**NOTICE OF PROPOSED RULEMAKING FILING**
**INCLUDING STATEMENT OF NEED & FISCAL IMPACT**
*For internal agency use only.*

| Department of Human Services, Developmental Disabilities | 411 |
|---|---|
| Agency and Division Name | Administrative Rules Chapter Number |

| Christina Hartman | 500 Summer Street NE, E-09<br>Salem, OR 97301-1073<br>christina.hartman@state.or.us | (971) 413-4225 |
|---|---|---|
| Rules Coordinator/Filing Contact | Address/Email | Telephone |

**FILING CAPTION**

ODDS: Community Developmental Disabilities Programs, Support Service Brokerages, and Case Management Services (411-320, 340, 415)

Last Date and Time for Public Comment: [ September 30, 2019 at 5:00 p.m. ]

| September 27, 2019 | 10:30 a.m. | 500 Summer Street NE, Rm. 160<br>Salem, OR 97301<br>Teleconference: 1-877-848-7030, 458900# | Staff |
|---|---|---|---|
| Hearing Date | Time | Address/Teleconference | Hearings Officer |

*HEARING NOTES: If you wish to participate in the hearing, either by phone or in person, please call or be signed in no later than 15 minutes after the hearing start time.*

**RULEMAKING ACTION**

*List each rule number separately (000-000-0000) below. Attach proposed, tracked changed text for each rule at the end of the filing.*

**ADOPT**:
411-415-0055, 411-415-0075
**AMEND**:
411-320-0020, 411-320-0030, 411-320-0040, 411-320-0045, 411-320-0140, 411-340-0040, 411-415-0050, 411-415-0070, 411-415-0080, 411-415-0090, 411-415-0100, 411-415-0110
**REPEAL**:
411-320-0050

**RULE SUMMARY**

*Include a summary for each rule included in this filing.*

The Department of Human Services, Office of Developmental Disabilities Services (ODDS) is proposing to update rules in OAR chapter 411, divisions 320, 340, and 415 about Community Developmental Disabilities Programs (CDDPs), Support Service Brokerages (Brokerages), and case management services to reflect changes relating to:

- Abuse and incident reporting to implement the Centralized Abuse Management (CAM) system;
- Management of regional services;
- Host homes;

- Dual provider roles;
- Support technology; and
- Exits.

Implementation of the proposed rule changes relating to abuse and incident reporting, host homes, and support technology is contingent on the approval of the Centers for Medicare and Medicaid Services of the 1915(c) Home and Community-Based Services waivers and 1915(k) State Plan Amendments.

OAR 411-320-0020 about CDDP Definitions and Acronyms is being amended to define "CAM" and remove the definition for "OAAPI" as it has been replaced with "OTIS".

OAR 411-320-0030 about CDDP Organization and Program Management is being amended to update the training requirements for an abuse investigator specialist.

OAR 411-320-0040 about CDDP Program Responsibilities is being amended to codify language relating to protective services and recommended actions.

OAR 411-320-0045 about CDDP Quality Assurance Responsibilities is being amended to reflect changes relating to CAM.

OAR 411-320-0050 about CDDP Management of Regional Services is being repealed because regional services are no longer operational.

OAR 411-320-0140 about CDDP Abuse Investigations and Protective Services is being amended to:

- Specify a CDDP investigates allegations of abuse for adults 18 years of age or older unless the adult is under 21 years of age and resides in a child foster home setting.
- Reflect changes relating to CAM.

OAR 411-340-0040 about Brokerage Abuse Reporting is being amended to reflect changes relating to incident reporting and codify language relating to protective services and recommended actions.

OAR 411-415-0050 about Standards for Case Management Services is being amended to:

- Remove language that is now included in OAR 411-415-0055.
- Reflect changes relating to CAM.

OAR 411-415-0055 about Abuse and Serious Incident Management is being adopted to codify language relating to CAM and incident reporting.

OAR 411-415-0070 about Service Planning is being amended to codify language relating to:

- Host homes.
- Not allowing authorization of a community living supports agency employee to deliver community living supports skills training or attendant care services, other than day support activities, to an individual that also has the agency employee as their personal support worker.

OAR 411-415-0075 about Authorization and Documentation of Support Technology in a Residential Program is being adopted to codify language relating to support technology.

