

Policy Transmittal Aging and People with Disabilities



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Number: APD-PT-18-023

Issue date: 5/22/2018

Topic: Long Term Care

Due date: See Below

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: Type 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 (<i>please specify</i>): |
| <input type="checkbox"/> Child Welfare Programs | |

Policy/rule title:	Rule Changes to In-Home Eligibility Criteria, Maximum Number of Hours, and Exceptions Process		
Policy/rule number(s):	OAR 411-030	Release number:	
Effective date:	May 21, 2018	Expiration date:	
References:			
Web address:	http://www.dhs.state.or.us/policy/spd/rules/411_030.pdf		

Discussion/interpretation:

Per an agreement made between Aging and People with Disabilities and legal advocates (see [APD-PT-18-005](#)), Oregon Administrative Rule (OAR) [411-030](#) is being amended effective May 21, 2018. The rule amendments incorporate the following changes:

411-030-0040 Eligibility Criteria

411-030-0070 Maximum Hours of Service
411-030-0071 and 411-030-0071 Exceptions

Please note that these rule changes impact consumers receiving In-Home services under OAR 411-030 and not those receiving services through State Plan Personal Care (SPPC) or Oregon Project Independence (OPI).

411-030-0040 Eligibility Criteria

What is changing: In-Home or ICP program is no longer dependent upon having a paid provider performing ADL or IADL care.

For eligibility purposes under the In-Home or Independent Choices (ICP) program, the consumer is not required to have a homecare worker (HCW) or in-home care agency provider to maintain Medicaid Long Term Services and Supports (MLTSS) eligibility. This includes initial eligibility for services or if the consumer ends their employment relationship with their provider. Per OAR 411-030-0040(1), consumers should utilize natural supports whenever appropriate to meet their ADL and IADL needs. However, if all of their ADL and IADL service needs are met by natural supports, they may still receive in-home services by utilizing a different service option.

- For initial eligibility for in-home or ICP services, we no longer consider when the consumer identifies the enrolled HCW or in-home care agency. The effective date is the later of the following (please note these rules are being updated under OAR [461-180-0040](#)):
 - The date they live in non-public institution per OAR [461-135-0950](#)**
 - The OSIPM effective date if they are not currently receiving medical benefits through MAGI
 - The date of the initial assessment if their OSIPM eligibility is dependent on receiving services; or
 - The date of request if they are assumed eligible for OSIPM per OAR [461-135-0010](#) or eligible for MAGI per OAR [410-200](#)

**Please note: In order to receive services from a HCW or in-home care agency, they must be in appropriate living arrangement as defined in OAR 411-030-0033.

- For ongoing eligibility, if the consumer ends their employment relationship with all of their HCW(s) and/or in-home care agency, their services may not be closed for this reason (even if it exceeds 14 business days).
- Consumers that do not receive in-home services through a HCW or in-home care agency may receive services in the following ways:

- Medicaid Home Delivered Meals
- Adult Day Services
- Waivered Case Management (direct and indirect contacts)
 - This service, regardless of any other service being received, must be provided to any consumer that has OSIPM eligibility
- K Ancillary Services
- Specialized Living Services
- Consumers should receive at least one of the above services in a calendar month. Consumers that do not receive one of the above services in a calendar month must have a direct contact completed by the end of the month. This service should be provided to mitigate any potential risks by having the consumer engage in receiving services. If the consumer indicates they wish to no longer receive services, please send out form 457D (Voluntary Agreement to Take Action on Case) for the consumer to sign and return in order to close their case.
- If the consumer is refusing to participate in waivered case management, the CM may choose to send a Buckley notice and schedule a reassessment to determine current SPL.

If the consumer does not currently have a HCW or in-home care agency employed with at least one hour assigned, Oregon ACCESS will not allow a service benefit to be approved. To bypass this requirement, the service plan in Oregon ACCESS may have a placeholder (i.e., TBD) in place. To set up a service plan with a TBD, first make sure the current service plan has been ended (if applicable). The below directions should then be followed:

1. Create a new Services for Plan effective the day after the previous providers last day.

The screenshot shows a 'Plan Action' menu with the following options and fields:

- End Plan and Limitations and Create a new Plan
 - Current End: 00/00/0000
 - New Begin: 00/00/0000
 - New End: 05/11/2019
- End Plan and Limitations
 - Current End: 00/00/0000
- Create new Plan (highlighted with a red arrow)
- Approve Plan
 - New Begin: 05/09/2018
- Invalidate Plan and Limitations

2. Select "In-Home Care (HCW) Hourly OC111" from the "Services" drop down list

Plans For APD-In Home Benefit (Read Only)

Plan #	Begin Date	End Date	Status
2	05/09/2018	05/11/2019	Pending
1	04/10/2018	05/08/2018	Ended

Services For Plan #2 PIn Act

Row #	Services	Provider Name	Begin Date	End Date	Invalid Entry
1	In-Home Care (HCW) Hourly OC111		05/09/2018	05/11/2019	<input type="checkbox"/>

