

Secretary of State
Certificate and Order for Filing
TEMPORARY ADMINISTRATIVE RULES
A Statement of Need and Justification accompanies this form..

I certify that the attached copies* are true, full and correct copies of the TEMPORARY Rule(s) adopted on [upon filing] by the
Date prior to or same as filing date

Department of Human Services, Seniors and People with Disabilities Division 411

Agency and Division	Administrative Rules Chapter Number	
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Rules Coordinator	Address	Telephone
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to become effective [February 1, 2011] through [July 31, 2011].
Date upon filing or later A maximum of 180 days including the effective date.

RULE CAPTION

Long-Term Support for Children with Developmental Disabilities

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately, 000-000-0000.
Secure approval of new rule numbers (Adopted rules) with the Administrative Rules Unit prior to filing

ADOPT:

AMEND:

411-308-0020, 411-308-0050, 411-308-0060, 411-308-0070, 411-308-0080,
411-308-0090, 411-308-0120

SUSPEND:

Stat. Auth.: ORS 409.050 & 410.070

Other Auth.: ORS 291.261

Stats. Implemented: ORS 427.005, 427.007, & 430.610 – 430.670

RULE SUMMARY

The Department of Human Services (DHS), Seniors and People with Disabilities Division (SPD) is temporarily amending the long-term support for children with developmental disabilities rules in OAR chapter 411, division 308 to:

- Implement a limitation on the maximum amount of support available to each child;
- Clarify the requirement to fully utilize all appropriate alternate resources, prior to and during enrollment, to reduce per case costs; and

- Clarify that the eight hours of unpaid support the child's family is expected to provide excludes sleeping hours.

The temporary rulemaking allows SPD to continue to provide long-term support through the end of the current biennium. Long-term support allows children to remain in their family homes and prevents out of home placement.

Signed Catherine A. Cooper, Deputy Assistant Director

January 31, 2011

Signature

Date

*With this original and Statement of Need, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules. ARC 940-2005

Secretary of State

STATEMENT OF NEED AND JUSTIFICATION

A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

Department of Human Services, Seniors and People with Disabilities Division 411

Agency and Division

Administrative Rules Chapter Number

In the Matter of: The temporary amendment of 411-308-0020, 411-308-0050, 411-308-0060, 411-308-0070, 411-308-0080, 411-308-0090, and 411-308-0120 relating to long-term support for children with developmental disabilities.

Rule Caption: (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

Long-Term Support for Children with Developmental Disabilities

Statutory Authority: ORS 409.050 & 410.070

Other Authority: ORS 291.261

Stats. Implemented: ORS 427.005, 427.007, & 430.610 – 430.670

Need for the Temporary Rule(s):

The Legislatively approved budget for long-term support for children with developmental disabilities will be fully expended prior to the end of the biennium due to the number of participants and cost per case. To prevent out of home placement and to allow children to continue to be supported in their family homes, SPD must temporarily amend the long-term support rules in OAR chapter 411, division 308 to:

- Implement a limitation on the maximum amount of support available to each child;
- Clarify the requirement to fully utilize all appropriate alternate resources, prior to and during enrollment, to reduce per case costs; and
- Clarify that the eight hours of unpaid support the child's family is expected to provide excludes sleeping hours.

Documents Relied Upon, and where they are available:

1. Fall 2010 DHS and Oregon Health Authority Case Load Forecast

Available at: <http://www.oregon.gov/DHS/data/forecasts/2010/fall-final.pdf>

2. July 22, 2010 Emergency Board Agenda and Minutes

Available at: http://www.leg.state.or.us/comm/lfo/eboard_pdfs/072210_minutes.pdf

3. Detail of Allotment Reduction 2009-2011 Legislatively Approved Budget Level

Available at:

http://www.oregon.gov/DAS/BAM/Allot_Reduction_Pages/DHS_SeniorsPeopleWithDisabilities.pdf

Justification of Temporary Rule(s):

Failure to act promptly will result in serious prejudice to children currently enrolled in long-term support and their families. If these actions are not taken, the budget for long-term support will be exhausted prior to the end of the biennium and the support will no longer be available for children currently enrolled or children who may become eligible for long-term support. If long-term support is no longer available, children currently receiving support may require out of home placement resulting in a higher overall cost to DHS. These rules need to be promptly amended to allow SPD to continue long-term support through the end of the current biennium, allowing children to remain in their family homes and preventing out of home placement.

