

1915 (c) Waiver changes: Summary of public comments and Office of Developmental Disabilities Services' (ODDS) response

ODDS gathered public comments from Aug. 5– Sept. 4, 2024, on changes for the:

- Adult's waiver,
- Children's waiver,
- Medically Fragile Model waiver,
- Medically Involved Children's waiver,
- Behavioral Model waiver, and
- Children's Extraordinary Needs waiver.

Thank you to everyone who gave feedback and ideas.

We summarized your comments in the tables below. We also explained whether we used your suggestions to update the draft waivers. We included this information in the final waivers as federal rules require.

Summary of comments received
Comment from: Family receiving ODDS services
Summary of comments: Comment on the Adult's waiver. Concern that changing the qualifications for Case Managers and Assessors might lower the standards. Suggested adding details about training before

starting the job.

ODDS response: We think new hires can get this training after they start but before they begin case management work. We are not making any changes to the waiver regarding this request.

Summary of comments received

Comment from: Families receiving ODDS services

Summary of comments: Comment on the Children's Extraordinary Needs Waiver

Three comments asking to add more children to include all eligible children on the wait list.

ODDS response:

We don't have approval from lawmakers to make this change. We are not making changes to the waiver at this time.

Summary of comments received

Comment from: Family receiving ODDS services

Summary of comments: Comment on the Children's Extraordinary Needs Waiver

Reserved waiver capacity should be added to this waiver for when

- in-home services are needed to avoid moving the child out of the home or to ensure proper care
- the parent is the only option to provide safe and appropriate care.

ODDS response:

We don't have approval from lawmakers to make this change. We are not making changes to the waiver at this time.

Summary of comments received

Comment from: Family receiving ODDS services.

Summary of comments: Comment on the Behavioral Model waiver.

There is a concern about reducing the number of people.

ODDS response:

Eligible children can also enter the Children's waiver. The slots being reduced are unused. No changes to the waiver will be made at this time.

Summary of comments received

Comment from: Family receiving ODDS services.

Summary of comments:

Support was given for allowing valid Levels of Care when moving between waivers.

ODDS response:

We appreciate this feedback.

Summary of comments received

Comment from: Case Management Provider

Summary of comments:

Outdated language about Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) needs correction.

ODDS Response:

We will correct these outdated references.

Summary of comments received

Comment from: Case Management Provider

Summary of comments:

People with the Healthier Oregon Program should be included in the Children's Extraordinary Needs waiver.

ODDS Response:

The Healthier Oregon Program uses general funds and not Medicaid. This means they cannot be included in a 1915(c) waiver. SB91 also says that we may not use general funds not matched by federal Medicaid funds. No changes will be made to the waiver at this time.

Summary of comments received

Comment from: Case Management Provider

Summary of comments:

The children's and adults' waivers should not have waitlists.

ODDS Response:

We agree and the Children's and Adults' waivers do not have waitlists.

Summary of comments received

Comment from: Case Management Provider

Summary of comments:

People with Children's Health Insurance Program (CHIP) should have access to waiver and state plan services through Oregon Health Plan.

ODDS Response:

We are adding the Medicaid eligibility group 435.229 to the waivers which includes the people who used to have CHIP and now have Medicaid. This will allow them to access the ODDS 1915 (c) waivers.

Summary of comments received

Comment from: Case Management Provider

Summary of comments:

Oregon law does not allow giving away aspects of guardianship. Allowing a designated representative when someone has a legal guardian seems inappropriate.

ODDS Response:

Oregon rules allow a designated representative, including a legal guardian who is not a paid provider, to act on behalf of the individual. We don't think this is giving away guardianship. No changes will be made to the waivers at this time.

Summary of comments received

Comment from: Case Management Provider

Summary of comments:

County and statewide data should be collected to guide policy and practice and to hopefully reduce the use of restraints.

ODDS Response:

All 1915 (c) waivers collect data on wrongful restraints and involuntary seclusion with a 100% statewide review. We appreciate this suggestion. No changes will be made to the waivers at this time.

Summary of comments received

Comment from: Case Management Provider

Summary of comments:

There should be more choices for Financial Management Services providers.

ODDS Response:

Oregon uses an open and competitive process to select Financial Management Services providers. No changes will be made to the waivers at this time.

Summary of comments received

Comment from: Case Management Provider

Summary of comments:

Employment services in the children's waiver should not need an exception.

ODDS Response:

Federal laws say that Medicaid funded Employment Services can only be used if not available through school or Vocational Rehabilitation. Job Coaching needs ODDS approval for people under the age of 16. All other employment services need ODDS approval for people under the age of 18. No changes will be made to the waivers at this time.

Summary of comments received

Comment from: Case Management Provider

Summary of comments:

Medicaid/CHIP Operations Coordination Steering Committee (MOCSC) should include people who receive and provide services and not just experts and executives.

ODDS Response:

MOCSC coordinates Medicaid actions across OHA and ODHS. There are other statewide Councils/Commissions where people who receive and provide services can give their views. ODDS does not plan to request expansion of the current committee to include external partners.

Summary of comments received

Comment from: Case Management Provider

Summary of comments:

The current payment model does not encourage reducing Job Coaching services. It would be better to have a simple hourly rate that includes all expected costs. Five years is too long of a cycle before updating rates. Frequent changes would not be stable for provider planning.

ODDS Response:

We appreciate this feedback. No changes to the waivers will be made at this time.

Summary of comments received

Comment from: Case Management Provider

Summary of comments:

The rationed fee for service (RFS) for case management entities doesn't seem to be shown in the waiver. The limit on the number of services paid should be removed or made easier to get around using county funds for payment. Why do payments through local match need extra, complicated paperwork? The waiver makes it sound like case management entities get paid for every eligible encounter (one per person per day), but there's a limit.

ODDS Response:

We appreciate this feedback. No changes to the waivers will be made at this time.

Summary of comments received

Comment from: Case Management Provider

Summary of comments:

Limiting case management to private providers selected years ago seems unfair. There should be a clear way for new providers. The current system of having separate and unequal, case management entities may not be the best approach to address the unmet needs of our current system.

ODDS Response:

We appreciate the feedback. We are not considering changes to the case management structure at this time. No changes to the waivers will be made at this time.

Summary of comments received

Comment from: Case Management Provider

Summary of comments:

ODDS should support local approval for counties to operate CDDPs. Counties should have first right of refusal.

ODDS Response:

Oregon law allows counties to set up and run CDDPs. A law change would be needed for counties to have the right of refusal. ODDS does not plan to request this change. No changes to the waivers will be made at this time.

Summary of comments received

Comment from: Case Management Provider

Summary of comments:

Oregon has had time to start host homes. These children could be served in regular children's foster care. Host homes are not needed as much now.

ODDS Response:

We appreciate this feedback. We do not plan to remove Host Homes at this time. No changes to the waivers will be made at this time.

Summary of comments received

Comment from: Case Management Provider

Summary of comments:

We should keep banning chemical restraints. We should keep banning the use of medication just for staff convenience or to control behavior.

ODDS Response:

We agree. Chemical restraints are prohibited by ODDS rules in all settings.

Summary of comments received

Comment from: Case Management Provider

Summary of comments:

CMS shouldn't require institutional level of care for states that no longer have institutions.

ODDS Response:

We will forward this feedback to CMS.

Summary of comments received

Comment from: Case Management Provider

Summary of comments:

CMS should encourage using state plan services over waiver services.

ODDS Response:

We will forward this feedback to CMS.

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