

# Spousal Pay Program

## Eligibility, Authorization, and Payment Information

Updated 01/28/2022

### Scope

- The Spousal Pay Program is one of the Medicaid hourly in-home service options that are part of the Consumer-Employed Provider (CEP) Program (OAR 411-030).
- The Spousal Pay Program and the Independent Choices Program (ICP) are the only in-home service options allowing payment to a spouse care provider.

The Spousal Pay Program consumer must meet their consumer-employed provider responsibilities, or if unable to meet these responsibilities, must designate a Consumer-Employer (CE) Representative (using a [SDS 0737](#) form) who can meet the employer responsibilities as described in [OAR 411-030-0040\(4\)\(5\)](#). The spousal provider cannot be the consumer's CE Representative.

### Process

- Initial and on-going service eligibility is determined through CA/PS assessments and reassessments.
- Spousal Pay Program consumers must have their annual assessment results submitted by their Case Manager to APD Central Office for review and approval for both initial enrollment and ongoing eligibility in the program ([OAR 411-030-0068\(2\)\(i\)](#)).
- For new and ongoing Spousal Pay Program approvals, send an email to [APD.MedicaidPolicy@dhsosha.state.or.us](mailto:APD.MedicaidPolicy@dhsosha.state.or.us).

### Eligibility

- To be eligible for services through the Spousal Pay Program, an individual must meet the functional needs requirements listed in [OAR 411-015-0100\(1\)](#) and [OAR 411-030-0080\(2\)](#).
- The consumer must require full assistance in at least four out of six activities of daily living (ADL), based upon their CA/PS. Note: Use the 'SPL Summary' radio button on the CA/PS Full Benefit Results screen to review the Spousal Pay assist level when determining the four of six ADLs.
- The consumer eligible for the Spousal Pay Program must have a progressive debilitating condition, such as a spinal cord injury, late-stage cancer, or other condition with permanent impairment which limits their ADLs. Indicate the diagnosis (if available) in the CA/PS Client Details and document all pertinent information related to the individual's debilitating

condition in case narration. A "Debilitating Medical Condition" means the individual's condition is severe, persistent, and interferes with the individual's ability to function and participate in most activities of daily living ([OAR 411-030-020\(18\)](#)).

- The Spousal Pay Program consumer's service needs exceed the usual and customary services rendered by one spouse to another, in both extent and duration, and that without Medicaid in-home services, an individual would otherwise require nursing facility services.
- The consumer and the provider must be legally married ([OAR 461-001-0000](#)).
- See Eligibility Screen Shots (Eligible, Not Eligible) on the CM Tools page under Programs/Spousal Pay (SP).

### **Spouse Provider**

- The spouse must meet all requirements for enrollment as a HCW in the Consumer-Employed Provider Program as described in [OAR 411-031-0040](#).
- The spouse, as a Spousal Pay provider, is eligible for and receives the HCW/Hourly contractual benefits as defined in the current HCW CBA.
- The spouse must demonstrate the capability and health to provide the assessed services and actually provides the principal ADL Services. This includes the majority of service plan hours for which payment has been authorized.
- The definition of legally married and spouse is found in [OAR 461-001-0000\(39\)\(65\)](#). Homecare workers who marry their consumer-employer are not paid under the Spousal Pay Program.
- The spouse provider may not be designated as a Consumer-Employer Representative for the individual he or she serves.

### **Person-Centered Service Plan**

#### Please Note:

- ✓ New (initial) Spousal Pay Program cases cannot be authorized in Oregon ACCESS until a Central Office staff member reviews and approves the individual's eligibility for the program based on the criteria in rule ([OAR 411-030-0080\(2\)](#)).
- ✓ Eligibility for Spousal Pay Program services must be submitted for review and approval at least annually to APD Central Office.
- Case Managers create an In-home Service Plan ([SDS 546N](#)) after approving the CA/PS in-home service benefit and plan. A service plan is developed based on Spousal Pay Program service eligibility and hours are authorized as determined by the consumer's functional needs. A SPAN

(SDS 2780N) and Assessment Summary (SDS 002N) are provided to the consumer.