OAR 411-415-0080 about Accessing Developmental Disabilities Services is being amended to clarify when an exit meeting may be waived.

OAR 411-415-0090 about Case Management Contact and Monitoring of Services is being amended to remove language that is now included in OAR 411-415-0055 and codify language relating to monitoring the following:

- Protocols or mitigation strategies.
- Host homes.
- Serious incidents.

OAR 411-415-0100 about Specialized Services in a Nursing Facility is being amended to ensure consistent terminology.

OAR 411-415-0110 about Record Requirements is being amended to reflect changes relating to CAM and incident reporting.

Other changes may be made to these rules to correct grammatical errors, ensure consistent terminology, address issues identified during the public comment period, and improve the accuracy, structure, and clarity of the rules.

## STATEMENT OF NEED

ODDS needs to update rules in OAR chapter 411, divisions 320, 340, and 415 about CDDPs, Brokerages, and case management services to reflect changes relating to:

- Abuse and incident reporting to implement CAM;
- Management of regional services;
- Host homes;
- Dual provider roles;
- Support technology; and
- Exits.

Implementation of the proposed rule changes relating to abuse and incident reporting, host homes, and support technology is contingent on the approval of the Centers for Medicare and Medicaid Services of the 1915(c) Home and Community-Based Services waivers and 1915(k) State Plan Amendments.

Other changes may be made to these rules to correct grammatical errors, ensure consistent terminology, address issues identified during the public comment period, and improve the accuracy, structure, and clarity of the rules.

## FISCAL IMPACT

**Fiscal and Economic Impact:**

The fiscal and economic impact is stated below in the cost of compliance statement. The fiscal and economic impact was evaluated as part of the Administrative Rules Advisory Committee process which engaged community members representing an array of roles in the developmental disabilities services field.

**Cost of Compliance:**

**(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s).**

### CAM/Incident Reporting

ODDS has identified the following fiscal and economic impact relating to CAM and incident reporting:

- ODDS - No fiscal impact is expected. Business process changes may result from implementation of the CAM system but will not be outside of the normal course of operations. ODDS will be engaged with training activities for all provider types, including case management entities, on the implementation of the new system, but this is also within the normal scope of ODDS' activities.

- Other State Agencies - No fiscal impact is expected. The new CAM system and rule changes are limited to ODDS and ODDS providers and partners.

- Case Management Entities (units of local government) - Serious incident and abuse management related activities have been accounted for in the Workload Model developed for case management entities. The Workload Model will be revisited on a regular basis to determine which measurements have been impacted by these changes. Until the Workload Model is revisited, ODDS is unable to estimate the overall impact of the rule changes.

- Individuals Receiving Services - No fiscal impact is expected. These rule changes impact the administration of the program and will not have any direct impact on individuals in service.

- Members of the Public - No fiscal impact is expected. These changes are limited to ODDS and ODDS providers and partners.

- Providers - Providers will be impacted due to the need to update policies and procedures. Another potential impact could result from the need to train employees around the new requirements, however the pre-existing requirement for 12 hours of annual training may absorb some or all of the training required for the new requirements. ODDS is unable to determine the extent of this impact, if any. A new requirement to document medication errors on a written incident report will likely cause an increased workload, however ODDS does not have data showing the frequency of medication errors nor the difference in time between the current process of documenting medication errors and the new process.

**Host Homes**

ODDS has identified the following fiscal and economic impact relating to Host Homes:

- ODDS - The fiscal impact to ODDS will be in the form of Design Budget Costs (administrative and licensing impacts) and the costs of direct service delivery for children placed in Host Homes settings. The costs listed below have been allocated to ODDS specifically for funding the implementation of Host Homes* through a Policy Option Package (POP) approved by the 2019 Oregon Legislature for the 2019-2021 biennium. **Host Homes are described as "Enhanced Foster Care Settings" in the 2019 legislatively-approved policy option package.*

  *ODDS Design Budget Costs (Administrative and Licensing Costs):*
  There will be impact to ODDS related to the creation of Host Home settings and a new service delivery model option. This will include administrative oversight of the new setting and service delivery model option.

  Additional administrative tasks will include field communication and training to case management entities and providers regarding the new setting and service delivery model, including expectations related to implementation and delivery.

