



Executive Office of Health and Human Services Medicaid Managed Care

Policy and Procedure In Lieu of Services

Rhode Island Executive Office of Health and Human Services

August 18, 2021

Version 1

Purpose

This Policy sets forth requirements for the provision of In Lieu of Services (ILOS) by Managed Care Organizations (MCO) and the process for Medicaid Managed Care Organizations (MCO) to request approval from Executive Office of Health and Human Services (EOHHS) as permitted by 42 CFR 438.3(e)(2) and approved by the State.

Definitions

“In Lieu of Services”(ILOS) are defined as alternative services or settings that are not included in the State Plan but are medically appropriate, cost effective substitutes for covered services or settings.

“State Approved ILOS” means ILOS proposed by an MCO that has been approved by the State.

“State Identified ILOS” means ILOS that has been identified by the State as appropriate ILOS for the Medicaid Managed Care program. Both State Approved and State Identified ILOS will be posted on State agency websites.

Policy

MCOs may, as a cost-effective alternative to Medicaid State Plan services and settings, provide Members with alternative services and settings as permitted by 42 CFR 438.3(e)(2) and approved by the State.

Effective July 6, 2016, federal regulations allowed and codified the use of cost-effective alternative services that are approved by the State to be offered by MCOs. These regulations encourage innovation and promote efficiency and quality by enabling MCOs to offer their Medicaid Managed Care enrolled members (Member) physical and behavioral health services that are not covered under the Medicaid State Plan.

Procedure

Section 1: Submission and Approval Process

The following section outlines requirements for provision of ILOS.

A. Submission Process

MCOs may submit requests for approval of ILOS to EOHHS at any time. EOHHS will review the information submitted by the MCO to approve or deny the request., EOHHS may ask MCO to resubmit ILOS Form for additional information.

The information submitted will serve as documentation for the State’s actuary and/or the Centers for Medicare and Medicaid Services (CMS) regarding the cost-effectiveness of the service.

Prior to offering ILoS, the MCO will:

- Complete the ILoS Request Form (see Attachment A).
- Calculate cost benefit analysis
- Submit ILoS Request Form to EOHHS for review. MCO must demonstrate the following requirements will be met:
 - Voluntary for Member: an MCO cannot require a member to use an ILOS instead of a State Plan covered service or setting but can offer Members the option of such services when doing so would be medically appropriate and cost effective.
 - Voluntary for MCO: It is a MCO's option to offer ILoS.
 - Alternate services are medically appropriate and cost effective.
 - Define population and criteria for the alternate service(s).
 - ILoS may **not** include expenditures that are prohibited by CMS, such as training or equipment for law enforcement and room and board.
- Complete the "ILOS Request Form" (Attachment A) and submit and attached documentation for review and approval to EOHHS.

B. Approval Process:

- MCOs may not provide ILOS pursuant to 42 CFR 438.3(e)(2) without first obtaining approval by EOHHS.
- EOHHS will review ILOS Request Form to ensure ILOS request is complete and includes, at minimum, the aforementioned criteria for ILOS.
 - Upon approval, plans may begin providing the ILOS only at the beginning of a state fiscal quarter.

Upon approval of the In Lieu of Services Request by EOHHS:

- All ILOS must be added to the MCO's Medicaid Managed Care Manual.
- The ILOS will be posted on EOHHS website as a State Approved ILOS.
- The cost and utilization of ILOS will be factored into the medical portion of the MCO's rates.
- MCO must inform Members of new ILOS benefits and must post approved ILOS publicly, including on the MCO's website and in an updated member handbook or member handbook insert.
- The MCO will be responsible for offering the ILOS to all Members that meet the defined population and criteria for the alternate service.
- Members have the right to request appeal, external appeal, and fair hearing regarding the denial of an EOHHS approved ILOS being offered by the MCO.
- Encounter data tracking: MCOs must use rate codes that have been approved by EOHHS to track the claiming and provision of ILOS.
- Member Communications: All Member materials must be submitted to EOHHS through the standard Marketing review and approval process in accordance with marketing review policy and guidelines.

- MCOs are responsible to inform providers of approved ILOS (to include coding and claims submission).

Section 2: Cost Reports

MCOs must have mechanisms to track and report ILOS expenditures in a manner and format established by EOHHS.

MCO will submit ILOS expenditures to EOHHS in a manner and timeframe determined by EOHHS

- Encounter data tracking: MCOs must use rate codes that have been approved by EOHHS to track the claiming and provision of ILOS.

Section 3: Termination of ILOS

Whether ILOS Termination is initiated by State or MCO, termination date must occur at the end of the fiscal quarter, except in the case ILOS is terminated due to a threat against the health, safety, or welfare of the plan's enrollees.

A. State Initiated Termination of ILOS

- EOHHS may terminate ILOS if it is determined to be harmful to the Member or is not cost effective.
- EOHHS will notify MCO of ILOS termination no less than 90 days in advance, or as soon as possible, via email, in a memorandum.
- MCOs must use rate codes that have been approved by EOHHS to track the claiming and provision of ILOS.
- MCO must implement a plan for continuity of care for member(s) who are in receipt of ILOS. This plan must be submitted to EOHHS no less than 90 days prior to ILOS termination date.

B. MCO Initiated Termination of ILOS

- MCO may terminate ILOS upon prior notice to EOHHS.
- MCO must provide rationale to EOHHS for terminating ILOS.
- Termination date must occur at the end of the fiscal quarter, except in the case ILOS is terminated due to a threat against the health, safety, or welfare of the plan's enrollees.
- MCO must publicize a termination date and provide advance notice to Members no less than 30 days prior to effective date of termination, or as soon as possible. MCO must submit member materials to EOHHS through the standard marketing and member communications process.
- MCO must implement a plan for continuity of care for member(s) who are in receipt of ILOS. The MCO must continue to cover ongoing services for member (s) for 90 days post termination or until an alternative service can be put in place, whichever comes first.
- The continuity of care plan must be submitted to EOHHS no less than 90 days prior to ILOS termination date, or as soon as possible.

ATTACHMENT A
In Lieu of Request Form

Policy Summary

Policy Owner:	Director, Managed Care	
Policy Reviewers:	Managed Care, Compliance	
Effective Date:	August 2021	
Policy Approved:	Name:	Date:
Policy Reviewed:	Name:	Date:
Policy Retired Date:		