Signed Catherine A. Cooper, Deputy Assistant Director

January 31, 2011

Signature

Date

**DEPARTMENT OF HUMAN SERVICES
SENIORS AND PEOPLE WITH DISABILITIES DIVISION
OREGON ADMINISTRATIVE RULES**

**CHAPTER 411
DIVISION 308**

**LONG-TERM SUPPORT FOR CHILDREN WITH DEVELOPMENTAL
DISABILITIES**

411-308-0020 Definitions

(Temporary Effective 2/1/2011 – 7/31/2011)

- (1) "Abuse" means abuse of a child as defined in ORS 419B.005.
- (2) "Activities of Daily Living (ADL)" mean activities usually performed in the course of a normal day in the child's life such as eating, dressing and grooming, bathing and personal hygiene, mobility (ambulation and transfer), elimination (toileting, bowel, and bladder management), and cognition and behavior (play and social development).
- (3) "Annual Support Plan" means the written details of the supports, activities, costs, and resources required for a child to be supported by the family in the family home. The child's Annual Support Plan articulates decisions and agreements made through a child- and family-centered process of planning and information-gathering conducted or arranged for by the child's services coordinator that involves the child (to the extent normal and appropriate for the child's age) and other persons who have been identified and invited to participate by the child's parent or guardian. The child's Annual Support Plan is the only plan of care required by the Division for a child receiving long-term support.
- (4) "Assistant Director" means the assistant director of the Division, or that person's designee.
- (5) "Child" means an individual under the age of 18 and eligible for long-term support.
- (6) "Children's Intensive In-Home Services" means, for the purpose of these rules, the services described in:

(a) OAR chapter 411, division 300, Children's Intensive In-Home Services, Behavior Program;

(b) OAR chapter 411, division 350, Medically Fragile Children Services; or

(c) OAR chapter 411, division 355, Medically Involved Children's Program.

(67) "Community Developmental Disability Program (CDDP)" means an entity that is responsible for planning and delivery of services for individuals with developmental disabilities in a specific geographic service area of the state operated by or under contract with the Division or a local mental health authority.

(78) "Cost Effective" means that a specific service or support meets the child's service needs and costs less than, or is comparable to, other service options considered.

(89) "CPMS" means the Client Processing Monitoring System.

(910) "Crisis" means: the risk factors described in OAR 411-320-0160(2) are present for which no appropriate alternative resources are available and the child meets the eligibility requirements for crisis diversion services in OAR 411-320-0160(3).

~~(a) A situation where a child with developmental disability is at imminent risk of placement outside the child's family home, or has already been placed outside the family home;~~

~~(b) The child requires supports due to the developmental disability to be able to safely remain in or return to the family home; and~~

~~(c) No alternative resources are available from which to obtain those supports.~~

(1011) "Department" means the Department of Human Services (DHS).

(4412) "Developmental Disability" means a disability that originates in the developmental years, that is likely to continue, and significantly impacts adaptive behavior as diagnosed and measured by a qualified professional. Developmental disabilities include mental retardation, autism, cerebral palsy, epilepsy, or other neurological disabling conditions that require training or support similar to that required by individuals with mental retardation, and the disability:

(a) Originates before the individual reaches the age of 22 years, except that in the case of mental retardation, the condition must be manifested before the age of 18;

(b) Originates and directly affects the brain and has continued, or must be expected to continue, indefinitely;

(c) Constitutes a significant impairment in adaptive behavior; and

(d) Is not primarily attributed to a other conditions, including but not limited to mental or emotional disorder, sensory impairment, substance abuse, personality disorder, learning disability, or Attention Deficit Hyperactivity Disorder.

(4213) "Division" means the Department of Human Services, Seniors and People with Disabilities Division (SPD).

(4314) "Employer-Related Supports" mean activities that assist a family with directing and supervising provision of services described in a child's Annual Support Plan. Supports to a family assuming the role of employer include but are not limited to:

(a) Education about employer responsibilities;

(b) Orientation to basic wage and hour issues;

(c) Use of common employer-related tools such as job descriptions; and

(d) Fiscal intermediary services.

| (4415) "Family" for determining a child's eligibility for long-term support as a resident in the family home, for identifying persons who may apply, plan, and arrange for a child's supports, and for determining who may receive family training, means a unit of two or more persons that includes at least one child with developmental disabilities where the primary caregiver is:

(a) Related to the child by blood, marriage, or legal adoption; or

(b) In a domestic relationship where partners share:

(A) A permanent residence;

(B) Joint responsibility for the household in general (e.g. child-rearing, maintenance of the residence, basic living expenses); and

(C) Joint responsibility for supporting a child in the household with developmental disabilities and the child is related to one of the partners by blood, marriage, or legal adoption.

| (4516) "Family Home" means a child's primary residence that is not licensed, certified by, and under contract with the Department as a foster home, residential care facility, assisted living facility, nursing facility, or other residential support program site.

| (4617) "Fiscal Intermediary" means a person or entity that receives and distributes long-term support funds on behalf of the family of an eligible child according to the child's Annual Support Plan.

| (4718) "Founded Reports" means the Department's Children, Adults, and Families Division or Law Enforcement Authority (LEA) determination, based on the evidence, that there is reasonable cause to believe that conduct in violation of the child abuse statutes or rules has occurred and such conduct is attributable to the person alleged to have engaged in the conduct.

| (4819) "General Business Provider" means an organization or entity selected by the parent or guardian of an eligible child, and paid with long-term support funds that:

- (a) Is primarily in business to provide the service chosen by the child's parent or guardian to the general public;
- (b) Provides services for the child through employees, contractors, or volunteers; and
- (c) Receives compensation to recruit, supervise, and pay the persons who actually provide support for the child.