  Licensing will need to build the administrative rule set into the ASPEN licensing compliance data reporting system and assign licensors to provide licensing oversight to the homes, including licensed Medicaid agency endorsement and

initial and renewal licensing of the home sites.

The primary identified cost under Design Budget Costs is anticipated to be the funding of an OPA3 administrative position for the 2019-2021 biennium as follows:

| | | |
|---|---|---|
| OPA 3 Position | General Fund | $ 104,586 |
| | Federal Funds | $ 104,234 |
| | Total Funds | $ 208,820 |

*ODDS Cost of Placement of Children in Host Home Settings:*
The projected full capacity of Host Home settings will serve up to 140 children, with homes being licensed to serve up to two children per home. The children's services will be majority funded through federal match dollars as part of the Medicaid Community First Choice (K-Plan) state plan option. The direct service funding model anticipates an average monthly cost per child of $6700.00, with the full funding cost for the biennium projected to be:

| | | |
|---|---|---|
| Host Home Service Setting Placements for 140 children | General Fund | $ 4,103,524 |
| | Federal Funds | $ 8,626,476 |
| | Total Funds | $ 12,730,000 |

- Other State Agencies - There should be minimal impacts to other state agencies. There will likely be some indeterminant positive fiscal impacts to Child Welfare programs as the creation of Host Home settings will expand placement resource capacity for some children who may be dually served by Child Welfare Program services and ODDS.

- Case Management Entities (units of local government) - The work associated with placement referral and service and setting monitoring shall be absorbed in the Workload Model developed for case management entities. The fiscal impact should essentially be neutral as the children supported under the Host Home setting and service delivery model would receive similar case management services from case management entities, regardless of setting or situation.

- Individuals Receiving Services - There should be little to no impact to children receiving services as this is a Medicaid and state funded service model. Individuals eligible for services are generally not required to financially contribute to their service costs.

- Members of the Public - No fiscal impact is expected. These changes are limited to ODDS and ODDS providers and partners.

- Providers - The fiscal impact to providers is indeterminant and will be largely dependent upon the business plan and marketing strategies of providers pursuing establishment of Host Home programs and settings. The number of potential businesses impacted is indeterminant with the service model supporting up to two children per home setting and no restriction or requirements related to the volume of Host Home setting sites under each provider agency.

  Prospective and established providers will be required to absorb some initial upfront costs related to the recruitment, training, and application for licensing process for new Host Home settings. Provider stakeholders participating in the RAC process have projected that the upfront costs and activities to recruit and train caregivers and staff and to establish licensed home sites will be greater up front but will titrate down as the new service setting and delivery model becomes more established.

**Dual Provider Roles**

ODDS has identified the following fiscal and economic impact relating to dual provider roles:

- ODDS - No fiscal impact is expected because the proposed changes codify existing practices and do not increase administrative duties or expectations.

- Other State Agencies - No fiscal impact is expected. These changes are limited to ODDS and ODDS providers and partners.

- Case Management Entities (units of local government) - Case management entities will need to assist individuals receiving services to find another provider if their personal support worker is also working as a direct support professional for the same individual. It is unclear how many individuals will need to find additional support providers.

- Individuals Receiving Services - Individual receiving services may need to identify additional providers to meet their needs which may take additional planning and referral time.

- Members of the Public - No fiscal impact is expected. These changes are limited to ODDS and ODDS providers and partners.

- Providers - Providers who have an employee who also works as a personal support worker for an individual receiving services may need to hire additional staff to meet the needs of the individual. It is unclear how many agencies have employees who also work as personal support workers for the same person.

**Support Technology**

ODDS has identified the following fiscal and economic impact relating to support technology:

- ODDS - There is minimal impact to ODDS. The proposed rule language should not result in the creation of additional workload or processes at the ODDS level.

- Other State Agencies - No fiscal impact is expected. These changes are limited to ODDS and ODDS providers and partners.

- Case Management Entities (units of local government) - Case management entities will be expected to document and monitor situations where support technology is implemented. This should have a minimal impact to the workload of case management entities as plan documentation and monitoring are required activities.

- Individuals Receiving Services - The proposed rules impose no fiscal cost to individuals receiving services and there is no financial gain to individuals as a result of the rules proposed.

