

## Status of Medicaid flexibilities approved during the COVID-19 Public Health Emergency

In response to the COVID-19 Public Health Emergency (PHE), the federal Centers for Medicare & Medicaid Services (CMS), Oregon Health Authority (OHA) and Oregon Department of Human Services (ODHS) made many changes to Medicaid-funded programs.

This document explains which changes will continue once the COVID-19 PHE ends, and which will end with the PHE.

### OHA flexibilities that will continue after the PHE ends:

Description	Authority
Telehealth reimbursements equal to reimbursement for face-to-face visits:	State Plan Amendment (SPA) 20-0006 (approved 4/10/20)  SPA 22-00013 (approved 8/12/2022)
Coverage of COVID-19 testing, in-home or lab processed	SPA 22-0011 (approved 7/22/2022)  The American Rescue Plan requires this coverage to continue for one year past the end of the PHE.
Provider reimbursement for language interpreter services (spoken or signed) provided during a health care visit	SPA 20-0017 (approved 11/17/20) SPA 22-0009 (approved 5/25/2022)
Coverage of monoclonal antibody treatment or any COVID-19 drug treatments under FDA Emergency Use Authorization	SPA 21-0014 (approved 10/1/2021)
HIPAA-compliant remote methods in lieu of face-to-face visits permitted for Home and Community-Based Services (HCBS) 1915(i) services: <ul style="list-style-type: none"> <li>■ Needs-based eligibility criteria evaluations and re-evaluations</li> <li>■ Person-centered service plan development and completion</li> <li>■ Home-Based Habilitation, HCBS Behavioral Habilitation, and Psychosocial Rehabilitation Services</li> </ul>	SPA 20-0011 (approved 4/24/2020)  SPA 21-0013 (approved 12/23/2021)
Ambulance “treat in place” or “aid call” reimbursement equal to the rate for advanced life support (to ease the burden on hospital emergency rooms when transport is not necessary, but treatment is provided)	SPA 20-0014 (approved 7/30/2020)  A decision whether to continue this past the PHE is still pending.

### OHA flexibilities that will end when the PHE ends:

Description	Authority
10% rate increase for Behavior Rehabilitation Services providers	SPA 21-0001 (approved 2/11/2022)

Description	Authority
Temporary suspension of Medicaid fee-for-service prior authorization requirements.	1135 waiver (approved 3/25/2020)
Extended state fair hearing timelines (an additional 120 days added to the original 90-day timeline)	1135 waiver (approved 3/25/2020)
Provider enrollment and screening flexibilities to: <ul style="list-style-type: none"> <li>■ Temporarily enroll Medicaid providers enrolled with another State Medicaid Agency or Medicare</li> <li>■ Waive some screening requirements such as site visits, application fee, criminal background checks</li> </ul>	1135 waiver (approved 3/25/2020)
Allowing provision of services in alternative settings: Allow facilities fully reimbursement 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). Facilities include: <ul style="list-style-type: none"> <li>■ Nursing facilities (NFs),</li> <li>■ Intermediate care facilities for individuals with intellectual and developmental disabilities (ICF/IDDs),</li> <li>■ Psychiatric residential treatment facilities (PRTFs), and</li> <li>■ Hospitals.</li> </ul>	1135 waiver (approved 3/25/2020)
Modified public notice and Tribal consultation timelines for Disaster Relief SPA submissions	1135 waiver (approved 3/25/2020)
Extended timeframes for HCBS 1915(i) initial evaluations, assessments, re-evaluations and reassessments	1135 waiver (approved 5/2/2020)
Allowing individuals to continue to be Oregon residents if they: <ul style="list-style-type: none"> <li>■ Are evacuated from the state,</li> <li>■ Leave the state for medical reasons related to the PHE, or</li> <li>■ Are otherwise absent from the state due to the disaster or PHE, and</li> <li>■ Intend to return to the state.</li> </ul>	SPA 20-0010 (approved 6/18/2020)
Allowing contracted Community Partner organizations to make hospital presumptive eligibility determinations.	SPA 20-0010 (approved 6/18/2020)
Pharmacy flexibilities: <ul style="list-style-type: none"> <li>■ Waive day supply limits when appropriate to reduce exposure risk</li> <li>■ Early refill allowed</li> <li>■ Prior authorization for medications is expanded by automatic renewal without clinical review, or time/quantity extensions</li> <li>■ Exceptions to Preferred Drug List</li> </ul>	SPA 20-0010 (approved 6/18/2020)
Newly HCPCS codes for COVID-19 diagnostic test panel reimbursed at 100% of Medicare rate	SPA 20-0010 (approved 6/18/2020)

