



January 7, 2022

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

Dear Deputy Director Hittle:

NAMI Oregon appreciates the opportunity to submit comments on the Oregon 1115 Demonstration Waiver for the Oregon Health Program.

NAMI Oregon is the state chapter of the National Alliance on Mental Illness, a membership-governed grassroots organization that provides free education, support, and advocacy services to individuals and families affected by mental illness. We offer programs through our 15 chapters across the state and annually serve about 12,000 people. In Oregon, our membership is almost entirely composed of individuals living with mental illness, families with loved ones living with mental illness, and friends and allies of individuals and families affected by mental illness.

NAMI Oregon is committed to ensuring that Oregon's Medicaid program provides quality and affordable health care coverage. NAMI Oregon appreciates the focus that the Oregon Health Plan has placed on equitable access to health care in the 1115 Demonstration Waiver. In addition, Oregon's request to provide justice-involved populations with access to Medicaid benefits 90 days pre-release, multi-year continuous enrollment for children under six, and continuous eligibility for all beneficiaries ages six and older will help to eliminate critical gaps in coverage and improve health outcomes.

Unfortunately, this waiver contains several proposals that undermine access to care for patients with mental health conditions. NAMI Oregon is concerned with the proposed closed formulary for adult beneficiaries, which will make it harder for patients with mental health conditions 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.

NAMI Oregon offers the following comments and suggested changes on the 1115 Demonstration Waiver for the Oregon Health Plan.

Reentry

NAMI Oregon supports the request to provide coverage for justice-involved individuals 90 days pre-release and a ready network of health care services and supports upon release. Since prisons, jails, and other penal institutions are required to ensure the provision of appropriate and necessary health care to individuals while incarcerated, these facilities have become America's de-facto mental health providers. However, they are often unable to provide adequate care as part of a system that is not built to provide health services.

Research show that there is a significant lack of access to adequate mental health care in incarcerated settings. About 63 percent of individuals with a history of mental illness do not receive mental health treatment while incarcerated in state and federal prisons.ⁱ It is also challenging for people to remain on treatment regimens once incarcerated. In fact, more than 50 percent of those who were medicated for mental health conditions at admission did not receive pharmacotherapy once in prison.ⁱⁱ

Reentry is a particularly crucial period for those with mental illness because it is associated with significant stress and high risk of recidivism, relapse, or crisis. Nationally, about 80 percent of individuals released from prison in the United States each year have a SUD or chronic medical or psychiatric condition.ⁱⁱⁱ On release, people with serious mental illness (SMI), particularly those with co-occurring substance use disorders, recidivate at higher rates than other offenders. This is frequently attributable to lack of timely access to needed services and supports for their condition.^{iv} If approved, this request would help the Oregon provide uninterrupted health coverage to ensure this high-risk, high-need population receives needed care as they transition back to their communities.

Continuous Eligibility

NAMI Oregon 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.^v 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.^{vi} When eligible people with mental health conditions go on and off of coverage – called “churn” – they are less likely to receive outpatient mental health services.^{vii} Continuous eligibility will help reduce these negative health outcomes.

Closed Formulary

NAMI Oregon is concerned by the proposal to transition to a closed formulary for adult beneficiaries, as the intent is in conflict with protections for mental health medications that the Oregon Legislature enacted in the 2021 legislative session via House Bill 3045. We presume Oregon law supersedes the waiver as it pertains to access to what Oregon defines as “7/11” medications — generally defined as antidepressant and antipsychotic medications.

However, the proposal would vastly curtail access to other mental health medications that fall outside of that definition, which would harm people living with mental health and/or substance use disorders. Mental health medications affect people in different ways. Prescription drugs have different indications, different mechanisms of action and different side effects, depending on the person’s diagnosis and comorbidities. People need access to the medications that works best for them because when it comes to mental health conditions, one size does not fit all.

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. Moreover, restricting access to certain types of mental health medications can also interrupt people’s lives and threaten their recovery and safety. Our organization is disappointed that Oregon’s proposal does not even include an appeals process for patients to access non-formulary medications.

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 FDA's 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. All patients enrolled in Oregon's Medicaid program should have the opportunity to access treatments that could extend or improve their quality of life.