Provider Search Needs Association View/Assign Hours Provider Detail

3. Click on "Provider Search" button

Services For Plan #2 PIn Act

Row #	Services	Provider Name	Begin Date	End Date	Invalid Entry
1	In-Home Care (HCW) Hourly OC111		05/09/2018	05/11/2019	<input type="checkbox"/>

Provider Search Needs Association View/Assign Hours Provider Detail

4. Select the "Use Placeholder (TBD)" radio button from the pop-up dialogue window, and click OK

Provider Search

Find Provider
 Use Placeholder (TBD)

OK Cancel

5. Click the "View/Assign Hours" button

Services For Plan #2 PIn Act

Row #	Services	Provider Name	Begin Date	End Date	Invalid Entry
1	In-Home Care (HCW) Hourly OC111	TO BE SELECTED	05/09/2018	05/11/2019	<input type="checkbox"/>

Provider Search Needs Association View/Assign Hours Provider Detail

6. Assign 1 hour to the "To Be Selected" provider

Hours Assignment (All hours must be assigned in 1 hour increments)

	ADL	ADL	ADL	IADL	Live-In Services
Total Allowed Hours	0	0	29	12	0
Total Exception Hours	0	0	0	0	0
Total Authorized Hours	0	0	29	12	0
Total Hours Assigned	0	0	1	0	0
P TO BE SELECTED	0	0	1	0	0

7. Click the **Pln Act** button and select the “Approve Plan” radio button

Plan Action:

End Plan and Limitations and Create a New Plan

Current End: 00/00/0000 New Begin: 00/00/0000 New End: 05/11/2019

End Plan and Limitations

Current End: 00/00/0000

Create new Plan

New Begin: 00/00/0000

Approve Plan

Invalidate Plan and Limitations

411-030-0070 Maximum Hours of Service

What is changing: Specific ADL hours are being restored to what was authorized prior to October 1, 2017.

The following ADLs will have their Maximum Hours of Service changed if a benefit plan is created on May 21, 2018 or later (please note that “Old” means hours that were in place from October 1, 2018 through May 20, 2018 and “New” means the hours that are in effect for new benefit plans started on May 21, 2018):

Mobility			Eating		
Assist Level	Service Period		Assist Level	Service Period	
	<i>NEW</i> 5/21/2018	<i>Old</i> 10/2017		<i>NEW</i> 5/21/2018	<i>Old</i> 10/2017
Full	12	9	Full	14	12
Sub	7	5	Sub	9	6
Min	5	2	Min	3	3
Bathing/Personal Hygiene			Dressing/Grooming		
Assist Level	Service Period		Assist Level	Service Period	
	<i>NEW</i> 5/21/2018	<i>Old</i> 10/2017		<i>NEW</i> 5/21/2018	<i>Old</i> 10/2017
Full	12	9	Full	9	6
Sub	7	5	Sub	7	3
Min	5	2	Min	2	1

The hours in the ADLs of Cognition and Elimination, as well as all of the IADL hours, will remain at their current Maximum Hours of Service.

The benefit plan must be updated if directed to do so per [APD-PT-18-018](#).

Additional information on this update is described in [APD-IM-18-045](#).

411-030-0071 and 411-030-0072 Exceptions

What is Changing: New rules are being adopted to clearly explain the policies regarding an exception to the Maximum Hours of Service and Homecare Worker Cap.

The newly adopted rules provide detailed policies in the following topic areas:

Maximum Hours of Service

- Eligibility for In-Home Exceptions to Maximum Hours of Service
- Responsibility for Applying for an In-Home Exception
- Exception Application Process
- Required Documentation
- Exception Decision Making Authority
- Exception Application Reviews and Decision Making
- Notification
- Duration of an Exception
- Re-assessments Review

Homecare Worker Cap

- Eligibility for an Exception
- Requesting an Exception
- Exception Application Process
- Exception Prior Approval
- Policy to Grant an Exception
- Denying an Exception
- Notification
- Duration of an Exception

As discussed during the Exceptions Webinar in April 2018, here is a summary of the changes that have occurred:

- Exception criteria and process is now in rule

- Consumers will receive more information about exceptions
- Consumers can ask for exceptions and “run the process”
- Consumers will need to sign the revised 514
- Consumers will get notices of the decision about their exception request

Training/communication plan: Training was provided in recent Webinars.

Training material may be accessed [here](#) (please note: Due to technical difficulties, the recording of the Exceptions Webinar is not available. However, the PowerPoint presentation materials is posted).

Field/stakeholder review: Yes No

If yes, reviewed by: Policy and Operations

Filing instructions:

If you have any questions about this policy, contact:

Contact(s): Mat Rapoza, In-Home Policy Analyst Scott Spencer, In-Home Exceptions Coordinator	
Phone: Mat: 503-945-6985 Scott: 503-509-7418	Fax:
Email: Mathew.G.Rapoza@state.or.us Scott.D.Spencer@state.or.us	