- Members of the Public - No fiscal impact is expected. These changes are limited to ODDS and ODDS providers and partners.

- Providers - The proposed rules may result in some fiscal impact to providers. The number of provider is indeterminant as the rule language allows for additional options for ways of delivering service but does not require the use of technology to support individuals. There are limited situations where the use of the support technology will be appropriate. ODDS is not providing any additional funding for the cost of equipment or operation of the technology, so this is a cost that must be absorbed by providers. Additionally, when providers are actively using video technology to support an individual, they must allocate staffing to monitor the individual that is exclusive to the individual. As a result, this may result in some increased staffing costs to maintain the exclusive focus staffing requirement. Some providers may experience some cost savings when the use of technology allows for individuals to be more independent or the technology increases the provider's efficiency in providing support.

**Exits**

ODDS has determined the proposed rule changes relating to exits have no fiscal or economic impact on ODDS, other state agencies, case management entities (units of local government), individuals receiving services, providers, or members of the public

because the proposed changes codify existing practices and do not increase administrative duties or expectations.

**(2) Effect on Small Businesses:**
**(a) Estimate the number and type of small businesses subject to the rule(s);**
ODDS has determined the proposed rule changes may impact providers as described in the cost of compliance statement. Some providers may meet the definition of a small business as defined in ORS 183.310.

**(b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s);**
The impact of the proposed rule changes is described in the cost of compliance statement.

**(c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).**
The impact of the proposed rule changes is described in the cost of compliance statement.

**Describe how small businesses were involved in the development of these rule(s)?**
Small businesses as defined in ORS 183.310 were invited to participate in the Administrative Rule Advisory Committees. Small business are also included in the public review and comment period.

**Documents Relied Upon, and where they are available:**
None.

**Was an Administrative Rule Advisory Committee consulted? Yes or No?**
**If not, why not?**
Yes. Solicitation for Administrative Rule Advisory Committee (RAC) participants was posted on the ODDS Engagement and Innovation website.

The RACs to review the proposed rule changes relating to:

- Support technology and exits took place on February 7 and 21.
- Host home programs and settings took place on May 23 and June 12.
- CAM and incident reporting took place on May 29 and June 13.
- In-home services providers took place on June 6.

# DEPARTMENT OF HUMAN SERVICES
# DEVELOPMENTAL DISABILITIES
# OREGON ADMINISTRATIVE RULES

## CHAPTER 411
## DIVISION 320

## COMMUNITY DEVELOPMENTAL DISABILITIES PROGRAMS

### 411-320-0020 Definitions and Acronyms

In addition to the following definitions, OAR 411-317-0000 includes general definitions for words and terms frequently used in OAR chapter 411, division 320. If a word or term is defined differently in OAR 411-317-0000, the definition in this rule applies.

(1) "ABAS" means "Adaptive Behavior Assessment System".

(2) "ABES" means "Adaptive Behavior Evaluation Scale".

(3) "Adaptive Behavior" means the degree to which an individual meets the standards of personal independence and social responsibility expected for age and culture group. Other terms used to describe adaptive behavior include, but are not limited to, adaptive impairment, ability to function, daily living skills, and adaptive functioning. Adaptive behaviors are everyday living skills including, but not limited to, walking (mobility), talking (communication), getting dressed or toileting (self-care), going to school or work (community use), and making choices (self-direction).

> (a) Adaptive behavior is measured by normed, standardized tests administered by a licensed clinical psychologist, school psychologist, doctor of medicine, or doctor of osteopathic medicine with specific training and experience in test interpretation of adaptive behavior scales for individuals with intellectual or developmental disabilities. An assessment of adaptive behavior is used to determine if a person has significant impairment in adaptive behavior as required in eligibility criteria OAR 411-320-0080(3) and (4). Additionally, an assessment of adaptive behavior is used to determine if a person is eligible as a person with an other developmental disability by demonstrating the person requires supports similar to a person with

an intellectual disability as described in OAR 411-320-0080(4). Assessments of adaptive behavior include the following:

(A) Adaptive Behavior Assessment System (ABAS);

(B) Adaptive Behavior Evaluation Scale (ABES);

(C) Vineland Adaptive Behavior Scale (VABS); or

(D) Other assessments approved by the Department that are designed to measure adaptive behavior, standardized and normed to a population consistent with people who experience an intellectual or developmental disability.

