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# Oregon Hospital §1135 Waiver Update 2: New Nationwide Waivers

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The logo for the Oregon Health Authority. It features the word "Oregon" in a smaller, orange, serif font above the word "Health" in a large, blue, serif font. Below "Health" is the word "Authority" in a smaller, orange, serif font. A thin blue horizontal line is positioned between "Health" and "Authority".

Oregon  
Health  
Authority

# §1135 Waivers In Effect: Roadmap

- §1135 waivers became available when the president declared an emergency on March 13, 2020
- Waivers are for specific CMS requirements and are in these categories:
  - Facilities & Licensing
  - Workforce
  - Regulations & Conditions of Participation
  - Fiscal
  - Other Facilities
- References to CMS waiver documents and CMS QSOG memos
- Processes for implementing/using these waivers
- Questions
- Resources

# §1135 Waivers In Effect: Facilities

- Physical Environment – non-hospital buildings if safety and comfort of patients and staff are sufficiently addressed
- CAH Status and Location
  - 25 beds
  - Rural location and proximity to other hospitals waived for surge sites
- Temporary Expansion of Locations
  - On-Campus, Off-Campus, including ASCs
  - Tiers 1, 2 and 3
- Housing Acute Care Patients in IPPS Units
- Housing IPPS Patients in Acute Care Units

# §1135 Waivers In Effect: Facility Licensing

- On-campus temporary or mobile structures
  - Email [mailbox.fps@state.or.us](mailto:mailbox.fps@state.or.us)
  - Regular Facilities Planning & Safety (FPS) regulations do not apply to temporary or mobile structures
- On- and Off-campus changes involving permanent structures use [Hospital License Temporary Space for COVID-19 Instructions and Application](#)
  - Increase in Bed Count
  - Changes within licensed on-campus space
  - Additions of on- or off-campus space to the hospital license
    - Tiers 1, 2 or 3 including ASCs
    - LSC
  - Process
    - Temporary license application to [mailbox.hclc@state.or.us](mailto:mailbox.hclc@state.or.us)
    - 6-month license

# §1135 Waivers In Effect: Workforce

- Sterile Compounding – Reusing PPE
- Medical Staff – privileging expirations and new staff
- Physician Services – Requirement that Medicare patients be under the care of a physician. Use other practitioners as state EP allows
- Anesthesia Services – CRNA supervision is at discretion of hospital and state law
- Nursing Services
  - Nursing care plans for each patient
  - P&P for outpatient departments which may not have RNs
  - Inpatients over outpatients

# §1135 Waivers In Effect: Workforce

- Respiratory Care Services – Designate in writing personnel qualified to perform specific services and supervision required
- CAH Personnel Qualifications – Minimum personnel requirements for Clinical Nurse Specialists, NPs & PAs
- CAH Staff Licensure – Defer to state
- Practitioner Location – Licensed in one state and providing services in another with 4 conditions
  - Enrolled in Medicare
  - Possess a valid license in the state which relates to Medicare enrollment
  - Furnishing services in a state in which emergency is occurring to contribute to relief effort in professional capacity
  - Not excluded from practice and that or any other state covered by 1135

# §1135 Waivers In Effect: Regulations & CoPs

- EMTALA – see [Emergency Medical Treatment and Labor Act \(EMTALA\) Requirements and Implications Related to Coronavirus Disease 2019 \(COVID-19\)](#)
  - On-campus – EMTALA Applies
  - Patients arriving at ED must receive MSE for EMC
    - MSE can include telehealth
    - Patients can wait in the car
    - Can't skip MSE due to lack of PPE
  - Signage can direct patients to testing but cannot be a barrier to MSE
  - Off-campus
    - ED locations – EMTALA applies
    - Screening only– No EMTALA
    - Drive-Through Testing – No EMTALA
  - Transfers without stabilization