(~~19~~20) "Guardian" means a person or agency appointed and authorized by the courts ~~that is authorized by the court~~ to make decisions about services for the child.

(~~20~~21) "Incident Report" means a written report of any injury, accident, act of physical aggression, or unusual incident involving a child.

(~~21~~22) "Independent Provider" means a person selected by a child's parent or guardian and paid with long-term support funds that personally provide services to the child.

(~~22~~23) "Individual" means a person with developmental disabilities for whom services are planned and provided.

(~~23~~24) "Long-Term Support" means individualized planning and service coordination, arranging for services to be provided in accordance with Annual Support Plans, and purchase of supports that are not available through other resources that are required for children with developmental disabilities who are eligible for crisis diversion services to live in the family home. Long-term supports are designed to:

- (a) Prevent unwanted out-of-home placement and maintain family unity; and

- (b) Whenever possible, reunite families with children with developmental disabilities who have been placed out of the home.

(~~24~~25) "Long-Term Support Funds" mean public funds contracted by the Department to the community developmental disability program and managed by the community developmental disability program to assist families with the purchase of supports for children with developmental

disabilities according to each child's Annual Support Plan. Long-term support funds are available only to children for whom the Department designates funds to the community developmental disability program by written contracts that specify the children by name.

| [\(2526\)](#) "Mandatory Reporter" means any public or private official who comes in contact with and has reasonable cause to believe a child has suffered abuse, or comes in contact with any person whom the official has reasonable cause to believe abused a child, regardless of whether or not the knowledge of the abuse was gained in the reporter's official capacity. Nothing contained in ORS 40.225 to 40.295 shall affect the duty to report imposed by this section, except that a psychiatrist, psychologist, clergyman, attorney, or guardian ad litem appointed under ORS 419B.231 shall not be required to report such information communicated by a person if the communication is privileged under ORS 40.225 to 40.295.

| [\(2627\)](#) "Nurse" means a person who holds a current license from the Oregon Board of Nursing as a registered nurse or licensed practical nurse pursuant to ORS chapter 678.

| [\(2728\)](#) "Nursing Care Plan" means a plan of care developed by a nurse that describes the medical, nursing, psychosocial, and other needs of a child and how those needs shall be met. The Nursing Care Plan includes which tasks shall be taught, assigned, or delegated to the qualified provider or family.

| [\(2829\)](#) "OHP" means the Oregon Health Plan.

| [\(2930\)](#) "Oregon Intervention System (OIS)" means a system of providing training to people who work with designated individuals to intervene physically or non-physically to keep individuals from harming self or others. The Oregon Intervention System is based on a positive approach that includes methods of effective evasion, deflection, and escape from holding.

| [\(3031\)](#) "Plan Year" means twelve consecutive months used to calculate what long-term support funds may be made available annually to support an eligible child.

| [\(3432\)](#) "Positive Behavioral Theory and Practice" means a proactive approach to individual behavior and behavior interventions that:

- (a) Emphasizes the development of functional alternative behavior and positive behavior intervention;
- (b) Uses the least intervention possible;
- (c) Ensures that abusive or demeaning interventions are never used; and
- (d) Evaluates the effectiveness of behavior interventions based on objective data.

| (3233) "Provider Organization" means an entity selected by a child's parent or guardian, and paid with long-term support funds that:

- (a) Is primarily in business to provide supports for individuals with developmental disabilities;
- (b) Provides supports for the individual through employees, contractors, or volunteers; and
- (c) Receives compensation to recruit, supervise, and pay the persons who actually provide support for the individual.

| (3334) "Quality Assurance" means a systematic procedure for assessing the effectiveness, efficiency, and appropriateness of services.

| (3435) "Regional Process" means a standardized set of procedures through which a child's Annual Support Plan and funding to implement the Annual Support Plan are reviewed for approval. The ~~review is performed by a committee of stakeholder representatives from a child's geographic service area and process~~ includes review of the potential risk of out-of-home placement, the appropriateness of the proposed supports, and cost effectiveness of the Annual Support Plan.

| (3536) "Services Coordinator" means an employee of the community developmental disability program or other agency that contracts with the county or Division, who plans, procures, coordinates, and monitors long-term support, and acts as a proponent for children with developmental disabilities and their families.

| [\(3637\)](#) "Substantiated" means an abuse investigation has been completed by the Department or the Department's designee and the preponderance of the evidence establishes the abuse occurred.

| [\(3738\)](#) "Support" means assistance eligible children and their families require, solely because of the effects of developmental disability on the child, to maintain the child in the family home.

| [\(3839\)](#) "These Rules" mean the rules in OAR chapter 411, division 308.

| [\(3940\)](#) "Volunteer" means any person providing services without pay to a child receiving long term supports.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 427.005, 427.007, & 430.610 to 430.670

411-308-0050 Financial Limits of Long-Term Support

(Temporary Effective 2/1/2011 – 7/31/2011)

