

In Lieu of Services (ILOS) Brief

March 2022



Executive Summary

In Lieu of Services (ILOS) is a program through which Coordinated Care Organizations may offer health services that are appropriate substitutes for existing covered services. ILOS are typically provided in **alternative settings** and/or by **non-traditional providers**, and are developed with the intention of promoting greater access to services in culturally-responsive ways.

Requirements of ILOS, as outlined in [42 CFR 438.3\(e\)\(2\)](#):

1. The alternative service or setting is a **medically appropriate and cost-effective substitute** for the covered service or setting under the OHP;
2. The member is **not required** by the CCO to use the alternative service or setting;
3. The approved ILOS are included in the CCO's member handbook; and
4. The utilization and actual cost of ILOS are taken into account in developing the medical component of the CCO's capitation rates.

What are the benefits of ILOS?

- ✓ Allows CCOs to offer services in innovative, community-centered ways that meet members where they are
- ✓ Provides CCOs with increased flexibility to offer key covered services in alternate settings
- ✓ Addresses the social determinants of health and equity (SDOH-E) for their members
- ✓ Connects to the larger vision for CCO 2.0 and transformation objectives:
 - Improves access to services in a culturally responsive manner,
 - Enhances care coordination for high-need or traditionally underserved patients, and
 - Reduces hospital and nursing facility care as well as emergency department utilization.

Definition of In Lieu of Services

In Lieu of Services (ILOS) is a mechanism through which Coordinated Care Organizations may offer health services that are appropriate substitutes for existing covered services. ILOS are typically provided in **alternative settings** and/or by **non-traditional providers**, and are developed with the intention of promoting greater access to services in culturally-responsive ways.

Benefits of ILOS

ILOS is in response to CCO requests to offer services in innovative, community-centered ways that meet members where they are, while addressing the social determinants of health and equity (SDOH-E) for their members. It provides CCOs with increased flexibility to offer key covered services in alternate settings. This connects to the larger vision for CCO 2.0 and transformation objectives by improving access to services in a culturally responsive manner, enhancing care coordination for high-need or traditionally underserved patients, and reducing hospital and nursing facility care as well as emergency department utilization.

Requirements of ILOS

To be approved, ILOS must be determined by the state to be medically appropriate and cost-effective substitutes for covered services under the Oregon Health Plan (OHP). ILOS must meet the following federal CMS requirements, according to 42 CFR 438.3(e)(2):

1. The alternative service or setting is a **medically appropriate and cost-effective substitute** for the covered service or setting under the OHP,
2. The member is **not required** by the CCO to use the alternative service or setting,
3. The approved ILOS are included in the CCO contract and the CCO's member handbook,
4. The services offered must be available to all members who qualify, and
5. The utilization and actual cost of ILOS are taken into account in developing the medical component of the CCO's capitation rates.

Definitions

Medically appropriate

Services must be provided in accordance with accepted standards of medical practice for the diagnosis or treatment of the patient's condition. The service must:

1. Be provided in a setting appropriate to the patient's medical needs and condition;
2. Meet, but not exceed, the patient's medical need; and
3. Be at least as beneficial as an existing and available alternative.

Cost-effective

ILOS must be expected to cost no more than state plan services. Cost effectiveness comparisons may be made at the individual service level, at the larger episode of care level, or take into account the overall cost of caring for the member's conditions, provided that total CCO costs are not expected to increase on account of providing ILOS.

ILOS Approved Categories

In addition to the federal Medicaid requirements, CCO contracts specify which ILOS are approved in Oregon. There are currently seven pre-approved **categories** of ILOS in Oregon. CCOs may propose **services** that fall under these categories to OHA for use in 2022. Upon approval by the Oregon Health Authority (OHA) CCOs may offer **services** that fall under these categories.

ILOS Pre-Approved Categories

- ✓ Prevention programs
- ✓ Services provided by Traditional Health Workers (THWs)
- ✓ Community transition services
- ✓ Enhanced case management
- ✓ Post-hospitalization recuperative care
- ✓ Lactation consultations
- ✓ In-home health hazard remediation programs

New categories may be added through the annual CCO contracting process.