- The service plan will be reimbursed at the approved HCW hourly rate for both the ADLs and IADLs ([OAR 411-030-0070\(6\)](#)).
- Authorized hours to the spousal pay provider in the individual's service plan must consist of at least 51% of the assessed hours to be assigned to the spouse provider. Staff must assign all the IADL hours to the spouse provider in the system and then the system (Oregon ACCESS) cuts them in half automatically (The spouse provider is given half the assessed IADL hours). Using the correct option in service planning for Spousal Pay will ensure the IADLs are reduced in half in Oregon ACCESS
- Staff should indicate if natural supports have been included in the service plan. Staff should carefully review support received from other family members, friends, etc. and adjust the service plan for any Natural Support assistance.

### **Spousal Provider Reimbursement**

- The Spousal Pay provider logs hours worked through one of the tracking options in the OR PTC DCI electronic verification system and is reimbursed through the CEP payment system as an in-home service provider.
- Payment to the provider is made through the HATH Mainframe screens and is viewed on the HINQ Mainframe screens.
- Homecare workers who marry their consumer-employer retain the same standard of compensation if their employer meets the Spousal Pay Program eligibility criteria. IADL hours are not reduced by one-half in this situation.

### **Authorized Hourly Services for Spousal Pay Providers**

- As an hourly in-home service, a single HCW, including spouse providers, may not work more than 16 hours within a 24-hour work period ([OAR 411-030-0070\(5\)](#)).
- If the case requires mainframe coding (anything over 108 In-Home Care Hourly Hours) the office manager is required to send the approval to Central Office per [APD-PT-18-046](#).
- The Spousal Pay Program rule falls under the 411-030 Consumer-Employed Provider rules that govern the HCW hours and limits HCWs to 40hrs a week. The 40-hour HCW cap (80 hours per 14-day service period) applies to HCWs who are Spousal Pay Program providers who provide hourly or shift service plans (unless a temporary exception applies or if a HCWs average paid workweek hours in the months of March through May

2016 equaled or exceeded 40 hours per workweek. These HCWs are limited to no more than 50 hours per week per [OAR 411-030-0070\(6\)](#)).

- Shift Service plans consist of 224 hours a pay period. Spousal Pay plans can also be considered for Shift Services with a SDS 514i form and a 3 consecutive day log submitted to CO for review ([OAR 411-030-0068\(2\)\(a\)](#)). Shift Services is also not considered an exception but the SDS 514i application form is used. Anything approved over shift services would be considered an exception. ([SPD.Exceptions@dhsoha.state.or.us](mailto:SPD.Exceptions@dhsoha.state.or.us)).
- An individual may be eligible for a differential rate in accordance with the terms of the ratified collective bargaining agreement described in [OAR 411-031-0020](#), if requested by the CM and when certain criteria apply and is approved by CO as described in [OAR 411-030-0068\(6\)](#).
- A second provider (HCW or In-Home Care Agency {IHCA}) may be authorized hours as documented in the service plan. In situations where there may be an additional provider in the Service Plan, the spouse must continue to demonstrate the capability and health to provide assessed services and *actually provide* the principal service, including the majority of service plan hours (*at least* 51% of the available hours), for which payment has been authorized. The care the spousal provider is delivering must be "hands-on" care. Being the "principal provider" does not include the spouse only arranging the consumer's care through other providers.
- Delegation for the Spousal Pay provider by a Long-Term Care Community Nurse (LTCCN) is not required but may be requested. According to the Board of Nursing, however, family members may perform tasks of nursing care without specific training and delegation from a registered nurse.
- Delegation for an additional HCW by a LTCCN may be required.
- Delegation for an employee of an IHCA will be provided by the IHCA.