(1) In any plan year, long-term support funds used to purchase supports for a child must be limited to the amount of long-term support funds specified in the child's Annual Support Plan. [The amount of long-term support funds specified in the child's Annual Support Plan may not exceed the maximum allowable monthly plan amount published in the Division's rate guidelines in any month during the plan year.](#)

(2) Payment rates used to establish the limits of financial assistance for specific service in the child's Annual Support Plan must be based on [SPD the Division's](#) rate guidelines for costs of frequently-used services. [SPD Division](#) rate guidelines notwithstanding, final costs may not exceed local usual and customary charges for these services as evidenced by the CDDP's own documentation.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 427.005, 427.007, & 430.610 to 430.670

411-308-0060 Eligibility for Long-Term Support

(Temporary Effective 2/1/2011 – 7/31/2011)

(1) ELIGIBILITY. The CDDP of a child's county of residence may find a child eligible for long-term support when the child:

(a) Is determined eligible for developmental disability services by the CDDP;

(b) Is under the age of 18;

(c) Is experiencing a crisis [as defined in OAR 411-308-0020](#) and may be safely served in the family home; ~~and~~

~~(d) Has exhausted all appropriate alternative resources, including but not limited to natural supports and children's intensive in-home services as defined in OAR 411-308-0020;~~

~~(e) Does not receive or will stop receiving other Department-paid in-home or community living services other than state Medicaid plan services, adoption assistance, or short-term assistance, including crisis services provided to prevent out-of-home placement; and~~

~~(df) Is at risk of out-of-home placement, ~~and~~ requires long-term support to be maintained in the family home, ~~and does not receive or will stop receiving other DHS-paid in-home or community living services other than state Medicaid plan services, adoption assistance, or short-term assistance, including crisis services provided to prevent out-of-home placement;~~ or~~

~~(eg) Requires long-term support to return to the family home and resides in a ~~DHS~~Department-paid residential service.~~

(2) CONCURRENT ELIGIBILITY. Children are not eligible for long-term support from more than one CDDP unless the concurrent service:

(a) Is necessary to affect transition from one county to another with a change of residence;

(b) Is part of a collaborative plan developed by both CDDPs; and

(c) Does not duplicate services and expenditures.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 427.005, 427.007, & 430.610 to 430.670

411-308-0070 Long-Term Support Entry, Duration, and Exit

(Temporary Effective 2/1/2011 – 7/31/2011)

(1) ENTRY. An eligible child may enter long-term support only when long-term support ~~funds~~ needs are authorized through a regional process specifically to provide supports required to prevent out-of-home placement of the eligible child, or to provide supports required for an eligible child to return to the family home from a community placement. ~~Funds for a child for whom SPD designated funds in family support services to the CDDP by written contract prior to June 30, 2009 that specified the child by name do not need to be reauthorized through a regional process. Long-term support funding must be reauthorized on an annual basis, prior to the beginning of a new Annual Support Plan.~~

(2) DURATION OF SERVICES. Once a child has entered long-term support, the child and family may continue receiving services from that CDDP through the last day of the month during which the child turns 18, as long as the supports continue to be necessary to prevent out-of-home placement, the child remains eligible for long-term support, and long-term support funds are available at the CDDP and authorized by the Division to continue services. The child's Annual Support Plan must be developed each year and kept current.

(3) CHANGE IN SUPPORTS. All increases in the child's Annual Support Plan, excluding statewide cost of living increases, must be approved through a regional process. Redirection of more than ~~25%~~ percent of the long-term support funds in the child's Annual Support Plan to purchase different supports than those originally authorized must be approved through a regional process.

(4) CHANGE OF COUNTY OF RESIDENCE. If a child and family move outside the CDDP's area of service, the originating CDDP must arrange for services purchased with long-term support funds to continue, to the extent possible, in the new county of residence. The originating CDDP must:

(a) Provide information about the need to apply for services in the new CDDP and assist the family with application for services if necessary; and

(b) Contact the new CDDP to negotiate the date on which the long-term support, including responsibility for payments, shall transfer to the new CDDP.

(5) EXIT. A child must leave a CDDP's long-term support:

(a) When the child no longer resides in the family home;

(b) At the written request of the child's parent or guardian to end the long-term supports;

(c) When the long-term supports are no longer necessary to prevent out-of-home placement due to either;

(A) The risk of out of home placement no longer exists due to changes in either the child's support needs or the family's ability to provide the support; or

(B) Appropriate alternative resources become available, including but not limited to supports through children's intensive in-home services as defined in OAR 411-308-0020.

