visit.
- 42.** Timeframes for CMS 372 and evidence package; suspend data collection requirements for reviews except for Health and Welfare are no longer extended. (ODHS)

Food benefits:

43. Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) waivers to provide remote services are no longer in effect. (OHA)
 44. Supplemental Nutrition Assistance Program (SNAP) emergency allotments are no longer in effect. (ODHS)
 45. Pandemic EBT and summery Pandemic EBT for children who missed free and reduced price meals due to school and childcare closures related to COVID-19 are no longer in effect. Final issuance of benefits for children will be complete by May 31, 2023. (ODHS)
 46. SNAP temporary student exemptions for students of higher education will begin phasing out in June 2023. Regular student exemptions remain in place. (ODHS).
 47. There will no longer be SNAP suspension of work requirements for individuals 18-49 who have no children under 18 in their SNAP case, referred to as having an Able-bodied Adult without Dependents (ABAWD) status. Individuals with an ABAWD status must do 80 hours of work related activities starting July 1, 2023 if they do not qualify for an exemption and reside in a county that is required to apply the work requirements to keep their SNAP benefits. (ODHS)
-

Requirements and flexibilities that continue past May 11, 2023:

COVID-19 supports:

1. Expanded scope of practice for certain health care professionals (pharmacists, pharmacy techs and pharmacy interns) and liability protections related to vaccines and certain other COVID treatments under the 11th amendment to federal PREP Act (Public Readiness and Emergency Preparedness Act). (OHA)
2. Distribution of COVID-19 vaccine to small providers through Cold Chain Technology Services. (OHA)

Eligibility and services:

3. Pending CMS approval, Oregon will have the ability to extend the Reasonable Opportunity Period for individuals who attest to US Citizenship whose ROP has run out. (OHA)
4. Using the risk assessment and monitoring instrument via telehealth. (ODHS)

OHP coverage requirements:

5. Reimbursing providers for language interpreter services (spoken or signed) provided during a health care visit. (OHA)
6. Coordinated care organization (CCO) coverage of COVID-19 testing, in-home or lab processed, will continue for one year past the end of the PHE. (OHA)

Rates:

7. Nursing Facility Ventilator program rate increase. (ODHS)
8. All COVID-19 vaccines and treatments for which distribution is currently managed by the United States Government are provided at no cost. (OHA)
9. Administration of COVID-19 immunizations reimbursement at 100% of the Medicare rate. The rate will revert to the agency's regular fee schedule October 1, 2024. (OHA)
10. Ambulance "treat in place" or "aid call" reimbursement equal to the rate for advanced life support. (OHA)
11. Telehealth reimbursements equal to reimbursement for face-to-face visits. (OHA)

Home and Community-Based Services (HCBS):

12. HIPAA-compliant remote methods are permitted in lieu of face-to-face visits for HCBS 1915(i) services (OHA):

- a. Needs-based eligibility criteria evaluations and re-evaluations;
- b. Person-Centered Service Plan development and completion; and
- c. Home-Based Habilitation, HCBS Behavioral Habilitation, and Psychosocial Rehabilitation Services.

13. Flexibilities for ODDS:

- a. Presumptive eligibility process for services.

14. Additional flexibilities for Aging and People with Disabilities Program (ODHS):

- a. Beneficiary and provider signature requirement waived for HCBS Person-Centered Service Plans.
- b. Remote assessments (with an approved exception from central office).
- c. E-signatures when written is not possible.
- d. Risk assessment and monitoring by telehealth.
- e. We also have permanently added a limited benefit to support individuals who need intensive personal care supports while they are in a hospital.
- f. Increased Medicaid home delivered meals to 2 per day.

You can get this document in other languages, large print, braille or a format you prefer free of charge. Contact the COVID Feedback Team at feedback@odhsoha.oregon.gov or 503-945-5488 (voice/text). We accept all relay calls.