

Topic:	Independent Provider Terminations and Inactivation's
Date Issued/Updated:	8/12/2016 (Version 1)

Overview

Description: Procedures for making a recommendation to inactivate or terminate an Independent Provider.

Purpose/Rationale: Only the Department can inactivate or terminate an independent provider number. This guide is designed to assist Service Coordinators (SC) and Personal Agents (PA) as well as Community Developmental Disabilities Program (CDDP) and Brokerages in understanding their role in provider number Terminations and Inactivation's of Independent Providers for violations of OAR 411-375-0070.

Applicability: Service Coordinators and Personal Agents

Procedure(s) that apply:

Independent Providers (Personal Support Workers and non-PSW Independent Contractors) may have their provider number terminated or inactivated by the Department under OAR 411-375-0070. The Department basis the decision to inactivate or terminate a provider number most often based on the recommendation from a CDDP or Brokerage. The recommendation is made using form 0572, [Recommendation to Take Action Against an Independent Provider](#). This form is found [here](#).

The table below describes the different types of Inactivations and Terminations:

Reason	Effective Date	Notes
Inactivation for failure to take action or other administrative reason. OAR 411-375-0070(1)(a-f)	Date of expiration in eXPRS	eXPRS automatically inactivates providers in these categories.
Inactivated due to an open investigation OAR 411-375-0070(2)	The date of the Notification of Inactivation	Providers may return to active status once the investigation is completed. There are no appeal rights with Inactivations. See "Inactivation" below for more details
Terminated due to a violation OAR 411-375-0070(3)	10 days from the Notification of Proposed Change unless	See "Termination" below for more details.

	the termination meets the criteria for exclusion	
--	--------------------------------------------------	--

Inactivation of a Provider Number

Independent Providers who have been inactivated are not eligible to provide services to individuals receiving services from the date of their inactivation. For administrative inactivations (see table above) such as failing to complete a background check renewal, the SC/PA will not have to take action with the Independent Provider; however, they will need to work with the individual to discuss how the individual's support needs will be met.

SC/PAs must complete and submit the [Recommendation to Take Action Against an Independent Provider](#) via a [secure email](#) to ODDSProviderActionRecommendation@state.or.us within 5 days of being notified that:

- An Independent Provider is under investigation by either adult or child protective services;
- Is being investigated, charged, or incarcerated for a crime listed in [OAR 407-007-0208\(1\)](#) (crimes include Murder, Assault, Sexual Crimes, Arson, etc.); or
- There is a credible allegation of fraud that is being investigated by the Medicaid Fraud Unit (see Payment Suspensions below).

ODDS will provide a preliminary response to the recommendation within three business days (See FAQs for additional information).

If a recommendation to inactivate is **not taken** by the Department, the reason will be sent to the referring staff as identified on form 0572.

If a decision is made to **inactivate** the provider's Medicaid number a Notification of Inactivation will be sent to the Independent Provider. Notification of Inactivation does not have appeal and hearing rights. Independent Providers who disagree with an inactivation may file a complaint.

The referring staff as identified on form 0572 will receive an email including the reason for the inactivation and a copy of the Notification of Inactivation. Additionally, if the independent provider works with more than one individual, the director or program manager of all case management entities who have attached the Independent Provider to their panel in eXPRS, will receive an email notification that the provider has been inactivated.

An inactivated provider can only be reinstated once the investigation has been completed. For fraud or criminal cases, these investigations may take a significant amount of time. In these cases it is the responsibility of the provider to contact the CDDP/Brokerage and request reactivation along with providing documentation which proves the investigation has been closed without a finding against them.

For inactivations that are a result of a Protective Services Investigation the SC/PA must notify ODDS once the investigation is completed. ODDS will review the investigation report and notify the SC/PA of further action. Further actions can include: reinstatement, required training, or termination.

If a provider is reinstated a letter will be sent to them informing them of this and requirements for reactivating their provider number. A copy of this letter will be sent to the original refereeing entity and any case management entities who have them attached to their panel in eXPRS.

Termination of a Provider Number

Independent Providers who have their provider number terminated are not eligible to provide services to individuals enrolled in a Department program.

To recommend termination of a provider, the SC/PA must complete the [Recommendation to Take Action Against an Independent Provider](#) and submit, via a [secure email](#) to ODDSProviderActionRecommendation@state.or.us.

Once the request is reviewed, ODDS may:

- Deny the recommendation to terminate,
- Request more information,
- Issue conditions such as required training, or
- Grant the recommendation for termination

ODDS will provide a preliminary response to the recommendation within three business days (See FAQs for additional information).

If a recommendation to terminate is **denied** the reason will be sent to the referring staff as identified on form 0572 along with any remedial action needed on the part of the provider (e.g. training).

If additional information is needed an email will be sent to the referring staff as identified on form 0572.

If the Department determines that the recommendation does not meet criteria for a termination, but determines specific conditions such as training are required a notification will be sent to the provider as well as the referring agency.

If a decision is made to **terminate** the provider's Medicaid number, a Notice of Proposed Termination will be sent to the provider. The referring staff as identified on form 0572 will receive an email outlining the reason for the termination and a copy of the Notice of Proposed Termination. Additionally, if the independent provider works with more than one individual, the director or program manager of all case management entities who have attached the Independent Provider to their panel in eXPRS, will receive an email notification that the provider has been terminated.