(d) At the end of the last day of the month during which the child turns 18;

(e) When the child and family moves to a county outside the CDDP's area of service, unless transition services have been previously arranged and authorized by the CDDP as required in section (4) of this rule; or

(f) No less than 30 days after the CDDP has served written notice, in the language used by the family, of intent to terminate services because:

(A) The child's family either cannot be located or has not responded to repeated attempts by CDDP staff to complete the child's Annual Support Plan development and monitoring activities and does not respond to the notice of intent to terminate; or

(B) The CDDP has sufficient evidence that the family has engaged in fraud or misrepresentation, failed to use resources as agreed upon in the child's Annual Support Plan, refused to cooperate with documenting expenses, or otherwise knowingly misused public funds associated with long-term support.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 427.005, 427.007, & 430.610 to 430.670

411-308-0080 Annual Support Plan

(Temporary Effective 2/1/2011 – 7/31/2011)

(1) The CDDP must provide or arrange for an annual planning process to assist families in establishing outcomes, determining needs, planning for supports, and reviewing and redesigning support strategies for all children eligible for long-term support. The planning process must occur in a manner that:

(a) Identifies and applies existing abilities, relationships, and resources while strengthening naturally occurring opportunities for support at home and in the community; and

(b) Is consistent in both style and setting with the child's and family's needs and preferences, including but not limited to informal interviews, informal observations in home and community settings, or formally structured meetings.

(2) The CDDP, the child (as appropriate), and the child's family must develop a written Annual Support Plan for the child as a result of the planning process prior to purchasing supports with long-term support funds and annually thereafter. The child's Annual Support Plan must include but not be limited to:

(a) The eligible child's legal name and the name of the child's parent (if different than the child's last name), or the name of the child's guardian;

(b) A description of the supports and the reason the support is necessary to prevent out-of-home placement or to return the child from a community placement outside the family home;

(c) Beginning and end dates of the plan year as well as when specific activities and supports are to begin and end;

(d) The type of provider, quantity, frequency, and per unit cost of supports to be purchased with long-term support funds;

(e) Total annual cost of supports;

(f) The schedule of the child's Annual Support Plan reviews; and

(g) Signatures of the child's services coordinator, the child's parent or guardian, and the child (as appropriate).

(3) The child's Annual Support Plan or records supporting development of each child's Annual Support Plan must include evidence that:

(a) Long-term support funds are used only to purchase goods or services necessary to prevent the child from out-of-home placement, or to return the child from a community placement to the family home;

(b) The services coordinator has assessed the availability of other means for providing the supports before using long-term support funds, and other public, private, formal, and informal resources available to the child have been applied and new resources have been developed whenever possible;

(c) Basic health and safety needs and supports have been addressed including but not limited to identification of risks including risk of serious neglect, intimidation, and exploitation;

(d) Informed decisions by the child's parent or guardian regarding the nature of supports or other steps taken to ameliorate any identified risks; and

(e) Education and support for the child and the child's family to recognize and report abuse.

(4) The services coordinator must obtain and attach a Nursing Care Plan to the child's written Annual Support Plan when long-term support funds are used to purchase care and services requiring the education and training of a nurse.

(5) The services coordinator must obtain and attach a Behavior Support Plan to the child's written Annual Support Plan when the Behavior Support Plan shall be implemented by the child's family or providers during the plan year.

(6) Long-term supports may only be provided after the child's Annual Support Plan is developed in accordance with sections (1), (2), (3), (4), and (5) of this rule, authorized by the CDDP, and signed by the child's parent or guardian.

(7) The services coordinator must review and reconcile receipts and records of purchased supports authorized by the child's Annual Support Plan and subsequent Annual Support Plan documents, at least quarterly during the plan year.

(8) At least annually or more frequently if required by the region, the services coordinator must conduct and document reviews of the child's Annual Support Plan and resources with the child's family as follows:

(a) Evaluate progress toward achieving the purposes of the child's Annual Support Plan;

(b) Record actual long-term support fund costs;

(c) Note effectiveness of purchases based on services coordinator observation as well as family satisfaction; and

(d) Determine whether changing needs or availability of other resources have altered the need for specific supports or continued use of long-term support funds to purchase supports. This must include a review of the child's continued risk for out-of-home placement [and the availability of alternate resources, including eligibility for children's intensive in-home services as defined in OAR 411-308-0020](#).

(9) When the family and eligible child move to a county outside its area of service, the originating CDDP must assist long-term support recipients by:

(a) Continuing long-term support fund payments authorized by the child's Annual Support Plan which is current at the time of the move, if the support is available, until the transfer date agreed upon according to OAR 411-308-0070(4)(b); and

(b) Transferring the unexpended portion of the child's long-term support funds to the new CDDP of residence.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 427.005, 427.007, & 430.610 to 430.670

411-308-0090 Managing and Accessing Long-Term Support Funds
(Temporary Effective 2/1/2011 – 7/31/2011)

(1) Funds contracted to a CDDP by the Division to serve a specifically-named child must only be used to support that specified child. Services must be provided according to each child's approved Annual Support Plan. The funds may only be used to purchase supports described in OAR 411-308-0120. Continuing need for services must be regularly reviewed according to the Division's procedures described in these rules.

(2) No child receiving long-term support may concurrently receive services through:

(a) Children's ~~Intensive Behavior Model Waiver~~ [in home services as defined in OAR 411-308-0020](#);

(b) Direct assistance or immediate access funds under family support; [or](#)

~~(c) Medically Fragile Children's Model Waiver;~~

~~(d) Medically Involved Children's Model Waiver; or~~

(ec) Long-term support from another CDDP unless short-term concurrent services are necessary when a child moves from one CDDP to another and the concurrent supports are arranged in accordance with OAR 411-308-0060(2).

