

Aging and People with Disabilities

Mike McCormick
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Number: APD-AR-16-082
Issue date: 12/7/2016

Topic: Other

Due date:

Subject: Facilities
Keys Amendment - Annual Public Notification of Standards for Residential

Applies to (check all that apply):

- All DHS employees
Area Agencies on Aging
Aging and People with Disabilities
Self Sufficiency Programs
County DD Program Managers
ODDS Children's Residential Services
Child Welfare Programs
County Mental Health Directors
Health Services
Office of Developmental Disabilities Services(ODDS)
ODDS Children's Intensive In Home Services
Stabilization and Crisis Unit (SACU)
Other (please specify): APD Field Managers

Action required: Please print and post the attached letter and rules summary in a public place during the month of December 2016.

Reason for action: Section 1616(e) of the Social Security Act (the Keys Amendment) requires, in part, that States annually make available for public review a summary of standards (rules) developed for residential facilities.

Field/stakeholder review: Yes No

If yes, reviewed by:

*If you have any questions about this action request, contact:*

<b>Contact(s):</b>	Chris Pascual		
<b>Phone:</b>	503-779-6408	<b>Fax:</b>	503-373-7274
<b>Email:</b>	<a href="mailto:chris.pascual@state.or.us">chris.pascual@state.or.us</a>		

Date: November 2016

To: Members of the General Public

From: Mike McCormick, DHS, Aging and People with Disabilities  
Lilia Teninty, DHS, Developmental Disabilities Services  
Karen Wheeler, OHA, Health Systems Division

Subject: Annual Notification of Residential Standards Information

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Section 1616(e) of the Social Security Act (the Keys Amendment) requires, in part, that States annually make the following information available to the public:

- A summary of standards developed for residential facilities where significant numbers of Supplemental Security Income (SSI) recipients reside or are likely to reside.
- A copy of such standards along with enforcement procedures, a list of waivers and standards, and any violation.

The attached rule summaries describe the relevant rules available to the general public by request. If you would like to read the *full* version of these rules, they can be accessed by:

- Link to the Oregon Administrative Rules via the Secretary of States website below <http://arcweb.sos.state.or.us/pages/rules/index.html>
- Call, write or email the specific Rules Coordinator to receive a hard copy of the rules and/or ask questions about the administration of these rules. The contact information for each coordinator is located in the attached document.

Attachments: 2016 Rules Summary

**Administrative Rules Related to Keys Amendment Assurances**  
**- State of Oregon -**  
**November 2016**

**Aging and People with Disabilities (APD) and Office of Developmental Disabilities Services (ODDS), Department of Human Services (DHS)**

The following is a list of the Department of Human Services' (DHS) rules that provide standards for facilities where a significant number of Supplemental Security Income (SSI) recipients are likely to reside. These standards span building maintenance, fire safety, sanitation, food, health, program and care services, staffing, residents' rights, and administrative management. The facilities are routinely inspected to determine substantial compliance with federal and state laws and licensure rules.

**Adult Foster Homes (APD)** – Chapter 411, Division 050 (last amended 6/28/2016). The purpose of these rules is to establish the minimum standards and procedures for adult foster homes that provide care and services for adults who are older or adults with physical disabilities in a home-like environment that is safe and secure. Adult foster homes provide necessary care and services through a cooperative relationship between the resident (or court-appointed guardian) and the resident's care providers that emphasizes the resident's independence. Adult foster home care and services are provided in a setting that protects and encourages resident dignity, choice, and decision-making while addressing the needs of the resident in a manner that supports and enables the residents to maximize their ability to function at the highest level of independence possible.

**Residential Care and Assisted Living Facilities (APD)** – Chapter 411, Division 054 (last amended 6/28/2016). (1) The purpose of these rules is to establish standards for assisted living and residential care facilities that promote the availability of a wide range of individualized services for elderly and persons with disabilities, in a homelike environment. The standards are designed to enhance the dignity, independence, individuality, and decision making ability of the resident in a safe and secure environment while addressing the needs of the resident in a manner that supports and enables the individual to maximize abilities to function at the highest level possible.

(2) Residential care and assisted living facilities are also required to adhere to Home and Community-Based Services, OAR 411-004. For purposes of these rules, all residential care and assisted living facilities are considered home and community-based care settings and therefore shall be referred to as "facility".

