



January 6, 2022

Dana Hittle
Interim Deputy State Medicaid Director
500 Summer St. NE, E65
Salem, OR 97301

Dear Deputy Director Hittle:

The American Lung Association appreciates the opportunity to submit comments on the Oregon 1115 Demonstration Waiver for the Oregon Health Program.

The American Lung Association is the oldest voluntary public health association in the United States, currently representing the more than 36 million Americans living with lung diseases, including more than 577,000 Oregonians. The Lung Association is the leading organization working to save lives by improving lung health and preventing lung disease through research, education, and advocacy.

The American Lung Association is committed to ensuring that Oregon's Medicaid program provides quality and affordable healthcare coverage. The American Lung Association appreciates the focus the Oregon Health Program has placed on equitable access to healthcare in the 1115 Demonstration Waiver. In addition, Oregon's request to provide multi-year continuous enrollment for children under six and two-year continuous eligibility for all beneficiaries ages six and over will help to eliminate gaps in coverage.

Unfortunately, this waiver also contains multiple proposals that undermine access to care for patients with lung disease. The American Lung Association is deeply concerned with the proposed closed formulary for adult beneficiaries, which will make it harder for patients to access the medications they need to stay healthy. We also oppose Oregon's proposals to limit retroactive coverage for nearly all Medicaid beneficiaries and to waive the Early and Periodic Screening, Diagnostic and Treatment (EPSDT) benefit for beneficiaries over the age of one, as both proposals will significantly jeopardize access to care for patients we represent.

The American Lung Association offers the following comments and suggested changes on the 1115 Demonstration Waiver for the Oregon Health Program:

Continuous Eligibility

The American Lung Association supports the request for continuous enrollment for children under six and two-year continuous eligibility for beneficiaries over the age of six. Continuous eligibility reduces gaps in coverage that prevent patients from accessing the care that they need. Continuous eligibility increases equitable access to care, as studies show that children of color are more likely to be affected by gaps in coverage.¹ Research has also shown that individuals with disruptions in coverage during a year are more likely to delay care, receive less preventive care, refill prescriptions less often, and have

more emergency department visits.² For example, patients with asthma may struggle to maintain control over their symptoms without regular doctor's visits and prescription refills, leading to more frequent asthma attacks. Continuous eligibility will help reduce these negative health outcomes for all patients.

Closed Formulary

The American Lung Association is concerned by the proposal to transition to a closed formulary for adult beneficiaries. Diseases present differently in different patients. Prescription drugs have different indications, different mechanisms of action and different side effects, depending on the person's diagnosis and comorbidities. A closed formulary limits the ability of providers to make the best medical decisions for the care of their patients, effectively taking the clinical care decisions away from the doctor and patient and giving them to the state.

The Lung Association is disappointed that Oregon's proposal does not even include an appeals process for patients to access non-formulary medications. However, even an appeals process or exemptions for certain classes of drugs would not eliminate the barriers to care patients would face with a closed formulary. Appeals processes can cost patients important time while waiting for the medication that they need to be approved. Patients may also be forced to spend months on the trial and failure of a formulary-preferred drug before being able to access the prescription they need. Barriers like these to medication access can ultimately have negative outcomes for patients' health.

Additionally, Oregon's proposal to exclude prescription drugs that the state deems to have "limited or inadequate evidence of clinical efficacy," including those approved through the Food and Drug Administration's (FDA) accelerated approval processes, will also harm patients by restricting access to novel and lifesaving therapies. In the past few years, many new treatments have been approved through an accelerated approval process that benefit patients. In particular, patients with lung cancer would be unable to access potentially life-saving treatments as research continues to advance and promising new drugs are receiving accelerated approval from the FDA. All patients enrolled in Oregon's Medicaid program should have the opportunity to access treatments that could extend or improve their quality of life.

The American Lung Association requests that the Oregon Health Program remove these requests and provide a robust, open formulary for all beneficiaries that will allow patients to access the medications that their providers believe are best for them.

Retroactive Coverage

The American Lung Association is concerned by the proposal to continue to eliminate retroactive coverage for nearly all beneficiaries, excluding the aged, blind, and disabled. Retroactive eligibility in Medicaid prevents gaps in coverage by covering individuals for a set amount of time prior to the month of application, assuming the individual is eligible for Medicaid coverage during that time frame. It is common that individuals are unaware they are eligible for Medicaid until a medical event or diagnosis occurs. While waiting for their application to be approved, eligible applicants may also delay necessary healthcare until the Medicaid enrollment process is complete. This can increase their health risks and exacerbate any health conditions that they may have.

Retroactive eligibility allows patients who have been diagnosed with a serious illness, such as lung cancer, to begin treatment without being burdened by medical debt prior to their official eligibility determination. In Indiana, Medicaid recipients were responsible for an average of \$1,561 in medical

costs with the elimination of retroactive eligibility.³ Without retroactive eligibility, Medicaid enrollees could face substantial costs at their doctor's office or pharmacy.