(b) DOMAIN SCORES. Adaptive behavior domain scores are identified on the following assessments of adaptive behavior:

(A) The ABAS and ABES are:

(i) Conceptual;

(ii) Practical; and

(iii) Social.

(B) The VABS are:

(i) Socialization;

(ii) Daily living skills;

(iii) Communication; and

(iv) Motor.

(c) COMPOSITE SCORE. The adaptive behavior composite score is the overall score which results from summing two or more domain scores on a given assessment of adaptive behavior.

(d) SKILLED AREAS. Skilled areas are a particular assessed score.

The skilled areas on the ABAS or ABES are the only skilled areas used for the purposes of OAR 411-320-0080 and include scaled scores in:

(A) Communication;

(B) Functional academics;

(C) Self-direction;

(D) Leisure;

(E) Social;

(F) Community use;

(G) Home and school living;

(H) Self-care;

(I) Health and safety; and

(J) Work.

(e) "Significant impairment" in adaptive behavior means:

(A) A composite score of at least two standard deviations below the norm; or

(B) Two or more domain scores, as identified in subsection (b) of this section, are at least two standard deviations below the norm; or

(C) Two or more skilled areas, as identified in subsection (d) of this section, are at least two standard deviations below the norm.

(4) "CAM" means "Centralized Abuse Management".

(45) "CDDP" means "Community Developmental Disabilities Program".

(~~5~~6) "CIIS" means "Children's Intensive In-Home Services".

(~~6~~7) "CMS" means "Centers for Medicare and Medicaid Services".

(~~7~~8) "Completed Application" means an application required by the Department that:

(a) Is filled out accurately based on individual information, signed, and dated. An applicant who is unable to sign may sign with a mark, witnessed by another person; and

(b) Contains documentation required to make an eligibility determination as outlined in OAR 411-320-0080.

(~~8~~9) "Composite Score" means the score identified by an assessment of adaptive behavior as described in the definition for "adaptive behavior".

(~~9~~10) "County of Origin" means:

(a) For an adult, the county of residence for the adult; and

(b) For a child, the county where the jurisdiction of legal guardianship exists.

(~~10~~11) "Current Documentation" means documentation related to the intellectual or developmental disabilities of an individual in regards to the functioning of the individual within three years from the date of application or Notice of Redetermination (form 5101). Current documentation may include, but is not limited to, an ISP, Annual Plan, Positive Behavior Support Plan, required assessments, educational records, medical assessments related to the intellectual or developmental disabilities of an individual, psychological evaluations, and assessments of adaptive behavior.

(~~11~~12) "Developmental Disability" means a neurological condition that:

(a) Originates before an individual is 22 years of age;

(b) Originates in and directly affects the brain and has continued, or is

expected to continue, indefinitely;

(c) Constitutes significant impairment in adaptive behavior as diagnosed and measured by a qualified professional as described in OAR 411-320-0080;

(d) Is not primarily attributed to other conditions including, but not limited to, a mental or emotional disorder, sensory impairment, motor impairment, substance abuse, personality disorder, learning disability, or Attention Deficit Hyperactivity Disorder (ADHD); and

(e) Requires training and support similar to an individual with an intellectual disability as described in OAR 411-320-0080.

(~~12~~13) "Domain Score" means the score identified by an assessment of adaptive behavior as described in the definition for "adaptive behavior".

(~~13~~14) "Eligibility Determination" means a decision by the CDDP or by the Department regarding the eligibility of a person for developmental disabilities services pursuant to OAR 411-320-0080 and is either a decision that a person is eligible or ineligible for developmental disabilities services.

(~~14~~15) "Eligibility Specialist" means an employee of the CDDP, or other agency that contracts with the county or Department, that determines eligibility for developmental disabilities services.

(~~15~~16) "FSIQ" means the full scale intelligence quotient. FSIQ is a broad measure of intelligence achieved through administration of a standardized intelligence test that is accepted by the Department for an eligibility determination. Any standard error of measurement value is not taken into consideration when making an eligibility determination. FSIQs obtained from administration of brief intelligence tests are not considered valid FSIQ scores when making an eligibility determination.