(3) Children receiving long-term support may receive short-term crisis diversion services provided through the CDDP or region. Children receiving long-term support may utilize family support information and referral services, other than direct assistance or immediate access funds, while receiving long-term support. The CDDP must clearly document the services and demonstrate that the services are arranged in a manner that does not allow duplication of funding.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 427.005, 427.007, & 430.610 to 430.670

411-308-0120 Supports Purchased with Long-Term Support Funds
(Temporary Effective 2/1/2011 – 7/31/2011)

(1) When conditions of purchase are met and provided purchases are not prohibited under OAR 411-308-0110, long-term support funds may be used to purchase a combination of the following supports based upon the needs of the child consistent with the child's Annual Support Plan and available funding:

(a) Specialized consultation including behavior consultation and nursing delegation;

(b) Environmental accessibility adaptations;

(c) Family caregiver supports;

(d) Family training;

(e) In-home daily care;

(f) Respite; and

(g) Specialized equipment and supplies.

(2) SPECIALIZED CONSULTATION – BEHAVIOR CONSULTATION.

Behavior consultation is the purchase of individualized consultation provided only as needed in the family home to respond to a specific problem or behavior identified by the child's parent or guardian and the services coordinator. Behavior consultation services must be documented in a Behavior Support Plan prior to final payment for the services.

(a) Behavior consultation shall only be authorized to support a primary caregiver in their caregiving role, not as a replacement for an educational service offered through the school.

(b) Behavior consultation must include:

(A) Working with the family to identify:

(i) Areas of a child's family home life that are of most concern for the family and child;

(ii) The formal or informal responses the family or provider has used in those areas; and

(iii) The unique characteristics of the family that could influence the responses that would work with the child.

(B) ~~Assessing the child~~ **ASSESSING THE CHILD**. The behavior consultant utilized by the family must conduct an assessment and interact with the child in the family home and community setting in which the child spends most of their time. The assessment must include:

(i) Specific identification of the behaviors or areas of concern;

(ii) Identification of the settings or events likely to be associated with or to trigger the behavior;

(iii) Identification of early warning signs of the behavior;

(iv) Identification of the probable reasons that are causing the behavior and the needs of the child that are being met by the behavior, including the possibility that the behavior is:

(I) An effort to communicate;

(II) The result of a medical condition;

(III) The result of an environmental cause; or

(IV) The symptom of an emotional or psychiatric disorder.

(v) Evaluation and identification of the impact of disabilities (i.e. autism, blindness, deafness, etc.) that impact the development of strategies and affect the child and the area of concern;

(vi) An assessment of current communication strategies; and

(vii) Identification of possible alternative or replacement behaviors.

(C) Developing a variety of positive strategies that assist the family and provider to help the child use acceptable, alternative actions to meet the child's needs in the most cost effective manner. These strategies may include changes in the physical and social environment, developing effective communication, and appropriate responses by a family and provider to the early warning signs.

(i) Positive, preventive interventions must be emphasized.

(ii) The least intrusive intervention possible must be used.

(iii) Abusive or demeaning interventions must never be used.

(iv) The strategies must be adapted to the specific disabilities of the child and the style or culture of the family.

(D) Developing emergency and crisis procedures to be used to keep the child, family, and provider safe. When interventions in the behavior of the child are necessary, positive, preventative, non-aversive interventions that conform to OIS must be utilized. ~~SPD shall~~ The Division does not pay a provider to use physical restraints on a child receiving long-term support.

(E) Developing a written Behavior Support Plan consistent with OIS that includes the following:

(i) Use of clear, concrete language and in a manner that is understandable to the family and provider; and

(ii) Describes the assessment, recommendations, strategies, and procedures to be used.

(F) Teaching the provider and family the recommended strategies and procedures to be used in the child's natural environment.

(G) Monitoring, assessing, and revising the Behavior Support Plan as needed based on the effectiveness of implemented strategies. If protective physical intervention techniques are included in the Behavior Support Plan for use by the family, monthly practice of the technique must be observed by an OIS approved trainer.

(c) Behavior consultation does not include:

(A) Mental health therapy or counseling;

(B) Health or mental health plan coverage; or

(C) Educational services including but not limited to consultation and training for classroom staff, adaptations to meet the needs of the child at school, assessment in the school setting for the purposes of an Individualized Education Program, or any service identified by the school as required to carry out the child's Individualized Education Program.

(3) SPECIALIZED CONSULTATION – NURSING DELEGATION.

(a) Nursing delegation is the purchase of individualized consultation from a nurse in order to delegate tasks of nursing services in select situations. Tasks of nursing care are those procedures that require nursing education and licensure of a nurse to perform as described in OAR chapter 851, division 047.

