



Thursday, December 9th, 2021

To: Oregon Health Policy Board
Attention: David Bangsberg MSc, MD, MPH
C/O: Tara Chetock, Oregon Health Authority
tara.a.chetock@dhsosha.state.or.us

From: Josh Balloch
AllCare Health
1701 NE 7th St
Grants Pass, OR 97526
josh.balloch@allcarehealth.com

Written public comment to the Oregon Health Policy Board for the December 7th 2021 meeting --
RE: Draft Application for the 1115 Medicaid Waiver

Chair Bangsberg and members of the Oregon Health Policy Board,

AllCare Health is currently reviewing the 157-page publically available waiver application, and will be submitting formal comments soon. However, before those comments are completed, I wish to raise concern about this draft waiver's failure to comply with legislative direction, as outlined in HB 3353.

In 2020, when Oregon faced a massive budget shortfall because of the COVID pandemic, likely resulting in hundreds of millions of dollars taken from the Medicaid delivery system, many of us realized the impending negative impact on Oregon Health Plan members and providers. To minimize this impact, a strategy was created to use the 1115 Oregon Medicaid Waiver to leverage more federal dollars being directed into the Oregon Medicaid System. By allowing Coordinated Care Organizations to spend 3% of their funding on health equity improvements and upstream Social Determinants of Health investments, we could then provide significant health improvements for OHP members and the community as a whole. This strategy required that those funds count as "medical expenditures", ensuring the sustainability of those investments.

In late 2020, a coalition comprised of local equity groups, providers, Community Advisory Councils, and legislators, established a consensus that created House Bill 3353 (*Reference: <https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/HB3353>*). HB 3353 outlines a blue print for the 1115 Oregon Medicaid Wavier request in 2022, giving the Oregon Medicaid System more flexibility on spending Medicaid dollars. More importantly, it created local accountability for CCOs investing in the delivery system, in a way that meaningfully serves members and the communities as a whole.

During the 2021 session, the collation was focused on attaining comprehensive bi-partisan and bi-cameral support for HB 3353. The bill had four chief sponsors (Two Democrats and Two Republicans) and 22 regular sponsors (12 House Democrats; 6 House Republicans; 3 Senate Democrats and 1 Senate Republican). The broad legislative support resulted in the bill passing overwhelmingly (57-0 in the House; 19-10 in the Senate). This is the similar to the broad support enjoyed by the legislation that created the CCOs in 2011/2012.



This bi-partisan legislative support gives added credibility to Oregon's waiver request and demonstrates that funding and flexibility for Medicaid is a non-partisan core issue in Oregon. This is significant when Oregon is again seeking to be a national trailblazer for Medicaid.

Unfortunately, the Oregon Health Authority's Draft Waiver Proposal fails to match the language or the intent of HB 3353. The bill explicitly says CCOs are to "spend" their global budgets on specific investments. (*Reference: Section 2(1)(a) of HB 3353*). Instead, the OHA's draft application, in direct contravention of legislative intent, tells CCOs to give money to a newly formed third party that would "grant out" funds without CCO accountability.

The OHA's draft waiver request seemingly ignores the legislative directive to cause CCOs, at the local level, to be responsible for engaging the whole community in making health investments. (*Reference Section 2(3)(a) & (b) of HB 3353*). The waiver request also rejects the legislators' bi-partisan intent for accountability, by allowing a siloed, third party equity entity to make funding decisions. HB 3353 clearly states that expenditures "be approved by the coordinated care organization's community advisory council."

Another concerning aspect of the draft waiver is the misunderstanding of HB 3353's general operation. The bill specifically and intentionally outlines that unless the OHA can insure CMS will include the 3% expenditures as medical expenses **AND** is fully funded by the increased federal reimbursement, then the CCOs can "spend up to" 3%. Legislators made clear it is not a "shall spend", unless specific requirements are met (*Reference: Section 4 of HB 3353*).

Many of the accountability measures that were included in HB 3353, aimed at ensuring that community voices were present during the creation of spending strategies in an effort to hold both CCOs and the OHA accountable, were not included in the 1115 Draft Waiver. The bill states that in order for these dollars to be counted as this 3%, they have to be part of "a plan developed in collaboration with, or directed by, members of organizations or organizations that serve local priority populations that are underserved in communities served by the coordinated care organization." In short, the plan the CCOs use for investments (i.e. Community Health Improvement Plan or Health Equity Plan) must include voices from priority and underserved populations within the service region, in the development of that plan. (*Reference: Section 2(3)(a) of HB 3353*). Within HB 3353, there is clear direction that these investments must demonstrate "practice-based or community-based evidence", giving CCOs the flexibility they need in order to find innovative solutions in partnership with new community organizations, likely to serve smaller populations among the underserved communities. These requirements were included in the Bill as part of the discussion with RHECs and should apply to the full 3%, but the Draft Waiver only applies this to the third party equity silos. (*Reference: Section 2(3)(b) of HB 3353*).

There are many other conflicts between the current draft waiver proposal and HB 3353. This letter is only intended to highlight the most urgent concerns about the draft 1115 proposal, which I and other members of the coalition wish to bring to your attention.

The Oregon Health Policy Board must be informed of these concerns, as failure to follow both the language and intent of HB 3353 will create significant issues and unnecessary confusion. The lack of



alignment between the waiver and HB 3353, which is referenced many times in the waiver, will generate uncertainty when the Centers for Medicare and Medicaid (CMS) review Oregon's request. Confusion at CMS will make it difficult to obtain the flexible and sustainable funding Oregon needs to address health inequities by 2030. Failure to follow the language and intent of HB 3353 also disenfranchises partners, such as regional health equity commissions and community advisor councils, which supported and helped pass the bill. Importantly, creating a third party equity silo, will very likely fail to win the endorsement from many of HB 3353's bi-partisan supporters. Divisions in the federal Oregon Congressional delegation could create a reason for CMS to label the waiver as "partisan" and to reject it.

Many community members in our region are thoroughly disappointed about the current direction of this waiver. Concerns about third party equity silo concepts have been shared with the OHA many times, yet meaningful changes have not been made.

To be clear, AllCare is extremely supportive of incorporating more diverse voices and having community accountability to ensure that health needs of all people are being met. Our concern is that these third party equity silos create bifurcated efforts that are unsustainable in a "grant-based" system.

Based on our experience, the number one issue with a CCO's ability to support sustainable equity investments within the community, is the lack of a true global budget; not an absence of desire by our Community Advisory Councils, our CCO Board of Governors, or any of the locally-based organizations with whom we partner.

Our request to you, the Oregon Health Policy Board, is that you ask the OHA to make meaningful changes to Oregon's 1115 Waiver Request, in the following areas:

- 1.) Removal of the third party equity silos, replaced with bi-partisan concepts laid out in HB 3353, as written and supported by over 80% of the legislature.
- 2.) Make clearer the request that the identified 3% of investments in health equity and SDOH be recognized as Medical expenditures. This is key to making these investments sustainable.
- 3.) Make clearer a request for full federal funding of these important upstream investments.

HB 3353 was a significant bi-partisan accomplishment during a contentious legislative session. It is important that the negotiated cooperation of the stakeholders and legislators and their significant achievement is not squandered in this application to the Federal Government. Thank you for you considering this sincere request for the changes necessary for the waiver application to appropriately reflect House Bill 3353 and the will of the People of Oregon.

If you would like to discuss this further please feel free to call me anytime (503-508-5868).

Sincerely,

Josh Balloch
AllCare Health
Vice-President of Health Policy