# §1135 Waivers In Effect: Regulations & CoPs

- Verbal Orders
  - Read-back verification
  - Delayed authentication
  - Preprinted/electronic
- Reporting Requirements – ICU deaths involving restraints
- Patient Rights
  - Timeframe for providing copies of medical records
  - Visitation
  - Seclusion in psych
- Detailed info for discharge planning
  - Waives requirement for detailed info to patients/families to use in selecting post-acute care provider, but still have quality measures and consider patients goals and preferences
  - Ensure discharge to an appropriate setting with necessary medical info and goals of care

# §1135 Waivers In Effect: Regulations & CoPs

- Medical Records
  - Form and content flexibility
  - Follow state EP
  - Complete within 30 days
  - Patients over paperwork
- Telemedicine (more about this in Fiscal) – using agreements with an off-site hospital, increases access to care
  - CMS <https://www.cms.gov/newsroom/fact-sheets/medicare-telemedicine-health-care-provider-fact-sheet>
  - OHP <https://www.oregon.gov/oha/HSD/OHP/Announcements/Oregon%20Health%20Plan%20coverage%20of%20telemedicine%20services.pdf>
  - Private Insurance <https://dfr.oregon.gov/insure/health/understand/Documents/DFR-OHA%20Telehealth%20Guidance.pdf>

# §1135 Waivers In Effect: Regulations & CoPs

- Join the Oregon Health Authority (OHA) for [a provider webinar on Monday, April 6, 2020, from noon to 1 p.m.](#) The webinar will cover a variety of questions OHA has received about the Oregon Health Plan's coverage of telehealth services during the COVID-19 pandemic. Topics include:
  - Using telehealth services for the first time
  - Billing and rates
  - HIPAA compliance
  - Provider types eligible for telehealth
  - Resources
- There will also be an opportunity for a Q&A with the presenters. All Oregon Medicaid provider types are welcome to attend.
- **Join us on Monday, April 6, from noon to 1 p.m. PDT.**  
To register, go to <https://attendee.gotowebinar.com/register/8833558187348243212>.

# §1135 Waivers In Effect: Regulations & CoPs

- Advance Directives – do not need to provide info about AD P&P
- P&Ps for Appraisal of Emergencies at Off-Campus Departments – P&P for evaluating emergencies not required at surge facilities
- EP P&P – P&P not required for surge facilities
- QAPI – focus on improvements to address the Public Health Emergency
- Food and Dietetic Services
  - Therapeutic diet manual not required at surge sites
- CAH Length of Stay – 96 hours or longer
- LTACH Length of Stay
- Discharge to SNF Length of Stay

# §1135 Waivers In Effect: Fiscal

- Utilization Review
- Extension for IPPS Wage Index Occupations Mix Survey Submission
- DMEPOS
- Provider Enrollment
- Medicare Appeals in FFS, MA and Part D
- Medicaid and CHIP
- Individual Physician Self-Referral Law

# Oregon Medicaid Next Steps

Submission of Disaster State Plan Amendment (SPA) requesting:

- Retroactive effective date to first calendar quarter of 2020;
- Waiver of public notice and Tribal consultation requirements;
- Approval that people leaving the state due to COVID-19 remain residents of the state;
- Additional time for non-citizens to prove satisfactory immigration status;
- Expansion of Hospital Presumptive Eligibility Determinations (HPE) to aged, blind, and disabled population;
- No limit to the number of times an individual may receive coverage within a year under presumptive eligibility;
- Contracted community partner organizations be designated as qualified entities to make presumptive eligibility determinations;

# Oregon Medicaid Next Steps continued...

Submission of Disaster State Plan Amendment (SPA) requesting:

