



Date: February 3, 2021

To: Coordinated care organizations (CCOs)
Oregon Health Plan providers

From: Dave Inbody, CCO Operations Manager

Subject: Eliminating Barriers to Care for People with Disabilities during the COVID-19 Pandemic

The [Americans with Disabilities Act \(ADA\)](#) requires all health care providers to make reasonable modifications in policies, practices and procedures when necessary to serve or provide accommodations to people with disabilities. This requirement continues during the COVID-19 pandemic.

- Disabilities may prevent patients from being able to comply with safety procedures such as face covering protocols, COVID-19 testing prior to surgical procedures, or going to health care appointments without a support person.
- The Oregon Health Authority (OHA) has received reports that people in such situations have been denied access to care, without regard to ADA requirements to provide reasonable modifications.

In accordance with ADA requirements, OHA has updated the [Clinical Care, and Healthcare Infection Prevention and Control Guidance for COVID-19](#) to include that:

- Providers should not deny care because the patient or the patient's caregiver is unable to wear a mask or face covering for medical reasons.
- Care should be provided with appropriate precautions for health care providers, other staff and members of the public.
- OHA's guidance is **not** intended to serve as a basis for denying emergency medical care to anyone, regardless of whether the patient is wearing a face covering or mask.

To address rising concerns with these issues and other forms of disability discrimination in health care settings, the Office for Civil Rights at the U.S. Department of Health and Human Services (HHS) has also put out a national [Request for Information](#) to inform potential changes in ADA enforcement regulations.

Why is this happening?

A key aspect of universal compliance with ADA requirements is universal understanding that people with disabilities are entitled to reasonable modifications to access services, including health care.

- Oregon Administrative Rule (OAR) [410-141-3810\(4\)\(e\)\(A\)](#) requires CCOs to ensure that providers and staff are educated about making disability accommodations.
- OAR [410-120-1380\(1\)\(c\)\(A\)\(3\)](#) requires all providers and subcontractors to ensure compliance with ADA requirements when providing health care services to Oregon Health Plan members.
- OAR [943-005-0060\(1\)\(c\)](#) requires all OHA contractors and subcontractors to establish non-discrimination and reasonable modifications policies. Section 5 of this rule also requires timely and meaningful notification to individuals about these policies.

What should you do?

Please ensure that all staff (including front desk staff, schedulers and care coordinators) are trained on ADA requirements, including how to work with patients to develop alternatives when the patient indicates that they cannot comply with COVID-19 policies due to a disability. To do this, please:

- Consider providing all staff the contact information of individuals within your health care system who are knowledgeable about the ADA to help minimize delays in service.
- Share [OHA's updated clinical care guidance](#) within your health care systems and with your provider networks.
- Identify reasonable modifications to policies, procedures, or protocols that ensure that people with disabilities can access the care they need. Even if your organization has not yet experienced this issue, it is reasonable to anticipate such a situation. For example, some common policy modifications to face covering requirements in a medical setting are:
 - Increased personal protective equipment (PPE) for staff,
 - First appointment of the day,
 - Extended appointment for additional cleaning,
 - A separate entrance,
 - Curbside COVID-19 screening before entering a medical facility.
- Allow the patient's caregiver, support person or representative to be present at the appointment.
- Determine modifications in consultation with the patient or their representative.

If you know of Oregon Health Plan members with disabilities who have experienced barriers to accessing care due to COVID-19 restrictions, please:

- Refer CCO members to their CCO's care coordination team.
- Refer fee-for-service (FFS) members to [OHP Care Coordination](#) at 800-562-4620 or CareOregon Tribal Care Coordination at 844-847-9320 (for American Indian/Alaska Native FFS members).

The CCO and FFS care coordinators will work with the member's providers to develop appropriate modifications.

Please note that members who are not provided reasonable modifications have the right to share their concerns with the following state and federal entities:

- [HHS Office of Civil Rights](#)
- [Oregon Bureau of Labor and Industries](#)
- [OHA Ombuds Program](#)

For more information

If you need additional information on the ADA and reasonable modifications for people with disabilities, here are some national and local resources.

- www.ADA.gov
- www.NWADACenter.org
- [Disability Rights Oregon](#)