



January 3, 2022

To whom it may concern:

I am writing on behalf of Cascade AIDS Project (CAP) and the undersigned organizations to submit public comment on Oregon's draft 1115 Medicaid Demonstration Waiver application.

Founded in 1985 as a grassroots response to the AIDS crisis, CAP is now the oldest and largest HIV-services provider in Oregon. We and our allies are deeply concerned by the proposal in Oregon's draft application to adopt a closed formulary approach, and **we urge the state to commit in the application to maintaining open access to HIV treatment medications.**

Although we understand the reasons for adopting a closed formulary, this approach is not appropriate for HIV treatment medications, for a number of reasons:

- (1) HIV is a highly individual disease. Different people living with HIV have different treatment needs based on their specific medical history and the resistance(s) to medication that may have developed in their bodies. As a result, people living with HIV and their healthcare providers need maximum flexibility to select an HIV treatment regimen that is right for them.
- (2) HIV disproportionately impacts people who are also experiencing challenges such as homelessness, mental illness, and/or substance-use disorder. Members of this population may need simpler, more manageable HIV treatment regimens (e.g., single-tablet regimens) to remain adherent to their medications, but closed formularies can restrict access to those regimens by not factoring social determinants of health into decision-making on coverage.
- (3) Utilization-management techniques used in a closed-formulary approach, such as prior-authorization requirements, can cause abandonment of treatment, especially for those already at risk of falling out of care. For people living with HIV, in particular, the consequences can be disastrous: Medication non-adherence can lead not only to poor health outcomes, but also to permanent resistance to a drug or entire class of drugs.
- (4) People who are living with HIV and in successful treatment cannot transmit the virus through sex. However, if people fall out of care, as utilization management can cause them to do, they can spread HIV to their sexual partners. Adherence is, therefore, a public-health issue as well as an individual one.

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For all these reasons, it is considered best practice to ensure access to HIV treatment medications, even within a closed-formulary approach. This is why **antiretrovirals are designated as a drug class “of clinical concern” within Medicare Part D, requiring Part D plans to cover all drugs within that class** (rather than only two or more drugs, as for most classes). It’s also why the federal agencies responsible for ending the HIV epidemic direct states to “design their prescription drug formularies to minimize potential barriers presented by utilization management techniques so that Medicaid...beneficiaries can readily access all [HIV] regimens.”¹ Several states, including California, Colorado, and Illinois, have gone so far as to codify in statute protections from utilization-management techniques for Medicaid members living with HIV.

Oregon currently includes all U.S. Food and Drug Administration-approved HIV drugs on its Preferred Drug List, and the above-average health outcomes of Oregonians living with HIV reflects such public policies. Ensuring access to HIV treatment medications bolsters not just Oregon’s efforts to end the HIV epidemic, but the state’s commitment to eliminating health inequities as well, because Black, Latinx, and Indigenous Oregonians are more likely to be living with HIV, and more likely to experience poor HIV health outcomes (e.g., viral non-suppression). We hope that Oregon will remain aligned with best practice and the state’s own strategic goals by **committing in its 1115 waiver application to maintain open access to HIV treatment medications.**

Sincerely,

Jonathan Frochtzwaig
Public Policy & Grants Manager, CAP



¹ <https://www.medicaid.gov/federal-policy-guidance/downloads/cib120116.pdf>