Patients with underlying health conditions who are unable to access regular care are often forced to go to emergency rooms and hospitals if their conditions worsen, leading health systems to provide more uncompensated care. For example, when Ohio was considering a similar provision in 2016, a consulting firm advised the state that hospitals could accrue as much as \$2.5 billion more in uncompensated care because of the waiver.⁴ Increased uncompensated care costs are especially concerning as safety net hospitals and other providers continue to deal with limited resources and capacity during the COVID-19 pandemic. Limiting retroactive coverage increases the financial hardships to rural hospitals that absorb uncompensated care costs. The American Lung Association opposes the continued limitations to retroactive coverage and encourages the state to expand retroactive coverage to include all Medicaid beneficiaries.

EPSDT Benefit and Prioritized Service List

The American Lung Association is opposed to the restricted coverage for treatment under Early and Periodic Screening, Diagnosis and Treatment (EPSDT). The purpose of the EPSDT benefit is to ensure that children receive appropriate healthcare, however, the limiting of that care to a prioritized list of services leaves families vulnerable to the cost of care for non-prioritized services. Many of the services that have not been prioritized are for serious and concerning conditions. These limitations to services can place low-income families under financial strain to cover the cost of necessary services that fall outside of the prioritized list.

While the state has demonstrated other efforts to increase equitable access to healthcare, the continued elimination of the EPSDT benefit is a step in the opposite direction. For example, children of color are enrolled in Medicaid at disproportionately higher rates⁵ and as mentioned before, are also more likely to be affected by gaps in coverage.⁶ These children are likely to be disproportionately affected by the limitations to the EPSDT benefit.

The American Lung Association urges the state to remove restrictions to the EPSDT benefit to allow children full and equitable access to healthcare, in keeping with the purpose of the EPSDT benefit. We also urge the state to remove the prioritized list to ensure all patients are able to receive the care they need to manage their health conditions.

Coverage for Individuals who are Incarcerated and Institutionalized

The American Lung Association has questions about the proposed continuous coverage for incarcerated and institutionalized individuals. While the American Lung Association supports transition-related benefits as this would fill a care gap and increase health equity, it is not entirely clear what services for incarcerated individuals will be funded through Medicaid. The state should explain how it will invest any savings in community-based services to keep individuals out of the justice system and develop more concrete guidelines on how the proposed Medicaid coverage will meaningfully impact care for the justice-involved population.

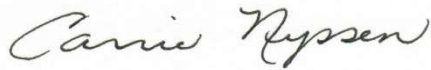
Additional Services

The Lung Association appreciates the demonstration's focus on health-related social needs. As the state moves forward with this proposal, it is critical that these services are supplementing, not supplanting, services currently provided under the state plan. We urge the state to develop rates based on all state

plan services and supplement those rates by adding health-related social needs services to ensure patients can access all of the care that they need.

Thank you for the opportunity to provide comments.

Sincerely,



Carrie Nyssen
Senior Director, Advocacy in Oregon
American Lung Association

¹ Osorio, Aubrianna. Alker, Joan, "Gaps in Coverage: A Look at Child Health Insurance Trends", Center for Children & Families (CCF) of the Georgetown University Health Policy Institute, November 21, 2021. [Gaps in Coverage: A Look at Child Health Insurance Trends – Center For Children and Families \(georgetown.edu\)](https://www.georgetown.edu/health-policy-institute/publications/gaps-in-coverage-a-look-at-child-health-insurance-trends)

²<https://aspe.hhs.gov/sites/default/files/private/pdf/265366/medicaid-churning-ib.pdf>.

³ Healthy Indiana Plan 2.0 CMS Redetermination Letter. July 29, 2016. Available at: <https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/in/Healthy-Indiana-Plan-2/in-healthy-indiana-plan-support-20-lockouts-redetermination-07292016.pdf>

⁴ Virgil Dickson, "Ohio Medicaid waiver could cost hospitals \$2.5 billion", Modern Healthcare, April 22, 2016. (<http://www.modernhealthcare.com/article/20160422/NEWS/160429965>)

⁵ Brooks, Tricia. Whitener, Kelly. "At Risk: Medicaid's Child-Focused Benefit Structure Known as EPSDT," Center for Children & Families (CCF) of the Georgetown University Health Policy Institute, June 2017. EPSDT-At-Risk-Final.pdf (georgetown.edu)

⁶ Osorio, Aubrianna. Alker, Joan, "Gaps in Coverage: A Look at Child Health Insurance Trends", Center for Children & Families (CCF) of the Georgetown University Health Policy Institute, November 21, 2021. [Gaps in Coverage: A Look at Child Health Insurance Trends – Center For Children and Families \(georgetown.edu\)](https://www.georgetown.edu/health-policy-institute/publications/gaps-in-coverage-a-look-at-child-health-insurance-trends)