(~~16~~17) "History" means, for the purposes of an eligibility determination as defined in this rule, necessary evidence of an intellectual disability prior to 18 years of age or an other developmental disability prior to 22 years of age, including previous assessments and medical evaluations prior to the date of eligibility determination for developmental disabilities services.

(~~17~~18) "IEP" means "Individualized Education Program".

(~~18~~19) "Indefinitely" means a condition or impairment that is likely to be permanent, as determined by a qualified professional.

(~~19~~20) "Informal Adaptive Behavior Assessment" means:

(a) Observations of impairment in adaptive behavior recorded in the progress notes for an individual by a services coordinator, personal agent, or a trained eligibility specialist with at least two years of experience working with individuals with intellectual or developmental disabilities; or

(b) A standardized measurement of adaptive behavior, such as a Vineland Adaptive Behavior Scale (VABS) or Adaptive Behavior Assessment System (ABAS), that is administered and scored by a social worker or other professional with a graduate degree and specific training and experience in individual assessment, administration, and test interpretation of adaptive behavior scales for individuals with intellectual or developmental disabilities.

(~~20~~21) "Intake" means the activity of completing the Request for Eligibility Determination (form 0552) and necessary releases of information prior to the submission of a completed application to the CDDP.

(~~21~~22) "Intellectual Disability (ID)" means significantly sub average general intellectual functioning defined as full scale intelligence quotients (FSIQs) 70 and under, as measured by a qualified professional, and existing concurrently with significant impairment in adaptive behavior directly related to an intellectual disability as described in OAR 411-320-0080 that manifested prior to an individual’s 18th birthday. An individual with a diagnosis of intellectual disability that manifested prior to the individual’s 18th birthday and who has a valid FSIQ of 71-75, may be considered to have an intellectual disability if the individual also has significant impairment in adaptive behavior directly related to the intellectual disability as diagnosed and measured by a licensed clinical or school psychologist as described in OAR 411-320-0080.

(~~22~~23) "Intellectual Functioning" means functioning as assessed by one or more of the individually administered general intelligence tests developed

for the purpose of measuring intelligence. For purposes of making eligibility determinations, intelligence tests do not include brief intelligence measurements.

(~~23~~24) "Intelligence Tests" approved by the Department include:

(a) Wechsler Intelligence Scales;

(b) Stanford-Binet Intelligence Scale;

(c) Woodcock-Johnson Test of Cognitive Abilities; or

(d) Any other intelligence assessment approved by the Department that are designed to measure intelligence quotients, standardized and normed to a population consistent with people who experience an intellectual or developmental disability. Brief measures of intelligence quotients are not accepted, including brief tests such as the Kaufman Brief Intelligence Test (K-BIT), Weschler Abbreviated Scale of Intelligence (WASI), or tests that only administer part of a full assessment.

(~~24~~25) "IQ" means intelligence quotient.

(~~25~~26) "ISP" means "Individual Support Plan".

(~~26~~27) "Learning Disability" means a condition that interferes with development of academic skills. Learning disability includes, but is not limited to, ataxia, communication disorder, dyslexia, dysgraphia, dyscalculia, language disorder, fluency disorder, non-verbal learning disorder, specific auditory or processing disorder, social pragmatic communication disorder, specific learning disorder, and speech sound disorder.

(~~27~~28) "Licensed Medical Practitioner" means any of the following licensed professionals:

(a) Medical Doctor (MD);

(b) Doctor of Osteopathic Medicine (DO);

(c) Licensed Clinical Psychologist (Ph.D. or Psy.D.);

(d) Nurse Practitioner (NP);

(e) Physician Assistant (PA); or

(f) Naturopathic Doctor (ND).

(~~28~~29) "LMHA" means "Local Mental Health Authority".

(~~29~~30) "Management Entity" means the CDDP or private corporation that operates the Regional Program, including acting as the fiscal agent for regional funds and resources.

(~~30~~31) "Military Service" means service in the Armed Forces of the United States, as defined in ORS 341.496.

