

Policy Transmittal Aging and People with Disabilities



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Number: APD-PT-17-058

Issue date: 12/28/2017

UPDATED: 10/31/2022

Topic: Long Term Care

Due date:

Transmitting (check the box that best applies):

- New policy
 Policy change
 Policy clarification
 Executive letter
 Administrative Rule
 Manual update
 Other:

Applies to (check all that apply):

- | | |
|---|---|
| <input type="checkbox"/> All DHS employees | <input type="checkbox"/> County Mental Health Directors |
| <input checked="" type="checkbox"/> Area Agencies on Aging: Types A and B | <input type="checkbox"/> Health Services |
| <input checked="" type="checkbox"/> Aging and People with Disabilities | <input type="checkbox"/> Office of Developmental Disabilities Services (ODDS) |
| <input type="checkbox"/> Self Sufficiency Programs | <input type="checkbox"/> ODDS Children’s Intensive In Home Services |
| <input type="checkbox"/> County DD program managers | <input type="checkbox"/> Stabilization and Crisis Unit (SACU) |
| <input type="checkbox"/> ODDS Children’s Residential Services | <input type="checkbox"/> Other (please specify): |
| <input type="checkbox"/> Child Welfare Programs | |

| | | | |
|-------------------------------|--|-------------------------|--|
| Policy/rule title: | Consumer-Employer Responsibilities and Setting Safety for Consumers Receiving In-home, SPPC, or OPI Services | | |
| Policy/rule number(s): | OAR 411-030 , 411-032 , 411-034 | Release number: | |
| Effective date: | Upon transmittal release | Expiration date: | |
| References: | | | |
| Web address: | | | |

This transmittal previously covered the following topics:

- Consumer-employer responsibilities
- Mitigation and due process requirements prior to ending, [in-home](#), [State Plan Personal Care](#) (SPPC), or [Oregon Project Independence](#) (OPI) services with a homecare worker (HCW)

This transmittal is being revised to move this content into other formats, as well as provide additional resources and guidance.

Discussion/interpretation:

Training modules

Two new [training modules](#) have been developed to discuss the following areas:

- Requirements for consumers to manage consumer-employer responsibilities
- The consumer's responsibility to ensure HCW safety
- Health and safety risks to HCWs in the workplace
- Case management actions to support HCW safety

APD and AAA staff may click [here](#) to access the training modules. Case managers (CMs) and appropriate managers are strongly encouraged to complete these training modules.

New guide and other resources

Under CM Tools, under the In-Home Support Services section (click [here](#) for the OWL page and [here](#) for the web page version), a new section called "Mitigation and Due Process" has been added. This includes a link to the new Mitigation and Due Process guide (this information has been updated from what was provided in the previous version of this transmittal) as well as checklists and a FAQ document (coming soon).

Policy reminders

Consumer-employer responsibilities and setting safety

Oregon Administrative Rule (OAR) [411-030-0040\(4\)\(a\)](#) and [OAR 411-034-0040\(1\),\(4\)](#) describe responsibilities consumer employers (or their representatives) must meet to remain eligible for services with a HCW.

In addition, the Department will not authorize a service setting when services cannot be provided safely or adequately based on the choices or preferences of the eligible consumer, per [OAR 411-030-0050\(2\)\(c\)\(B\)\(ii\)](#). Please see [OAR 411-030-0050\(2\)](#) for other situations where the Department may not authorize services.

The above also applies to consumers receiving services through OPI, per [OAR 411-032-0005\(3\)\(a\)\(C\)](#), [\(3\)\(b\)\(C\)](#); [OAR 411-032-0010\(1\)\(e\)](#).

CMs should notify HCWs seeking employment with a consumer when there are known health and safety risks (ensuring any release of information does not violate consumer rights, choices, or confidentiality) and take appropriate action when there are credible reports of an unsafe or harassing workplace that may indicate a consumer is not managing their consumer-employer responsibilities ([APD-PT-21-034](#), Article 20, Section 1). The training modules referenced in this transmittal provide more details on

what can and can't be released to HCWs.

Due process

Consumers who may have concerns, as outlined in the previous section, must receive due process. This includes consumers with cognitive limitations that impacts their informed decision-making (OAR [411-030-0050\(2\)\(c\)\(B\)\(ii\)](#)). Due process means that government entities must apply applicable rules and policies fairly and impartially to protect and ensure a consumer's rights.

Due process includes actions such as providing opportunities to mitigate concerns and to advise of a possible loss of services, prior to any reduction or closure of services occurs. Exceptions to due process may be made in more extreme circumstances as determined by Central Office (CO).

Local/branch action required:

Emails requesting assistance with due process should be sent to the APD Medicaid Policy Box (apd.medicaidpolicy@odhsoha.oregon.gov). The subject line should state "In-Home Consumer Case Review". The body of the email should have the consumer's name, prime number, and a summary of situation. Please indicate in the subject line if assistance is needed urgently.

Central office action required: A policy analyst in CO will assist local office staff to implement due process and determine if a consumer is no longer eligible to receive services by a HCW or agency provider.

Field/stakeholder review: Yes No

If yes, reviewed by: Policy and Operations

Filing instructions:

If you have any questions about this policy, contact:

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|--|------|
| Contact(s): Paul Johnson, In-home Policy Analyst | |
| Phone: 971-209-5020 | Fax: |
| Email: Paul.E.Johnson@dhsaha.state.or.us | |