

Aging and People with Disabilities

Mike McCormick

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Number: APD-AR-17-072

Issue date: 12/1/2017

Topic: Other

Due date: 12/1/2017

Keys Amendment - Annual Public Notification of Standards for Residential

Subject: Facilities

Applies to (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> All DHS employees | <input checked="" type="checkbox"/> County Mental Health Directors |
| <input checked="" type="checkbox"/> Area Agencies on Aging | <input type="checkbox"/> Health Services |
| <input checked="" type="checkbox"/> Aging and People with Disabilities | <input checked="" 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 checked="" type="checkbox"/> County DD Program Managers | <input type="checkbox"/> Stabilization and Crisis Unit (SACU) |
| <input type="checkbox"/> ODDS Children's
Residential Services | <input checked="" type="checkbox"/> Other (<i>please specify</i>): APD Field
Managers |
| <input type="checkbox"/> Child Welfare Programs | |

Action required: Please print and post the attached letter and rules summary in a public place during the month of December 2017.

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. The facilities covered by this requirement provide room, board, protective oversight, and other supports to Supplemental Security Income (SSI) beneficiaries and other residents. Within the Oregon Health Authority, Health Systems Division and the Department of Human Services, Aging and People with Disabilities, and Office of Developmental Disabilities Services divisions have residential facilities providing these services.

Field/stakeholder review: Yes No

If yes, reviewed by:

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

Contact(s):	Chris Pascual		
Phone:	503-779-6408	Fax:	503-373-7274

Email:	chris.pascual@state.or.us		
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Date: November 2017

To: Members of the General Public

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

Subject: Annual Notification of Residential Standards Information

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
- <https://secure.sos.state.or.us/oard/ruleSearch.action>
- 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: 2017 Rules Summary

Administrative Rules Related to Keys Amendment Assurances
- State of Oregon -
November 2017

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 10/28/2017). 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 10/28/2017). (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 2/28/2017).

(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 6/9/2017). (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 9/1/2017). (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 <https://secure.sos.state.or.us/oard/ruleSearch.action>

<http://arcweb.sos.state.or.us/pages/rules/access/numerically.html> or by contacting:

- For APD Rules: Written request to: Kimberly Colkitt-Hallman, Department of Human Services, 500 Summer St. NE, E2, Salem, OR 97301-1076; by phone 503-945-6398; or sending an e-mail to APD.Rules@state.or.us.
- For ODDS Rules: Written request to: Christina Hartman, Department of Human Services, 500 Summer St. NE, Salem, OR 97301-1076; by phone: 971-413-4225; or sending an email to Christina.HARTMAN@state.or.us.
- For Background Check rules: Written request to: Jennifer Bittel, 250 Winter St NE, Salem, OR, 97301-3950; phone- 503-947-5250; email- Jennifer.Bittel@state.or.us.

Oregon Health Authority (OHA), Health Systems Division (HSD)

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 9/15/2017). 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 and Residential Treatment Homes for Adults with Mental Health Disorders (HSD) – Chapter 309, Division 035 (last amended 10/03/2017).

(1) These rules prescribe standards by which the Health Systems Division (Division) of the Oregon Health Authority (Authority) licenses community based residential treatment facilities and community based residential treatment homes for adults with mental health disorders. The standards promote optimum health, mental and social well-being, and recovery for adults with mental health 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 individuals not receiving HCBS, consistent with the standards set out in OAR chapter 411, division 4.

(2) These rules apply to all Residential Treatment Homes (RTH) and Residential Treatment Facilities (RTF) providing services to adults with mental health disorders regardless of whether the program receives public funds. These rules prescribe distinct standards in some areas for Secure Residential Treatment Facilities (SRTF) or are based on the number of individuals receiving services in the program.

Adult Foster Homes (HSD) – Chapter 309, Division 040 (last amended 10/03/2017).

(1) These rules prescribe care and service standards by which the Health Systems Division (Division) of the Oregon Health Authority (Authority) 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 shall 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 these services consistent with the standards set out in OAR chapter 411, division 4.

(2) 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 9/15/2017).

(1) These rules prescribe minimum service delivery standards for services and supports provided by providers certified by the Health Systems Division (Division) of the Oregon Health Authority (Authority).

(2) In addition to applicable requirements in OAR 410-120-0000 through 410-120-1980 and 943-120-0000 through 943-120-1550, these rules specify standards for behavioral health treatment services and supports provided in:

- (a) Outpatient Community Mental Health Services and Supports for Children and Adults;
- (b) Outpatient Substance Use Disorders Treatment Services; and
- (c) Outpatient Problem Gambling Treatment Services.

Residential Substance Use Disorders and Problem Gambling Treatment and Recovery (HSD) – Chapter 309, Division 018, (last amended 9/15/2017).

(1) Purpose: These rules prescribe minimum standards for services and supports provided by addictions and mental health providers approved by the Health Systems Division of the Oregon Health Authority.

(2) Scope: In addition to applicable requirements in OAR 410-120-0000 through 410-120-1980 and 943-120-0000 through 943-120-1550, these rules specify standards for services and supports provided in:

- (a) Residential Substance Use Disorders Treatment and Recovery Services; and
- (b) Residential Problem Gambling Treatment and Recovery Services.

Intensive Treatment Services for Children and Adolescents & Children's Emergency Safety Intervention Specialist (CESIS) – Chapter 309, Division 022, (last amended 6/23/2017).

(1) Purpose: These rules prescribe minimum standards for services and supports provided by addictions and mental health providers approved by the Health System Division of the Oregon Health Authority.

(2) Scope: In addition to applicable requirements in OAR 410-120-0000 through 410-120-1980 and 943-120-0000 through 943-120-1550, these rules specify standards for services and supports provided in: Intensive Treatment Services (ITS) for Children and Adolescents.

Copies of complete rules may be obtained on the internet at the web site of the Office of the Secretary of State <https://secure.sos.state.or.us/oard/ruleSearch.action> by writing to Sandy Cafourek, Health Systems Division, 500 Summer St. NE, Salem, OR 97301; by calling 503-945-6430; or sending an e-mail to sandy.c.cafourek@dhsosha.state.or.us.

Director's Office, Oregon Health Authority (OHA)

Criminal History Checks (OHA) – Chapter 943, Division 007 (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 Mental Health Programs Facilities (DHS – Shared Services) – Chapter 407, Division 045, 0120 -0240 (Temporary Rules filed 9/1/2017).

(1) These rules, OAR 407-045-0120 to 407-045-0240, prescribe standards and procedures for the investigation of reported abuse and the assessment for and provision of protective services in community programs and facilities for adults with mental illness.

(2) The Department's Office of Adult Abuse Prevention and Investigations (OAAPI) by agreement with the Authority, is delegated the duties, functions and powers of training, coordinating, assisting, directing and approving the services provided by the community mental health programs related to these rules.

(3) For the purpose of carrying out these rules, community mental health programs are Department designees.

(4) The Department or a designee must receive all reports of alleged abuse, assess the need for protective services and conduct the investigation to make findings as required by ORS 430.735 to 430.768.

Copies of complete rules may be obtained on the internet at the web site of the Office of the Secretary of State <https://secure.sos.state.or.us/oard/ruleSearch.action> or by contacting:

- For OAR chapter 943 Rules: Written Request 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@dhsosha.state.or.us.
- For Abuse Reporting rules in OAR chapter 407: Written request to: Jennifer Bittel, 250 Winter St NE, Salem, OR, 97301-3950; phone- 503-947-5250; email- Jennifer.Bittel@state.or.us