(~~31~~32) "Motor Impairment" means impairment in the ability to move all or parts of an individual's body caused by trauma, disease, or any condition affecting the muscular-skeletal system, spinal cord, or sensory or motor nerves. The disability may interfere with the development or function of the bones, muscles, joints, and central nervous system. Physical characteristics may include paralysis, altered muscle tone, an unsteady gait, loss of or inability to use one or more limbs, difficulty with gross-motor skills such as walking or running, or difficulty with fine-motor skills such as buttoning clothing, printing, or writing. Motor impairment includes, but is not limited to, apraxia, developmental coordination disorder, dyspraxia, motor learning difficulty, muscular dystrophy, and stereotypic movement disorder.

(~~32~~33) "Neurological Condition" means a condition that originates in and directly affects the brain, leads to delays in achieving expected milestones, and is likely to cause lifelong impairments of personal, social, academic, or occupational functioning. A condition does not originate in and directly affect the brain if the condition only causes abnormalities or changes of the spinal cord, peripheral nerves, autonomic nervous system, neuromuscular junction, cardiovascular system, or musculoskeletal system. Conditions that do not originate in and directly affect the brain include, but are not limited to, muscular dystrophy, spinal muscular atrophy, and non-shunted spina bifida.

(~~33~~34) "Notice of Redetermination" means the Redetermination of Eligibility for Developmental Disabilities Services (form 5101).

~~(34) "OAAPI" means "OTIS".~~

(35) "OCCS" means the "Oregon Health Authority, Office of Client and Community Services."

(36) "OHP" means "Oregon Health Plan".

(37) "OIS" means "Oregon Intervention System".

(38) "OSIPM" means "Oregon Supplemental Income Program-Medical".

(39) "OTIS" means the Department's Office of Training, Investigations, and Safety.

(40) "Qualified Professional" means, for the purposes of OAR 411-320-0080, any of the following licensed professionals trained to make a diagnosis of a specific intellectual or developmental disability:

(a) Licensed clinical psychologist (Ph.D., Psy.D.);

(b) Medical doctor (MD);

(c) Doctor of Osteopathic Medicine (DO); or

(d) Nurse Practitioner (NP).

(41) "Quality Management Strategy" means the Department Quality Assurance Plan for meeting the CMS waiver quality assurances as required and defined by 42 CFR 441.301 and 441.302 and State Plan K option quality assurances as required and defined by 42 CFR 441.585.

(42) "Region" means a group of Oregon counties defined by the Department that have a designated management entity to coordinate regional backup services and be the recipient and administration of funds for those services.

(43) "Regional Program" means the regional coordination that the counties

comprising the region agree are delivered more effectively or automatically on a regional basis.

(44) "Request for Eligibility Determination" means the Office of Developmental Disabilities Services Request for Eligibility Determination (form 0552).

(45) "Resident" means an individual that meets the residency requirements in OAR 461-120-0010. "Resident" includes an individual that is absent due to military obligation, if he or she intends to return Oregon, and Oregon remains his or her principal establishment, home of record, or permanent home during the absence.

(46) "Service Member" means a person who is in the military service or who has separated from military service in the previous 18 months through retirement, discharge, or other separation.

(47) "School-Age Testing" means any type of standardized test that may be administered for use in school supports or services beginning in Kindergarten.

(48) "Significantly Subaverage" means a score on an intelligence test that is two or more standard deviations below the mean for the test.

(49) "Skilled Areas" means a particular assessed score as described in the definition for "adaptive behavior".

(50) "SSI" means "Supplemental Security Income".

(51) "These Rules" mean the rules in OAR chapter 411, division 320.

(52) "VABS" means "Vineland Adaptive Behavior Scale".

Stat. Auth.: ORS 409.050, 427.104, 427.105, 427.115, 430.662, 430.731
Stats. Implemented: ORS 427.007, 427.104, 427.105, 427.115, 430.215, 430.610, 430.620, 430.662, 430.664, 430.731-430.768

**411-320-0030 Organization and Program Management**

(1) ORGANIZATION AND INTERNAL MANAGEMENT. Each service

provider of community developmental disabilities services funded by the Department must have written standards governing the operation and management of the CDDP. Such standards must be up to date, available upon request, and include:

(a) An up-to-date organization chart showing lines of authority and responsibility from the LMHA to the CDDP manager and the components and staff within the CDDP;