Potential Examples of ILOS

Some examples of potential ILOS are provided in the table below.

Prevention Programs	
Covered Service	Potential ILOS
Counseling on nutrition and physical activity provided for treatment of chronic health conditions (and known risk factors including hypertension, pre/diabetes, overweight or obesity, or arthritis) in adults provided by a clinician in a clinic	Nutrition counseling & physical activity training by a personal trainer or a registered dietician in a community center, fitness center, or WIC office . Diabetes Prevention Program in a setting that is unable to bill.

Services Provided by Traditional Health Workers	
Covered Service	Potential ILOS
Multi-sector intervention by a community health worker (CHW) with a member with uncontrolled diabetes, (or other chronic health conditions,) in a clinical setting	Multi-sector intervention by a CHW with a member with uncontrolled diabetes in a community setting that is unable to bill (See HERC evidence report: https://www.oregon.gov/oha/OEI/THWMtgDocs/CHW-Multisector-Report-Final.pdf)
Depression/anxiety screening for adults and adolescents, including postpartum depression screening, by a clinician in a clinic	Depression/anxiety screening, including postpartum depression screening, by a qualified mental health care provider or a THW in a community setting
Drug/alcohol misuse screenings (including for	Drug/alcohol misuse screenings (including for adolescents) provided by a qualified mental health care provider or a THW in a community setting

adolescents) provided by a clinician in a clinic	
Sexually transmitted infection counseling by a clinician in a clinic	Sexually transmitted infection counseling provided by a community paramedic or a school nurse in a home, community setting, or school
Therapeutic behavioral onsite services provided by a pediatrician	Family training & counseling for child development provided by a qualified mental health care provider in a home or community setting
Emergency behavioral healthcare in a facility provided by a psychiatrist	Emergency behavioral healthcare provided by a qualified mental health care provider in a mobile crisis unit or in a community setting

Community Transition Services

Covered Service	Potential ILOS
Inpatient psychiatric hospitalization (physical lodging)	Short-term inpatient psychiatric services providing brief intensive services for patients presenting in acute crisis
Inpatient psychiatric hospital care (care during stay)	Partial hospitalization services providing structured programming daily including: therapy, nursing, psychiatric evaluation, medication management

Enhanced Case Management

Covered Service	Potential ILOS
Therapeutic Behavioral Onsite Services	Services to help caregiver(s) understand and manage a member's behavioral needs related to a Serious Emotional Disturbance diagnosis, including support groups, family counseling, psychosocial activities, and other education and support
Therapeutic Group Care Services	Community-based services providing individualized care planning and management for children with complex needs

Post-hospitalization recuperative care

Physical therapy for back pain by a physical therapist	Yoga classes for back pain by a registered yoga teacher in a yoga studio or a community fitness center
Psychosocial Rehabilitation Services provided by a licensed therapist	Peer to peer psychosocial rehabilitation services provided by a peer or a qualified mental health care provider in a mobile crisis unit or community setting
Personal care hours preparing meals	Medically tailored meals provided by a community organization delivered to a member's home

Lactation Consultations

Covered Service	Potential ILOS
Breastfeeding intervention for pregnant women, new mothers, and their children by a clinician in a clinic	Breastfeeding intervention for pregnant women, new mothers, and their children provided by a THW or a postpartum doula in a community setting
Lactation support services, including education and counseling, provided by a clinician in a clinical setting	Lactation support services, including education and counseling, by a THW or postpartum doula in a community setting

In-home Health Hazard Remediation Programs

Covered Service	Potential ILOS
Asthma treatment	Air filtration for those experiencing wildfires

ILOS in other states

The Kaiser Family Foundation (KFF) Survey of Medicaid Officials in 50 states and Washington D.C. identified 33 states utilizing the Medicaid Managed Care "In Lieu of" authority in fiscal year 2019 for enrollees (21-64) receiving inpatient treatment in an institution for mental disease (IMD). Recently, some of these states have expanded the use of CMS' "In Lieu of" authority beyond inpatient mental healthcare.