**24-Hour Residential Programs and Settings for Children and Adults with Intellectual or Developmental Disabilities (ODDS)** – Chapter 411, Division 325 (last amended 9/1/2016). (1) The rules in OAR chapter 411, division 325

prescribe standards, responsibilities, and procedures for 24-hour residential programs delivering home and community-based services to individuals with intellectual or developmental disabilities in 24-hour residential settings.

(2) These rules incorporate the provisions for home and community-based services and settings and person-centered service planning set forth in OAR chapter 411, division 004. These rules and the rules in OAR chapter 411, division 004 ensure individuals with intellectual or developmental disabilities receive services in settings that are integrated in and support the same degree of access to the greater community as people not receiving home and community-based services.

(a) A provider initially licensed on or after January 1, 2016 must meet the requirements in OAR chapter 411, division 004 prior to being licensed.

(b) A provider licensed prior to January 1, 2016 must make measurable progress toward compliance with the rules in OAR chapter 411, division 004 and be in full compliance by September 1, 2018.

### **Foster Homes for Children with Intellectual or Developmental Disabilities**

**(ODDS)** – Chapter 411, Division 346 (last amended 08/20/2016). (1) The rules in OAR chapter 411, division 346, prescribe the standards and procedures for the provision of Developmental Disabilities-funded foster care services for children with intellectual or developmental disabilities in child foster homes certified by the Department of Human Services as a condition for certification and payment.

(2) These rules incorporate the provisions for home and community-based services and settings and person-centered service planning set forth in OAR chapter 411, division 004. These rules and the rules in OAR chapter 411, division 004, ensure children with intellectual or developmental disabilities receive services in settings that are integrated in and support the same degree of access to the greater community as people not receiving home and community-based services.

(a) A foster provider initially certified on or after January 1, 2016, must meet the requirements in OAR chapter 411, division 004, prior to being certified.

(b) A foster provider certified prior to January 1, 2016, must make measurable progress toward compliance with the rules in OAR chapter 411, division 004, and be in full compliance by September 1, 2018.

### **Adult Foster Homes for Individuals with Intellectual or Developmental Disabilities (ODDS)**

– Chapter 411, Division 360 (last amended 9/1/2016). (1) The rules in OAR chapter 411, division 360 prescribe the standards and procedures for the licensure of adult foster homes for individuals with intellectual or developmental disabilities (AFH-DD).

(2) These rules incorporate the provisions for home and community-based services and settings set forth in OAR chapter 411, division 004 to ensure individuals with intellectual or developmental disabilities receive services in

settings that are integrated in and support the same degree of access to the greater community as people not receiving home and community-based services.

(a) An AFH-DD provider initially licensed on or after January 1, 2016 must meet the requirements in OAR chapter 411, division 004 prior to being licensed.

(b) An AFH-DD provider licensed prior to January 1, 2016 must make measurable progress toward compliance with the rules in OAR chapter 411, division 004 and be in full compliance by September 1, 2018.

(3) An AFH-DD facilitates individual choice regarding services and supports, and who provides the services and supports, through a cooperative relationship between the AFH-DD provider, the individual, the legal or designated representative of the individual (if applicable), and the Community Developmental Disability Program.

(4) An AFH-DD protects and encourages the independence, dignity, choice, and decision making of the individual while addressing the needs of the individual in a manner that supports and enables the individual to achieve optimum physical, mental, and social well-being and independence.

**Background Check Rules (DHS)** – Chapter 407, Division 007, 0200-0370 (last amended 7/1/16). (1) The purpose of these rules, OAR 407-007-0200 to 407-007-0370, is to supplement OAR 125-007-0200 to 125-007-0330 with guidelines and requirements specific to background checks for Department of Human Services (Department) and Oregon Health Authority (Authority) subject individuals (SIs). These rules provide for the reasonable screening under ORS 181A.195, 181A.200, and 409.027 of SIs to determine if they have a history of criminal or abusive behavior such that they should not be allowed to work, volunteer, be employed, reside, or otherwise perform in positions covered by these rules.

(2) These rules apply to evaluating criminal records and potentially disqualifying conditions of an SI when conducting fitness determinations based upon such information. The fact that an SI is approved does not guarantee employment or placement. These rules do not apply to individuals subject to OAR 407-007-0000 to 407-007-0060 (DHS Employees, Volunteers, and Contractors) or 407-007-0400 to 407-007-0460 (Abuse Check Rules for Department Employees and Volunteers).

