

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
A Statement of Need and Fiscal Impact accompanies this form.

Oregon Health Authority (Authority), Division of Medical Assistance Programs (Division)	410
Agency and Division	Administrative Rules Chapter Number
Sandy Cafourek	500 Summer St Ne, Salem, OR 97301
Rules Coordinator	Address
	503-945-6430
	Telephone

RULE CAPTION

Flexible Services, Definition, Direction and Reporting of Non-State Plan, Health-Related Services

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

December 15, 2015	10:30 AM	500 Summer St NE, Salem, OR 97301, Room 137C	Sandy Cafourek
Hearing Date	Time	Location	Hearings Officer

Auxiliary aids for persons with disabilities are available upon advance request.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT: OAR 410-141-3150

AMEND:

REPEAL: OAR 410-141-3150(T)

RENUMBER:

AMEND & RENUMBER:

Stat. Auth: ORS 413.042

Other Auth.:

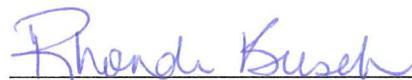
Stats. Implemented: ORS 413.042

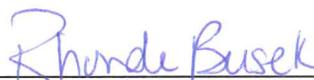
RULE SUMMARY

The Division needs to amend this rule to provide the CCO framework for compliance with the 1115 Waiver demonstration for the Oregon Health Plan-Waiver as they apply to non- state plan, health-related services provided in-lieu of Medicaid managed care benefits. These services are intended to improve care delivery and member health and lower costs.

December 17, 2015 by 5 p.m. Send comments to dmap.rules@state.or.us

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)


Signature


Printed name

Date

*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Health Authority (Authority), Division of Medical Assistant Programs (Division)	410
Agency and Division	Administrative Rules Chapter Number

Flexible Services, Definition, Direction and Reporting of Non-State Plan, Health-Related Services
Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: The adoption of OAR 410-141-3150

Statutory Authority: ORS 413.042

Other Authority:

Stats. Implemented: ORS 413.042

Need for the Rule(s): This rule provides the CCO framework for compliance with the 1115 Waiver demonstration for the Oregon Health Plan-Special Terms and Conditions as they apply to non-state plan, health related services provided in-lieu of Medicaid managed care benefits. These services are intended to improve care delivery and member health and lower costs.

Documents Relied Upon, and where they are available:

- 1115 Waiver demonstration for the Oregon Health Plan- and Special Terms and Conditions-policy analyst file.
- Tracking and Assessing Flexible Services-issue paper dated October 23, 2013-policy analyst file.
- Letter to CCOs, by plan, in review of Flexible Service policies and procedures (year one) dated February 4, 2015, signed by DMAP Interim Director-policy analyst file.

Fiscal and Economic Impact: None

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):
The Division does not anticipate fiscal impacts on other state agencies, units of local government, or the public.
2. Cost of compliance effect on small business (ORS 183.336):
 - a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:
The Division does not anticipate a direct or indirect impact on small businesses.
 - b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: None anticipated
 - c. Equipment, supplies, labor and increased administration required for compliance: None anticipated

How were small businesses involved in the development of this rule? Small businesses were invited to participate in the RAC.

Administrative Rule Advisory Committee consulted?: Yes. RAC 1- 9/22/15, RAC 2-10/6/15, RAC 3-10/20/15
If not, why?:

		
Signature	Printed name	Date

Flexible Services

(1) Flexible Services, as cross referenced in OAR 410-141-0000, in alignment with the CMS Waiver, and for purposes of this rule, means non-state plan, non-covered health related services. These services are provided instead of or as an adjunct to benefits and are intended to improve health delivery and member health and lower costs. Flexible services are likely to be cost-effective alternatives to covered benefits and are likely to generate savings. These services may effectively treat or prevent physical, oral, or behavioral health conditions, improve health outcomes, and prevent or delay health deterioration. Flexible services are consistent with the member's treatment plan as developed by the member's care team and documented in the member's medical record as specified in OAR 410-141-3180. Flexible services lack traditional billing or encounter codes, are not encounterable, and cannot be reported for utilization purposes.

(2) The Authority requires all CCOs to reflect the above standardized definition of flexible services in their policies and procedures (P&Ps). These P&Ps shall be written in collaboration with the Authority and are intended for administration of flexible services through their provider network. Flexible services P&Ps shall encourage transparency and provider and member engagement, reflect streamlined administrative processes that do not create unnecessary barriers, and provide for accountability.

(3) CCO flexible services policies shall:

- (a) Describe how members and primary care teams are engaged;
- (b) Allow providers outside of the primary care team to render and coordinate flexible services efficiently;
- (c) Provide mechanisms to capture services within the treatment plan and clinical record as specified in OAR 410-141-3180;
- (d) Provide efficient decision making processes that are separate from CCO prior authorization protocols;

- (e) Describe how community resources are considered and coordinated with community partners;
 - (f) Describe the data collection and tracking reporting plan;
 - (g) Efficiently and effectively reduce costs and improve care; validate that no cost sharing is required and that no administrative burden is imposed on the member;
 - (h) Provide clear accountability for service delivery;
 - (i) Allow for consideration of any flexible services requested; and
 - (j) Not limit the range of possible flexible services.
- (4) Flexible services provided to individual members shall be consistent with the member's treatment plan as developed by the member's care team and agreed to by the CCO. The care team and the CCO shall work with the member and, as appropriate, the family of the member in determination of the additional health related services effective as alternative in the member's care. These services shall be documented in the member's treatment plan and clinical record, as specified in OAR 410-141-3180.
- (5) Flexible services provided on a community based level and initiated by the CCO shall, for documentation purposes, be reflected with date and details within the Community Advisory Council (CAC) minutes in the same calendar quarter as the activity occurrence. Such activities might include: programs to improve the general community health, e.g. farmers' market in the "food desert" or classes on healthy meal preparation.
- (6) An enrollee's request to have an approved state plan service rather than a flexible service must be honored when medically necessary.
- (7) Flexible services are not accounted for in the medical expenses part of the capitation rate.
- (8) CCOs shall submit their financial reporting for flexible services as directed through their contracting agreement with the Authority.

(9) As allowed under 42 CFR 438.6(e), CCOs are always at liberty to offer any additional health related services. The services are separate from flexible services and delivered at the complete discretion of the CCO.

(10) All CCOs shall have written P&Ps for a grievance system. A grievance process, described in OAR 410-141-3261, applies only to those situations in which the member or their representative expresses concern or dissatisfaction about any matter other than an "Action," as referenced in 42 CFR 438.400, (b)(6). A flexible services outcome is not an "Action." CCOs shall have written procedures to acknowledge the receipt, disposition, and documentation of each grievance from members as specified in 42 CFR 438.402-408 and OAR 410-141-3260 through 410-141-3264.

(11) CCOs shall provide to members a written outcome regarding flexible services requests and shall be copied to any representative of the member, and any provider who made or participated in the request on the member's behalf. Flexible services outcomes are subject to the grievance provisions of OAR 410-141-3260 and 410-141-3261. The written outcomes shall inform the member and any provider of the member's right to file a grievance in response to the outcome.

(12) Except as provided in section (11), members have no appeal or hearing rights in regard to a flexible services outcome.

Stat. Auth.: ORS 413.042

Stats Implemented: ORS 413.042