(b) [SPD-The Division](#) requires nursing delegation for unlicensed providers paid with long-term support funds when a child requires tasks of nursing care.

(4) ENVIRONMENTAL ACCESSIBILITY ADAPTATIONS.

(a) Environmental accessibility adaptations include:

(A) Physical adaptations to a family home that are necessary to ensure the health, welfare, and safety of the child in the family home due to the child's developmental disability or that are necessary to enable the child to function with greater independence around the family home and in family activities;

(B) Environmental modification consultation to determine the appropriate type of adaptation to ensure the health, welfare, and safety of the child; and

(C) Motor vehicle adaptations for the primary vehicle used by the child that are necessary to meet the unique needs of the child and ensure the health, welfare, and safety of the child.

(b) Environmental accessibility adaptations exclude:

(A) Adaptations or improvements to the family home that are of general utility and are not for the direct safety, remedial, or long term benefit to the child;

(B) Adaptations that add to the total square footage of the family home; and

(C) General repair or maintenance and upkeep required for the family home or motor vehicle, including repair of damage caused by the child.

(c) Funding for environmental accessibility adaptations is one time funding that is not continued in subsequent plan years. Funding for each environmental accessibility adaptation must be specifically approved through a regional process to ensure the specific adaptation is necessary to prevent out-of-home placement or to return the child to the family home, and to ensure that the proposed adaptation is cost effective. Environmental accessibility adaptations may only be included in a child's Annual Support Plan when all other public and private resources for the environmental accessibility adaptation have been exhausted.

(d) The CDDP must ensure that projects for environmental accessibility adaptations involving building renovation or new construction in or around a child's home costing \$5,000 or more per single instance or cumulatively over several modifications:

(A) are approved by ~~SPD~~ the Division before work begins and before final payment is made;

(B) are completed or supervised by a contractor licensed and bonded in the State of Oregon; and

(C) that steps are taken as prescribed by ~~SPD~~ the Division for protection of ~~SPD's~~ the Division's interest through liens or other legally available means.

(e) The CDDP must obtain written authorization from the owner of a rental structure before any environmental accessibility adaptations

are made to that structure. This does not preclude any reasonable accommodation required under the Americans with Disabilities Act.

(5) FAMILY CAREGIVER SUPPORTS. Family caregiver services assist families with unusual responsibilities of planning and managing provider services for their children.

(a) Family caregiver supports include:

(A) Child and family-centered planning facilitation and follow-up;

(B) Fiscal intermediary services to pay vendors and to carry out payroll and reporting functions when providers are domestic employees of the family; and

(C) Assistance with development of tools such as job descriptions, contracts, and employment agreements.

(b) Family caregiver supports exclude application fees and the cost of fingerprinting or other background check processing fee requirements.

(6) FAMILY TRAINING. Family training services include the purchase of training, coaching, counseling, and support that increase the family's ability to care for and maintain the child in the family home.

(a) Family training services include:

(A) Counseling services that assist the family with the stresses of having a child with a developmental disability.

(i) To be authorized, the counseling services must:

(I) Be provided by licensed providers including but not limited to psychologists licensed under ORS 675.030, professionals licensed to practice medicine under ORS 677.100, social workers licensed under ORS 675.530, and counselors licensed under ORS 675.715;

(II) Directly relate to the child's developmental disability and the ability of the family to care for the child; and

(III) Be short-term.

(ii) Counseling services are excluded for:

(I) Therapy that could be obtained through OHP or other payment mechanisms;

(II) General marriage counseling;

(III) Therapy to address family members' psychopathology;

(IV) Counseling that addresses stressors not directly attributed to the child;

(V) Legal consultation;

(VI) Vocational training for family members; and

(VII) Training for families to carry out educational activities in lieu of school.

(B) Registration fees for organized conferences, workshops, and group trainings that offer information, education, training, and materials about the child's developmental disability, medical, and health conditions.

(i) Conferences, workshops, or group trainings must be prior authorized and include those that:

(I) Directly relate to the child's developmental disability; and

(II) Increase the knowledge and skills of the family to care for and maintain the child in the family home.

(ii) Conference, workshop, or group trainings costs exclude:

(I) Registration fees in excess of \$500 per family for an individual event;

(II) Travel, food, and lodging expenses;

(III) Services otherwise provided under OHP or available through other resources; or

(IV) Costs for individual family members who are employed to care for the child.

(b) Funding for family training is one time funding that is not continued in subsequent plan years. Funding for each family training event must be specifically approved through a regional process to ensure the family training event is necessary to prevent out-of-home placement or to return the child to the family home, and to ensure the family training event is cost effective. Family training may only be included in a child's Annual Support Plan when all other public and private resources for the event have been exhausted.

(7) IN-HOME DAILY CARE. In-home daily care services include the purchase of direct provider support provided to the child in the family home or community by qualified individual providers and agencies. Provider assistance provided through in-home daily care must support the child to live as independently as appropriate for the child's age and must be based on the identified needs of the child, supporting the family in their primary caregiving role. Primary caregivers are expected to be present or immediately available during the provision of in-home daily care.