(3) Providers for the Department and the Authority are subject to criminal records and abuse checks. The Authority authorizes the Department to act on its behalf in carrying out criminal and abuse checks associated with programs or activities administered by the Authority. References in these rules to the Department or Authority shall be construed to be references to either or both agencies.

**Abuse Reporting and Protective Services in Community Programs and Community Facilities (APD/ODDS)** – Chapter 407, Division 045, 0250-0370 (last amended 2/3/2016). These rules, OAR 407-045-0250 to 407-045-0370, prescribe standards and procedures for the investigation of, assessment for and

provision of protective services in community programs and community facilities for adults with developmental disabilities, and the nature and content of the abuse investigation and protective services report.

Copies of complete rules may be obtained on the internet at the web site of the Office of the Secretary of State

<http://arcweb.sos.state.or.us/pages/rules/access/numerically.html>; by writing to Kimberly Colkitt-Hallman, Department of Human Services, 500 Summer St. NE, E48, Salem, OR 97301-1076; by calling 503-945-6398; or sending an e-mail to [kimberly.colkitt-hallman@state.or.us](mailto:kimberly.colkitt-hallman@state.or.us), For Background Check rules, Jennifer Bittel, 250 Winter St NE, Salem, OR, 97301-3950; phone- 503-947-5250; email- [Jennifer.Bittel@state.or.us](mailto:Jennifer.Bittel@state.or.us)

### **Oregon Health Authority (OHA), Health Systems Division (HSD) (formerly Addictions and Mental Health)**

Following is a list of HSD rules that provide standards for facilities where a significant number of supplemental Social Security Income (SSI) recipients are likely to reside. These standards address building layout and maintenance, fire and other safety, sanitation, nutrition, oversight of physical, mental and dental health care, program and care services, staff qualifications and training, residents' rights, and administrative management. The facilities are routinely inspected to determine substantial compliance with federal and state laws and the following licensure and administrative rules.

**Enhanced Care Services (HSD)** – Chapter 309, Division 019-0155 (last amended 07/01/2016). These rules prescribe standards and procedures for the delivery of mental health services designed to treat eligible persons with severe mental illness residing in selected facilities licensed by DHS.

**Residential Treatment Facilities for Mentally or Emotionally Disturbed Persons (HSD)** – Chapter 309, Division 035, 0100-0190 (last amended 09/07/2016).

(1) Purpose. These rules prescribe standards by which the Health Systems Division of the Oregon Health Authority (OHA) licenses community based residential treatment facilities (RTF) and community based residential treatment homes (RTH) for adults with mental or emotional disorders. The standards promote optimum health, mental and social well-being, and recovery of adults with mental or emotional disorders through the availability of a wide range of home and community based residential settings and services. They prescribe how services will be provided in safe, secure and homelike environments that recognize the dignity, individuality and right to self-determination of each individual.

(a) These rules incorporate and implement the requirements of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services for home and community based services (HCBS) authorized under section 1915(i) of the Social Security Act.

(b) These rules establish requirements to ensure individuals receive services in settings that are integrated in and support the same degree of access to the greater community as people not receiving HCBS consistent with the standards set out in OAR Chapter 411, Division 4.

**Residential Treatment Homes (HSD)** – Chapter 309, Division 035, 0250-0460 (last amended 09/07/2016).

(1) Purpose. These rules prescribe standards by which the Addictions and Mental Health Division of the Oregon Health Authority approves residential treatment homes for adults with mental or emotional disorders. The standards promote the well-being, health and recovery of adults with mental or emotional disorders through the availability of a wide range of residential service options. They prescribe how services will be provided in safe, secure and homelike environments that recognize the dignity, individuality and right to self-determination of each resident.

(2) Scope. These rules apply to residential treatment homes for five or fewer residents.

**Adult Foster Homes (HSD)** – Chapter 309, Division 040 (last amended 09/07/2016).

(1) Purpose. These rules prescribe standards by which the Health Systems Division (HSD) of the Oregon Health Authority (OHA) licenses community based Adult Foster Homes (AFHs) for adults with mental or emotional disorders. The care and services standards are designed to promote the individual's right to independence, choice, and decision making while providing a safe, secure, homelike environment. The provider must address the individual's needs in a manner that enables the individual to function at the highest level of independence possible.

