

TRANSITION PLAN

For Complying with the CMS Home- and Community-Based Services Medicaid Rule

FOR THE STATE OF OREGON

The CMS-approved Oregon transition plan can be found at:

<https://www.oregon.gov/dhs/seniors-disabilities/HCBS/Pages/Transition-Plan.aspx>

For a detailed crosswalk reviewing regulatory changes made in all settings and service types to bring Oregon’s regulation into compliance with federal regulations, see Appendix E, pages 118–211.

SITE-SPECIFIC ASSESSMENTS

Types of Settings/Residents and Funding Authorities	The Department of Human Services (DHS) is an organized healthcare delivery system (OHCDS) and operating agency of Oregon’s six 1915(c) Home and Community Based Services Waivers and the 1915(k) Community First Choice State Plan Option (K Plan). Within DHS there are two offices administering the 1915(c) and K Plan — the Office of Developmental Disabilities Services (ODDS) and Aging and People with Disabilities (APD). For a complete listing of settings and Medicaid funding authorities, see the chart in Appendix D on page 116.
Compliant/Non-Compliant	<p>Adult Foster Care:</p> <ul style="list-style-type: none">• 689 settings meet expectations• 753 expected to meet expectation• 0 require heightened scrutiny or will not meet requirements <p>Assisted Living Facility:</p> <ul style="list-style-type: none">• 203 settings meet expectations• 12 expected to meet expectations• 2 required heightened scrutiny• 0 will not meet requirements <p>ALF Memory Care:</p> <ul style="list-style-type: none">• 1 setting meets expectations• 3 expected to meet expectations• 0 required heightened scrutiny or will not meet requirements <p>Residential Care Facility:</p> <ul style="list-style-type: none">• 67 settings meet expectations• 54 expected to meet expectations• 0 required heightened scrutiny or will not meet requirements <p>RCF Memory Care:</p> <ul style="list-style-type: none">• 57 settings meet expectations• 115 expected to meet expectations• 3 required heightened scrutiny• 0 will not meet requirements <p>Adult Day:</p>

OREGON TRANSITION PLAN FOR COMPLYING WITH THE CMS HOME- AND COMMUNITY-BASED SERVICES MEDICAID RULE (continued)

	<ul style="list-style-type: none"> All 20 settings meet expectations
Reasons for Non-Compliance	<p>Of the 2,179 providers reviewed, APD identified 291 residential settings that needed to go through its initial Heightened Scrutiny review process: 184 Residential Care Facilities (RCF), 15 Assisted Living Facilities (ALF), and 92 Adult Foster Homes (AFH). A sub-group of RCF and ALF included 169 secured/locked Memory Care Communities that specialize in the care of individuals with Alzheimer’s/Dementia.</p> <p>These 291 settings were selected for review based on the setting’s proximity to an institution or by a provider selecting a facility description on the PSAT (“red flag response”) that gave the appearance that the setting may be isolating in nature.</p>
Types of Remediation	<p>The STP also notes: The state believes that many secure/locked MCC (memory care communities) can meet the HCBS regulations by assuring two important criteria that Oregon intends to regulate, monitor, and enforce:</p> <ul style="list-style-type: none"> That individuals have regular opportunities and support to access the greater community; and A person-centered planning process that places individually-based limitations to the rules (modifications to the conditions), thereby meeting the requirements set forth in Federal regulations. <p>In applying this rationale, Oregon is only submitting for Heightened Scrutiny those secure/locked MCC settings that have additional factors such as location, proximity to institutions, or other criteria that may have the effect of institutionalizing or isolating.</p>

SETTINGS PRESUMED INSTITUTIONAL

% Presumed Institutional (No. of Residents Affected)	<p>After the first phase of the heightened scrutiny review conducted on 291 settings, it was determined that:</p> <ul style="list-style-type: none"> 94 settings meet expectations 192 were expected to meet expectations 5 required on-site reviews (2 ALFs and 3 RCFs)
Type of Setting/Residents	See above
Reason for Presumption	See above
Heightened Scrutiny Process	<p>Prior to making a final referral to CMS for heightened scrutiny, HSD will:</p> <ul style="list-style-type: none"> Prioritize on-site visits by the licensing staff; Have each setting conduct an HCBS Provider Self-Assessment to assist the licensors in knowing which HCBS standards the setting is not meeting expectation; Provide the setting an opportunity to rebut the presumption of institutional qualities due to the appearance of isolating individuals from the broader community or provide a comprehensive plan for

OREGON TRANSITION PLAN FOR COMPLYING WITH THE CMS HOME- AND COMMUNITY-BASED SERVICES MEDICAID RULE (continued)

	<p>compliance with the regulations with milestones to show measurable progress towards compliance.</p> <ul style="list-style-type: none"> • During the transition period, prior to submission of evidence packages to CMS for site identified as requiring heightened scrutiny, HSD will commence a 30-calendar day public notice and comment period.
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NON-COMPLIANCE COMMUNICATION

% Cannot/Will Not Comply (No. of Residents Affected)	In no category of services (including some noted here because they are primarily DD services) did the state identify any provider in any category of service that will not meet expectations and come into compliance.
Type of Setting/Residents	Not applicable
Reason for Determination	Not applicable
Communication Strategy	<p>For settings that are not in compliance as of July 1, 2020, regulatory staff may utilize a full range of corrective actions, including civil penalties, fines, putting conditions on licenses, non-renewal of licenses, suspensions and ultimately revocation of the licenses. APD will begin closing actions due to non-compliance with HCBS, which includes giving appropriate notices to facilities and residents and restricting admissions to prevent individuals from moving into non-compliant settings.</p> <p>Communication will begin in July 2021, to affected individuals and will be ongoing through December 2021. The final 30-day notice of facility closure will occur for remaining individuals in January 2022. After appropriate notice, Medicaid contracts will be ended, Medicaid payments will stop, and individuals will be moved to compliant settings no later than March 17, 2022.</p>
Assistance to Residents?	The state will provide “technical assistance” for those transitioning to another service setting or type.

ONGOING MONITORING

Monitoring Procedures	Regular training and technical assistance forums are being provided to service delivery system staff to address questions and inform staff about available tools as they become available (i.e., system enhancements in Oregon ACCESS and ASPEN, website FAQ documents, Consumer Bill of Rights documents, and checklists). Training has been provided to all State and County regulatory oversight staff (Licensors and Surveyors). HCBS settings compliance assessment and validation materials follow the form and function of familiar compliance tools to ensure ease of understanding and use. Following initial on-site reviews, Residential Care Facilities and Assisted Living Facilities are formally reviewed for license renewal every two years. Adult Foster Homes are formally reviewed for license renewal annually.
Quality Assurance Measures	Throughout the transition period, DHS and OHA will continue to engage Stakeholders and utilize other avenues to evaluate progress, identify areas of concern, and propose solutions. A statewide committee and program-specific committees are comprised of individuals, individual-advocate groups,

OREGON TRANSITION PLAN FOR COMPLYING WITH THE CMS HOME- AND COMMUNITY-BASED SERVICES MEDICAID RULE (continued)

	providers, provider-advocate groups, contractors, service delivery system personnel and state staff.
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