### **Review Process by Central Office**

- CM sends an e-mail to [APD.MedicaidPolicy@dhsoha.state.or.us](mailto:APD.MedicaidPolicy@dhsoha.state.or.us) requesting Central Office review and approval for the Spousal Pay Program and of the individual's service plan. Staff should include the consumer's name and prime # in the body of the email.
- View CA/PS assessment:
  1. Full Benefit Results screen, click on the 'SPL Summary' radio button.
  2. Does the assessment show full assist in at least 4 of the 6 ADLs (in SPL Summary box)?
  3. Client Details – does the consumer meet the service eligibility diagnosis criteria for a debilitating medical condition? Document this diagnosis in this section.
  4. Service planning –

- a. Does the service category/benefit show APD-SPH or KPS-SPH (MAGI)?
  - b. Does the service plan show In-home Care (HCW) Spousal?
  - c. Do the assigned hours meet or exceed the maximum hour rule?
  - d. The Spousal Pay Service Plan (APD-SPH) should be placed in pending status.
- Note: Central Office will review the pending CA/PS to determine the assist levels are properly assigned, eligibility criteria are met, and approve all Spousal Pay Program service plans meeting Program requirements.

### **Exceptions for to the Hourly Cap for Spousal Pay Providers**

- Spousal Pay Program consumers may request an exception (a variance to APD service limits) based on an individual's documented service needs for:
  - Maximum hours ([OAR 411-027-0050](#) and [OAR 411-030-0071](#))
  - Shift services' hours over 16 hours per day (OAR 411-027-0050 & [OAR 411-030-0068](#))
- The 40- and 50-hourly cap requirement applies to spousal providers ([OAR 411-027-0050](#), [OAR 411-030-0070\(6\)](#)).
- A temporary exception for an emergency and unanticipated situation where the HCW/spouse must provide critical care to ensure the health or safety for their spouse.
- Note: The APD 0514i form is used to request In-Home Exceptions, Shift Services and HCW hourly cap exceptions.
- Case Managers who determine a need for spousal providers and/or other HCWs for exception hours, an exception to the hourly cap, or shift services:
  - Case managers are required to initiate the request and assist consumers by completing the APD 514i and discuss with the consumer alternate ways, supports or resources that may help meet the individual's needs as described in [OAR 411-030-0050\(2\)\(a\)](#).
  - Local managers and/or supervisors must review all exception requests requiring Tier 3 review and approval. Central Office reserves the right to review any renewal for appropriateness, which includes Tier 2 approvals.
  - When requesting an exceptional payment on the 514i, for an individual in the Spousal Pay Program (SP), follow the In-Home Exceptions process.
  - Exceptions requests should be sent to [SPD.Exceptions@dhsosha.state.or.us](mailto:SPD.Exceptions@dhsosha.state.or.us)
  - Exceptions which are granted or denied are issued at the Department's discretion.

## Forms and Systems

### Eligibility

- CA/PS: Full Benefits Results screen – ‘SPL Summary’ radio button indicates if the consumer meets full assistance in four of six ADLs. CA/PS assessment must be completed.
- CA/PS Benefit Eligibility and service planning:
  1. Benefit Plan segment: APD/SPH or KPS/SPH (MAGI).
  2. Service Plan segment: In-Home Care (HCW) Spousal.
- SELQ Prime # - shows service eligibility begin and end dates.
- SDS 450 Liability Worksheet for Long-term Care or Home and Community-based Care.
- Procedure Code SP112 shows an assessment create date of 8/31/15 or later.

### **Applied Rules**

[OAR: 411-030-0080](#) Spousal Pay Program

[OAR 461-001-0000\(39\) & \(65\)](#) Legally Married

[OAR 411-031-0040](#) Consumer-Employed Provider Program

[ORS 411.802](#) Compensation for in-home care by spouse

[ORS 411.803](#) When spouse may be compensated for in-home care

### Resources:

- [Eligibility, Authorization, and Payments](#)
- [Eligibility Screen Shots](#)
- [Spousal Pay Program Eligibility Determination Tool](#)