New York

New York's Managed Care Organizations (MCO) have offered ILOS since 2019. The state approved short-term Inpatient Psychiatric admission in an Institution for Mental Disease (IMD) as an ILOS, however MCOs must apply to the state in order to offer the ILOS to members. MCOs may also propose additional ILOS through the same application process.

California

California's Managed Care Plans (MCP) are rolling out ILOS to members in January 2022. The program is based on their experience with home and community-based care waivers, the Whole Person Care (WPC) Pilots, stakeholder input, and experiences elsewhere in the nation. MCPs in California received a list of 14 pre-approved categories, and then applied to the state for approval of specific ILOS.

ILOS Approval Process

CCOs must submit potential ILOS **services** to OHA for review. Once approved the ILOS services must be added to the CCO's member handbook.

OHA acceptance criteria for ILOS will include whether the service:

- ✓ Is a medically appropriate alternative to the covered service,
- ✓ Fits into an approved ILOS category or one which OHA would like to add,
- ✓ Will be provided by an acceptable resource where quality can be assured,
- ✓ Likely to be as cost effective as the covered service

- ✓ Have same or better outcomes as the covered service for which it is being substituted, and
- ✓ Can be accessed equitably.

Although ILOS must be an equivalent substitute to a covered service, it does not have to be the same service with the same limitations. CCOs need to determine the appropriate number and duration of visits, the certification and supervision requirements of the provider, and other criteria for the service.

ILOS must be made available across a CCO's entire service area, and CCOs are required to meet network adequacy standards for these services. ILOS claims are paid by CCOs which in turn submit encounter data to OHA. Utilization and actual cost of ILOS are considered for rate development. ILOS are considered Medical Costs in Oregon's MLR calculation.

Questions to consider when developing ILOS

ILOS presents an opportunity for CCOs to develop and offer services in alternative settings or with non-traditional providers. When considering whether to offer an ILOS, you may want to consider the following:

Identifying ILOS in your community

- What potential ILOS do CBOs in the service area already offer?
- What covered services exist that could be provided in an alternative setting (e.g. at home, at a community center)?
- Consider your CCO's traditionally underserved or high needs populations. Where are they within the region? What community-based supports already exist that could be a substitute for a covered service?
- Have CBOs or non-traditional providers in the past requested to provide a service that has been denied?
- Engage your Community Advisory Councils! Ask members where they would like to get certain services or who they see providing services within the community.

Preparing to apply to OHA for an ILOS

Consider the following questions when preparing to apply for an ILOS:

- What data or information exists to support the medical appropriateness and cost-effectiveness of the alternative setting or non-traditional provider?
- What is the target population for this service?
- Are there enough service providers to provide this service to all eligible members?
- What capacity does the alternative setting or non-traditional provider have to bill or invoice for services provided?
- What, if any, licensing requirements exist for the non-traditional provider? Does a licensed provider need to oversee the service?
- What outcomes are expected? How will this service improve members' health, reduce costs, enhance care coordination, or provide services in a culturally-responsive manner?
- How will outcomes be measured?
- What monitoring activities will take place? How will you ensure fidelity to the covered service?
- What quantities will this service be offered in (e.g. 1-hour sessions)?
- What is the expected utilization of this service? How long or often do you expect patients will use this service? With what frequency do you expect patients to access the service?
- What is the expected cost of this service per unit or per patient?
- How will you access and evaluate encounter data?

Learn more about ILOS in other states:

- [California's ILOS Policy Brief](#)
- [California's ILOS Evidence-Base Summary](#)
- [ILOS in New York](#)
- [ILOS in North Carolina \(p.88\)](#)
- [States using ILOS for inpatient mental health or SUD treatment](#)
- [ILOS in Florida - Sunshine Health](#)

Contact

For comments and questions regarding ILOS, please email the OHA ILOS team at ILOS.info@dhsoha.state.or.us.