NAMI Oregon requests that the Oregon Health Plan remove these requests and provide a robust formulary for all beneficiaries that will allow patients to access the medications that their providers believe are best for them.

Retroactive Coverage

NAMI Oregon 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 also important because many individuals are simply unaware that they are eligible for Medicaid until after they experience a traumatic event. For example, when a mental health crisis arises such as first episode psychosis, the initial focus often is on stabilizing the person's condition. If such a crisis event occurs toward the end of a calendar month, it may take several days or weeks for the individual and their family and providers to navigate complex medical issues before they turn to considering payment, including Medicaid eligibility. During this time, sizeable medical bills can accrue. Retroactive coverage protects patients like these by ensuring that medical bills are paid even if a Medicaid application is not filed until the calendar month following a traumatic event. Patients should not be left to choose between massive medical bills and treating their illness, and NAMI Oregon urges the state to reconsider this waiver provision.

Retroactive eligibility allows patients who have been diagnosed with a serious illness, such as mental health conditions, 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.^{viii} Without retroactive eligibility, Medicaid enrollees could then 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 as a result of the waiver.^{ix} 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. NAMI Oregon opposes the continued limitations to retroactive coverage and encourages the state to expand retroactive coverage to include all Medicaid beneficiaries.

EPSDT Benefit

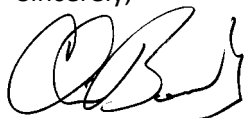
NAMI Oregon is opposed to the restricted coverage for treatment under Early and Periodic Screening, Diagnosis and Treatment (EPSDT). The purpose of the EPSDT benefit is to ensure that children receive appropriate healthcare; however, the limiting of that care to a prioritized list of services leaves 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, such as mental illness. 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 health care, the continued restriction of the EPSDT benefit is a step in the opposite direction. For example, children of color are enrolled in Medicaid at disproportionately higher rates^x and as mentioned before, are also more likely to be affected by gaps in coverage.^{xi} These children are likely to be disproportionately affected by the limitations to the EPSDT benefit. NAMI Oregon supports the removal of the restrictions to the EPSDT benefit to allow children full and equitable access to healthcare, in keeping with the purpose of the EPSDT benefit.

Thank you for the opportunity to provide comments.

Sincerely,



Chris Bouneff
Executive Director
NAMI Oregon

ⁱ U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. Indicators of Mental Health Problems Reported by Prisoners and Jail Inmates, 2011-12. June 2017. <https://www.bjs.gov/content/pub/pdf/imhprpji1112.pdf>.

ⁱⁱ Jennifer M. Reingle Gonzalez and Nadine M. Connell. Mental Health of Prisoners: Identifying Barriers to Mental Health Treatment and Medication Continuity. *Am J Public Health* 104, no. 12 (December 2014): 2328-2333. DOI: 10.2105/AJPH.2014.302043.

ⁱⁱⁱ Shira Shavit et al. Transitions Clinic Network: Challenges and Lessons in Primary Care for People Released from Prison. *Health Affairs* 36, no. 6 (June 2017): 1006–15. <https://doi.org/10.1377/hlthaff.2017.0089>.

^{iv} Glenda Wrenn, Brian McGregor, and Mark Munetz. The Fierce Urgency of Now: Improving Outcomes for Justice Involved People with Serious Mental Illness and Substance Misuse. *Psychiatric Services*, published online (April 16, 2016), <https://ps.psychiatryonline.org/doi/10.1176/appi.ps.201700420>.

^v 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/sites/default/files/private/pdf/265366/medicaid-churning-ib.pdf)

^{vi} <https://aspe.hhs.gov/sites/default/files/private/pdf/265366/medicaid-churning-ib.pdf>.

^{vii} Xu Ji et al. Effect of Medicaid Disenrollment on Health Care Utilization Among Adults With Mental Health Disorders. *Medical Care* 57, no. 8 (August 2019), https://journals.lww.com/lww-medicalcare/Abstract/2019/08000/Effect_of_Medicaid_Disenrollment_on_Health_Care.2.aspx.

^{viii} 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>

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

^x 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)

^{xi} 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/sites/default/files/private/pdf/265366/medicaid-churning-ib.pdf)