(a) These rules incorporate and implement the requirements of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services for home and community based services authorized under section 1915(i) of the Social Security Act.

(b) These rules establish requirements to ensure individuals receive services in settings that are integrated in and support the same degree of access to the greater community as people not receiving such services consistent with the standards set out in OAR chapter 411, Division 4.

(2) Scope. These rules apply to adult foster homes providing services to five or fewer adults with mental or emotional disorders, regardless of whether the provider receives public funds.

**Outpatient Addictions and Mental Health Services (HSD)** – Chapter 309, Division 019, (last amended 07/01/2016). These rules prescribe standards for services and supports provided by addictions and mental health providers approved by the HSD/OHA. These rules provide the standards for Outpatient Community Mental Health Services for Children and Adults, Outpatient Substance Use Treatment Services and Outpatient Problem Gambling Treatment Services. Provider policies, licensing, credentials and special qualifications for staff are also covered in these rules. Driving Under the Influence of Intoxicants (DUII), Psychiatric Security Review Board procedures for Adults and Juveniles (PSRB), Enhanced Care & Outreach Services, and Service & Documentation standards for providers are also reflected in these rules. Individual Rights and the Grievance & Complaints policies are also included here.

**Residential Substance Use Disorders and Problem Gambling Treatment and Recovery (HSD)** – Chapter 309, Division 018, (last amended 07/01/2016). These rules prescribe standards for services and supports provided by addictions and mental health providers approved by the HSD/OHA. These rules provide the standards for Residential Substance Use Disorders Treatment & Recovery Services for Adults, Women and Adolescents and Residential Problem Gambling Treatment and Recovery Services. Provider policies, licensing, and credentials for staff are also covered in these rules as well as Service & Documentation standards for providers. Individual Rights and the Grievance & Complaints policies are also included here. Facility Standards, Medical Protocols and Medication Administration are also included in these rules.

**Intensive Treatment Services for Children and Adolescents & Children's Emergency Safety Intervention Specialist (CESIS)** – Chapter 309, Division 022, (last amended 07/01/2016). These rules prescribe standards for services and supports provided by addictions and mental health providers approved by the HSD/OHA. These rules provide the standards for services and supports provided in: Intensive Treatment Services (ITS) for Children & Adolescents. Provider policies, licensing, credentials and special qualifications for staff are also covered in these rules. Individual Rights and the Grievance & Complaints policies are also included here. Behavior Support Services, Emergency Safety Interventions including Restraint & Seclusion, as well the scope and licensure of Children's Emergency Safety Intervention Specialist(s) are covered in these rules. Quality Assurance and Continuity of Care policies are also found here.

Copies of complete rules may be obtained on the internet at the web site of the Office of the Secretary of State

<http://arcweb.sos.state.or.us/pages/rules/access/numerically.html>; by writing to Nola Russell, Health Systems Division, 500 Summer St. NE E86, Salem, OR 97301; by calling 503-945-7652; or sending an e-mail to [nola.russell@state.or.us](mailto:nola.russell@state.or.us).

### **Director's Office, Oregon Health Authority (OHA)**

**Criminal History Checks (OHA)** – Chapter 943, Division 007, 0001-0501 (last amended 8/10/2012). The purpose of these rules is to provide for the reasonable screening under ORS 181.534, 181.537, and 409.027 of subject individuals to determine if they have a history of criminal or abusive behavior such that they should not be allowed to work, volunteer, be employed, reside, or otherwise perform in positions covered by these rules.

**Abuse Reporting and Protective Services in Community Programs and Community Facilities (OHA)** – Chapter 943, Division 045, 0250-0370 (last amended 6/28/2012). These rules prescribe standards and procedures for the investigation of, assessment for, and provision of protective services in community programs and community facilities, and the nature and content of the abuse investigation and protective services report.

Copies of complete rules may be obtained on the internet at the web site of the Office of the Secretary of State

<http://arcweb.sos.state.or.us/pages/rules/access/numerically.html>; by writing to Keely West, Director's Office, Oregon Health Authority, 500 Summer St. NE, Salem, OR 97301; by calling 503-945-6292; or sending an e-mail to [keely.l.west@state.or.us](mailto:keely.l.west@state.or.us).