- Approval to allow DXC to make clinical judgment to waive day supply limits and early refills on prescriptions when appropriate;
- Expansion of prior authorizations (PA) by automatic renewal without clinical review.
- Exceptions to the published preferred drug list if drug shortages occur.
- Suspension of payment methodologies from fee-for-service to fixed monthly rate for BH and SUD treatment providers.
- Increase of rates by 10% to NFs, Assisted Living Facilities and Residential Care Facilities from 04-01-2020 – 06-30-2020.
- Agency authority and flexibility to determine financial mechanisms to keep providers financially viable during crisis;

# Oregon Medicaid Next Steps continued...

Submission of Disaster State Plan Amendment (SPA) requesting to:

- Suspend all terminations and reductions for individuals receiving coverage as of March 18, 2020, as well as for those who gain eligibility from that date through the end of the month in which the crisis ends;
- Allow self-attestation for all eligibility criteria except citizenship and immigration status;
- Delay renewals for one month while implementing system changes that support suspension of termination and acceptance of self-attestation;
- Exclude ALL unemployment compensation payments and stimulus payments from countable income when determining initial or ongoing eligibility;
- Allow presumptive eligibility periods more often than once per 12 months.

# Oregon Medicaid Next Steps continued...

Submission of:

- State Plan Amendments for the Home and Community-Based Services (HCBS) State Plan Options:
  - 1915(i) HCBS
  - 1915(j) Self-Directed Personal Assistance Services
  - 1915(k) Community First Choice
- 1915(c) HCBS Waiver Appendix K applications:
  - #0185 Aging and Physical Disabilities Waiver;
  - #0117 Children’s HCBS Waiver;
  - #0375 Adults’ HCBS Waiver;
  - #40193 Medically Fragile Children’s Waiver;
  - #40194 Behavioral Children’s Waiver;
  - #0565 Medically Involved Children’s Waiver
- Flexibilities requested include, but are not limited to enhanced and bed-hold payments to providers, extension of program eligibility (re)evaluations, extension of person-centered service plans; telemedicine options for provision of non-personal care services.

# §1135 Waivers In Effect: Other Facilities

- Home Health Agencies
- Hospice Agencies
- ESRDs

# Resources:

- <https://www.cms.gov/about-cms/emergency-preparedness-response-operations/current-emergencies/coronavirus-waivers>
- [www.cms.gov/medicare/quality-safety-oversight-general-information/coronavirus](http://www.cms.gov/medicare/quality-safety-oversight-general-information/coronavirus)
- [www.cdc.gov/coronavirus/2019-ncov/healthcare-facilities/alternative-care-sites.html](http://www.cdc.gov/coronavirus/2019-ncov/healthcare-facilities/alternative-care-sites.html)
- [www.healthoregon.org/coronavirus](http://www.healthoregon.org/coronavirus)
- [www.healthoregon.org/hflc](http://www.healthoregon.org/hflc)

# Live Questions...

# OHA COVID-19 Website

- [www.healthoregon.gov/coronavirus](http://www.healthoregon.gov/coronavirus)

The screenshot shows the Oregon Health Authority website page for COVID-19. The header includes the Oregon Health Authority logo and the text "Diseases A to Z Public Health Division". A breadcrumb trail reads: "Public Health Division > Diseases and Conditions > Diseases A to Z > Emerging Respiratory Infections: COVID-19". The main heading is "Emerging Respiratory Infections: COVID-19". On the right, it says "Page last updated March 2, 2020". On the left, under "Diseases A to Z", there is a "CONTACT US" section with links to "Acute and Communicable Disease Prevention Section" and "Public Health Division Program Directory". The main content area is titled "Novel Coronavirus Updates (COVID-19)" and contains a yellow box with the text: "The Oregon Health Authority is responding to an outbreak of respiratory illness, called COVID-19, caused by a novel (new) coronavirus. Health officials urge good hand hygiene, covering coughs and staying home if you are sick. For general information on novel coronavirus, call 211. If you are having a medical emergency, call 911." Below this text are three buttons: "Frequently Asked Questions", "Sign up for Oregon Alerts", and "CDC Coronavirus Website".