The email notification from the Department will identify the last day a provider may deliver services. The decision is made by the Department and is based on the reason for the termination. Decisions are based on OAR 411-375-0070(4)(a). Refer to the Table below for timelines:

Termination Type	Effective Date	Continue Working?
Immediate Termination <i>(termination reason presents imminent danger to current or future individuals)</i>	Date of notice sent to provider	No, the provider may not continue to work during the hearings process.
Termination <i>(termination reason does not meet the Exclusions criteria for Immediate Termination)</i>	10 days from the date of Notice of Proposed Termination	Yes, if the provider requests a hearing within 10 days of the issue date of the notice the provider may work pending the outcome of the hearing.

Payment Suspension

The Medicaid Fraud Unit (MFU) may request a 'payment suspension' to be made for an Independent Provider. In those cases, the suspension will be enacted by ODDS in conjunction with MFU with a notification going to the provider and the case management entity. Providers who have been 'suspended' should be treated as Inactivated Providers. Suspended providers do not receive any payments for services (even already rendered services) until the suspension is lifted by MFU. These investigations and prosecutions may take a significant amount of time. In these cases it is the responsibility of the provider to contact the CDDP/Brokerage and request reactivation along with providing documentation which proves the investigation has been closed without a finding against them. The Department may also move to terminate providers if MFU finds that there is sufficient evidence that fraud has occurred.

Hearings

The case management entity will be notified by email when an Independent Provider requests a hearing related to a Notice of Proposed Termination. The Department will include whether the Independent Provider is eligible to continue working during the hearing process.

It is the responsibility of the case management entity to make available at least one staff person with knowledge of the termination to be present during any hearing or pre-conference meetings. This would generally be the same staff person who made the recommendation for action against the provider. This person will be asked to testify to the reason that the recommendation for termination was made and may be asked other questions as deemed necessary by the Department hearing representatives.

This worker guide replaces transmittal APD-AR-14-071

Form(s) that apply:

[Recommendation to Take Action against an Independent Provider, Form 0572](#)

FAQs:

Criteria for Inactivation/Termination as found in OAR 411-375-0070.

Inactivation/Termination Criteria	
Inactivations (<i>does not include administrative inactivations that do not require notice</i>)	<ul style="list-style-type: none">• Independent Provider is being investigated by adult or child protective services for suspected abuse AND that abuse poses imminent danger to current and future individuals.• Independent Provider is being investigated or has been charged with a crime listed in OAR 407-007-0280(1)• Independent Provider has a credible allegation of fraud pursuant to federal law under 42 CFR 455.23• Independent Provider has failed to participate in training required by the Department
Termination	<ul style="list-style-type: none">• Independent Provider has violated the requirement to maintain a drug-free workplace• Independent Provider has an unacceptable background check and the background check resulted in a close case pursuant to OAR 407-007-0325• Independent Provider demonstrates a lack of skills, knowledge, or ability to adequately or safely provide home care services• Independent Provider has a violation of protective service and abuse rules• Independent Provider fails to safely and adequately provide authorized services• Independent Provider has committed fiscal improprieties including, but not limited to, billing excessive or fraudulent charges or has a conviction for fraud pursuant to federal law under 42 CFR 455.23• Independent Provider fails to provide services as described in the ISP and service agreement• Independent Provider lacks the ability or willingness to maintain individual confidentiality• Independent Provider engages in repeated, unacceptable conduct at work• Independent Provider has been excluded or debarred by the Office of the Inspector General (OIG)
Immediate Termination (<i>cannot continue to work during appeal</i>)	<ul style="list-style-type: none">• The Independent Provider has failed a background check• The Independent Provider has been excluded or debarred by Office of the Inspector General (OIG)• The Independent Provider has been convicted of fraud pursuant to federal law under 42 CFR 455.23• The Independent Provider has a violation they can be terminated for as outlined below AND presents imminent danger to current or future individuals
Excluded from Hearing Process in 411-	<ul style="list-style-type: none">• The Independent Provider has failed a background check• The Independent Provider has been excluded or debarred by Office of the Inspector General (OIG)

375

- The Independent Provider has been convicted of fraud pursuant to federal law under 42 CFR 455.23

Q. How long will it take to get a response from ODDS when submitting an Inactivation or Termination request?

A. You should receive a preliminary response from ODDS within three business days. High-risk (health and safety) cases are prioritized. Because of the sensitive nature of some requests this may be delayed. For example, if an on-going criminal investigation or protective services investigation is occurring we may be requested to not take action until law enforcement or protective services have a chance to complete their investigations. If this occurs the referring staff (as identified on form 0572) will be notified unless prohibited.

Q. What information should we submit when requesting an inactivation or termination?

A. All information that is being used (progress notes, call logs, etc.) to justify the recommendation must be submitted with the [Recommendation to Take Action form](#). PSI reports should not be sent; however, the existence of the report must be disclosed.

Q. When will we receive a notification that action has been taken?

A. The referring staff as identified on form 0572 will receive an email copy of the notification mailed to the provider on the same day the notification is mailed to the provider. Any additional agencies effected will receive a notification within one business day.

Q. What does a case management entity do when the notification of an action is received after the effective date of the action?

A: The Department will email a copy of the notification mailed to the provider on the same day the notification is mailed to the provider. However, many instances the effective date of the action is the same date as it is mailed. The case management entity must engage with the individual to plan for needs to be met when there is a loss of provider. The case management entity cannot approve Service Delivereds for inactivated providers beyond the effective date of the notice.

Reference(s):

Independent Provider Rule - [OAR 411-375-0070](#)

Suspension of Payments in Cases of Fraud - [42 CFR 455.23](#)

Criminal History Checks, Permanent Review Crimes - [OAR 407-007-0280\(1\)](#)

Contact(s):

Name: Chrissy Fuchs, In-Home Policy Specialist

Phone: 503-947-4241

Email: Chrissy.fuchs@state.or.us