Description	Authority
Reserve Service Capacity payments to mental health and substance use disorder treatment facilities: <ul style="list-style-type: none"> <li>■ Provided to reserve facility beds when residents are hospitalized or absent from the congregate setting as authorized by the agency.</li> </ul>	SPA 20-0010 (approved 6/18/2020)
Interim/supplemental stability payments for: <ul style="list-style-type: none"> <li>■ Tribal 638 and Urban Indian Health programs using the PPS rate or</li> <li>■ Indian Health Service (IHS)/Tribal 638 programs using the IHS Memorandum of Understanding (MOU) rate</li> </ul>	SPA 20-0010 (approved 6/18/2020)
Other interim stability payments for providers not mentioned above	SPA 20-0010 (approved 6/18/2020)
Administration of COVID-19 immunizations reimbursement at 100% of the Medicare rate: This rate will reduce to the agency's fee schedule at the end of the PHE.	SPA 20-0018 (approved 3/16/2021)
10% rate increase rate to behavioral health residential providers: <ul style="list-style-type: none"> <li>■ Adult mental health residential,</li> <li>■ Substance use disorder residential programs, and</li> <li>■ Child and adolescent mental health residential providers.</li> </ul>	SPA 21-0006 (approved 4/8/2021)
Non-emergent transportation reimbursement for trips to drive-through COVID-19 vaccination or testing site where the client never leaves the auto (\$13.23 per 30-minute unit)	SPA 21-0009 (approved 5/7/2021)

**ODHS flexibilities that will continue after the PHE ends:**

Description	Authority
HCBS 1915(k) Plan flexibilities: <ul style="list-style-type: none"> <li>■ Allow use of an alternate method to obtain beneficiary and provider signatures when written signature is not possible</li> <li>■ Allow two Medicaid home-delivered meals per day instead of one.</li> </ul>	1135 waiver (approved 5/8/2020) SPA 21-0020 (approved 2/7/2022)
Nursing facility ventilator program rate increase	SPA 20-0007 (approved 4/10/2020) SPA 21-0019 (approved 2/2/2022)
HCBS 1915(j) flexibilities: <ul style="list-style-type: none"> <li>■ Waive the three consecutive months of tenancy as a condition of eligibility.</li> <li>■ Use the risk assessment and monitoring instrument by telehealth if the participant agrees to participate in this manner.</li> <li>■ In-person evaluation is not considered necessary in order to properly assess or monitor.</li> </ul>	SPA 20-0009 (approved 6/3/2020)

## ODHS flexibilities that will end when the PHE ends:

### Description

### Authority

<p>Allowing individual's representative to act and receive payment for HCBS 1915(k) attendant services and supports:</p> <ul style="list-style-type: none"> <li>■ Temporarily allow payment for attendant services and supports rendered by an individual's representative provided that the state makes a reasonable assessment that the caregiver is capable of rendering such services.</li> <li>■ This waiver ensures that medically necessary services are furnished in the event the traditional provider workforce is diminished or there is inadequate capacity due to the PHE.</li> </ul>	<p>1135 waiver (approved 12/9/2020)</p>
<p>Allowing the state to modify the deadline for conducting HCBS 1915(k) assessments:</p> <ul style="list-style-type: none"> <li>■ Initial assessments of functional need</li> <li>■ Reassessments of functional need</li> <li>■ Annual person-centered service plan review</li> </ul>	<p>1135 waiver (approved 9/16/2020)</p>
<p>Suspend Pre-Admission Screening and Annual Resident Review (PASRR) Level I and Level II assessments for 30 days.</p>	<p>1135 waiver (approved 3/25/2020) (Also a CMS blanket waiver provision)</p>
<p>HCBS 1915(k) level of care determination and redetermination timelines. With this waiver:</p> <ul style="list-style-type: none"> <li>■ The initial determination of level of care does not need to be completed before the start of services.</li> <li>■ The annual level of care determination that exceeds the 12-month authorization period remains in place.</li> <li>■ Services continue until the assessment can occur.</li> <li>■ A reassessment may be postponed for up to one year.</li> </ul>	<p>1135 waiver (approved 5/8/2020)</p>
<p>Temporarily allow provision of 1915(c) and 1915(k) HCBS services in settings that do not meet the HCBS criteria to ensure continuity of care when an individual requires relocation to an alternative setting.</p>	<p>1135 waiver (approved 5/8/2020)</p>
<p>Temporarily authorize reimbursement for HCBS services provided by:</p> <ul style="list-style-type: none"> <li>■ The entity that provides case management services and/or</li> <li>■ The entity responsible for the development of the Person-Centered Service Plan in circumstances beyond the limited authority provided under regulations.</li> </ul>	<p>1135 waiver (approved 5/8/2020)</p>
<p>10% rate increase to nursing facilities, assisted living facilities, residential care facilities, effective 4/1/2020 through 6/30/2020.</p>	<p>SPA 20-0010 (approved 6/18/2020)</p>