(a) In-home daily care services provided by qualified providers or agencies include:

(A) Basic personal hygiene - Assistance with bathing and grooming;

(B) Toileting, bowel, and bladder care - Assistance in the bathroom, diapering, external cleansing of perineal area, and care of catheters;

(C) Mobility - Transfers, comfort, positioning, and assistance with range of motion exercises;

(D) Nutrition – feeding and monitoring intake and output;

(E) Skin care - Dressing changes;

(F) Physical healthcare including delegated nursing tasks;

(G) Supervision - Providing an environment that is safe and meaningful for the child and interacting with the child to prevent danger to the child and others, and maintain skills and behaviors required to live in the home and community;

(H) Assisting the child with appropriate leisure activities to enhance development in and around the family home and provide training and support in personal environmental skills;

(I) Communication - Assisting the child in communicating, using any means used by the child;

(J) Neurological - Monitoring of seizures, administering medication, and observing status; and

(K) Accompanying the child and family to health related appointments.

(b) In-home daily care services must:

(A) Be previously authorized by the CDDP before services begin;

(B) Be necessary to resolve the crisis and documented in the child's Annual Support Plan;

(C) Be delivered through the most cost effective method as determined by the services coordinator; and

(D) Only be provided when the child is present to receive services.

(c) In-home daily care services exclude:

(A) Hours that supplant the natural supports and services available from family, community, other government or public services, insurance plans, schools, philanthropic organizations, friends, or relatives;

(B) Hours to allow a primary caregiver to work or attend school;

(C) Hours that exceed what is necessary to resolve the crisis;

(D) Support generally provided at the child's age by parents or other family members;

(E) Educational and supportive services provided by schools as part of a free and appropriate education for children and young adults under the Individuals with Disabilities Education Act;

(F) Services provided by the family; and

(G) Home schooling.

(d) In-home daily care services may not be provided on a 24-hour shift-staffing basis. The child's primary caregiver is expected to provide at least eight hours of care and supervision for the child each day with the exception of overnight respite. [The eight hours of care and supervision may not include hours when the child's primary caregiver is sleeping.](#)

(8) RESPITE. Respite services are provided to a child on a periodic or intermittent basis furnished because of the temporary absence of, or need for relief of, the primary caregiver.

(a) Respite may include both day and overnight services that may be provided in:

(A) The family home;

(B) A licensed, certified, or otherwise regulated setting;

(C) A qualified provider's home. If overnight respite is provided in a qualified provider's home, the CDDP and the child's parent or guardian must document that the home is a safe setting for the child; or

(D) Disability-related or therapeutic recreational camp.

(b) The CDDP shall not authorize respite services:

(A) To allow primary caregivers to attend school or work;

(B) That are ongoing and occur on more than a periodic schedule, such as eight hours a day, five days a week;

(C) On more than 14 consecutive overnight stays in a calendar month;

(D) For more than 10 days per individual plan year when provided at a specialized camp;

(E) For vacation travel and lodging expenses; or

(F) To pay for room and board if provided at a licensed site or specialized camp.

(9) **SPECIALIZED EQUIPMENT AND SUPPLIES.** Specialized equipment and supplies include the purchase of devices, aids, controls, supplies, or appliances that are necessary to enable a child to increase their abilities to perform and support activities of daily living, or to perceive, control, or communicate with the environment in which they live.

(a) The purchase of specialized equipment and supplies may include the cost of a professional consultation, if required, to assess, identify,

adapt, or fit specialized equipment. The cost of professional consultation may be included in the purchase price of the equipment.

(b) To be authorized by the CDDP, specialized equipment and supplies must:

(A) Be in addition to any medical equipment and supplies furnished under OHP and private insurance;

(B) Be determined necessary to the daily functions of the child; and

(C) Be directly related to the child's disability.

(c) Specialized equipment and supplies exclude:

(A) Items that are not necessary or of direct medical or remedial benefit to the child;

(B) Specialized equipment and supplies intended to supplant similar items furnished under OHP or private insurance;

(C) Items available through family, community, or other governmental resources;

(D) Items that are considered unsafe for the child;

(E) Toys or outdoor play equipment; and

(F) Equipment and furnishings of general household use.

(d) Funding for specialized equipment with an expected life of more than one year is one time funding that is not continued in subsequent plan years. Funding for each specialized equipment purchase must be specifically approved through a regional process to ensure the support is necessary to prevent out-of-home placement or to return the child to the family home, and to ensure the support is cost effective. Specialized equipment may only be included in a child's Annual Support Plan when all other public and private resources for the equipment have been exhausted.

(e) The CDDP must secure use of equipment or furnishings costing more than \$500 through a written agreement between the CDDP and the child's parent or guardian that specifies the time period the item is to be available to the child and the responsibilities of all parties should the item be lost, damaged, or sold within that time period. Any equipment or supplies purchased with long-term support funds that are not used according to the child's Annual Support Plan, or according to an agreement securing the state's use, may be immediately recovered.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 427.005, 427.007, & 430.610 to 430.670