Description	Authority
<p>Extension of 10% rate increase to nursing facilities, assisted living facilities, residential care facilities, effective 1/1/2021 through 6/30/2023.</p> <p>This will stop 6/30/2023 or at the end of the PHE, whichever is first.</p>	SPA 22-0020 (approved 11/9/2022)
<p>5% rate increase for Office of Developmental Disabilities Services (ODDS) providers, effective 1/1/2021 through 6/30/2022 :</p> <ul style="list-style-type: none"> <li>■ Adult group homes,</li> <li>■ Supported living,</li> <li>■ In-home attendant care,</li> <li>■ Behavioral support services,</li> <li>■ Group care homes for children,</li> <li>■ Children’s developmental disability foster care, and</li> <li>■ Day support activities.</li> </ul>	SPA 22-0004 (approved 3/30/2022)
<p>Extension of 5% rate increase for ODDS service providers, effective 7/1/2022 through 9/30/2022</p>	SPA 22-0014 (approved 9/23/2022)
<p>HCBS 1915(c) waivers for Aging and People with Disabilities programs:</p> <ul style="list-style-type: none"> <li>■ Waive classification requirement for staff unless includes a level of care (LOC) evaluation or re-assessment.</li> <li>■ Allow LOC re-evaluations to be extended to the end of the Appendix K PHE period.</li> <li>■ Allow LOC evaluations or re-evaluations to be completed by alternative communication methods,</li> <li>■ Allow person-centered service plan development by alternative methods, contact for plans due to expire to certify and use electronic or written signature.</li> <li>■ Extend timeframes for CMS 372 reports and evidence package.</li> <li>■ Suspend collection of data for current reviews except for Health and Welfare.</li> </ul>	Appendix K waiver (approved 4/28/2020 and 6/23/2020)
<p>Retainer payments for three episodes of 30 days to maintain capacity during the PHE for:</p> <ul style="list-style-type: none"> <li>■ HCBS 1915(k) providers, for the provision of attendant care services;</li> <li>■ Agency-operated attendant care providers and adult day services providers for the acquisition, maintenance and enhancement of skills necessary for the individual to accomplish activities of daily living, instrumental activities of daily living and health related tasks.</li> </ul>	SPA 20-0015 (approved 8/4/2020)

### CMS flexibilities for hospital settings

[CMS 1135 blanket waivers](#) provided many flexibilities to federal health and safety regulations enforced in Oregon by OHA. These included:

- Allowing hospitals, psychiatric hospitals, and critical access hospitals (CAHs) to screen patients at a location offsite from the hospital's campus to prevent the spread of COVID-19,
- Flexibilities related to verbal orders, reporting requirements, timeframes for medical records copies, patient visitation,
- Allowing physicians whose privileges will expire to continue practicing at the hospital or CAH,
- Allowing new physicians to be able to practice in the hospital or CAH before full medical staff/governing body review and approval, and
- Permit use of non-hospital buildings/space for patient care and quarantine sites, provided that the location is approved by the State (ensuring safety and comfort for patients and staff are sufficiently addressed).

It is not clear whether CMS will continue the Hospital at Home coverage provision after the PHE ends. After CMS announces the end date for these waivers, OHA will host a webinar to provide information to providers.