(b) Position descriptions for all staff providing community developmental disabilities services;

(c) Personnel policies and procedures concerning:

(A) Recruitment and termination of employees;

(B) Employee compensation and benefits;

(C) Employee performance appraisals, promotions, and merit pay;

(D) Staff development and training;

(E) Employee conduct, including the requirement that abuse of an individual by an employee, staff, or volunteer of the CDDP is prohibited and is not condoned or tolerated; and

(F) Reporting of abuse, including the requirement that any employee of the CDDP is to report incidents of abuse when the employee comes in contact with and has reasonable cause to believe that an individual has suffered abuse. Notification of mandatory reporting status must be made at least annually to all employees and documented on forms provided by the Department.

(2) MANAGEMENT PLAN. The CDDP must maintain a current management plan assigning responsibility for the program management functions and duties described in this rule. The management plan must:

(a) Consider the unique organizational structure, policies, and

procedures of the CDDP;

(b) Assure that the functions and duties are assigned to people who have the knowledge and experience necessary to perform them, as well as ensuring that the functions are implemented; and

(c) Reflect implementation of minimum quality assurance activities described in OAR 411-320-0045 that support the Department's Quality Management Strategy for meeting CMS' waiver quality assurances as required by 42 CFR 441.301 and 441.302.

(3) The CDDP must have and implement written policies and procedures that protect the individual rights described in OAR 411-318-0010.

(4) PROGRAM MANAGEMENT.

(a) Staff delivering developmental disabilities services must be organized under the leadership of a designated CDDP manager and receive clerical services sufficient to perform their required duties.

(b) The LMHA, public entity, or the public or private corporation operating the CDDP must designate a full-time employee who must, on at least a part-time basis, be responsible for management of developmental disabilities services within a specific geographic service area.

(c) In addition to other duties as may be assigned in the area of developmental disabilities services, the CDDP must at a minimum develop and assure:

(A) Implementation of plans as may be needed to provide a coordinated and efficient use of resources available to serve individuals;

(B) Maintenance of positive and cooperative working relationships with legal and designated representatives, families, service providers, support services brokerages, the Department, local government, and other state and local agencies with an interest in developmental disabilities services;

(C) Implementation of programs funded by the Department to encourage pursuit of defined program outcomes and monitor the programs to assure service delivery that is in compliance with related contracts and applicable local, state, and federal requirements;

(D) Collection and timely reporting of information as may be needed to conduct business with the Department, including but not limited to information needed to license foster homes, collect federal funds supporting services, and investigate complaints related to services or suspected abuse; and

(E) Use of procedures that attempt to resolve complaints involving individuals or organizations that are associated with developmental disabilities services.

(5) QUALIFIED STAFF. Each CDDP must provide a qualified CDDP manager, services coordinator, eligibility specialist, assessor, and abuse investigator specialist for adults with intellectual or developmental disabilities, or have an agreement with another case management entity to provide a qualified eligibility specialist, assessor, or abuse investigator specialist for adults with intellectual or developmental disabilities.

(a) CDDP MANAGER.

(A) The CDDP manager must have knowledge of the public service system for developmental disabilities services in Oregon and at least:

(i) A bachelor's degree in behavioral science, social science, health science, special education, public administration, or human service administration and a minimum of four years of experience with at least two of those years of experience in developmental disabilities services that provided recent experience in program management, fiscal management, and staff supervision; or

(ii) Six years of experience with staff supervision; or

(iii) Six years of experience in technical or professional level staff work related to developmental disabilities services.

(B) On an exceptional basis, the CDDP may hire a person who does not meet the qualifications in subsection (A) of this section if the county and the Department have mutually agreed on a training and technical assistance plan that assures that the person quickly acquires all needed skills and experience.

(C) When the position of a CDDP manager becomes vacant, an interim CDDP manager must be appointed to serve until a permanent CDDP manager is appointed. The CDDP must request a variance as described in section (8) of this rule if the person appointed as interim CDDP manager does not meet the qualifications in subsection (A) of this section and the term of the appointment totals more than 180 calendar days.

(b) CDDP SUPERVISOR. The CDDP supervisor (when designated) must have knowledge of the public service system for developmental disabilities services in Oregon and at least:

(A) A bachelor's degree or equivalent course work in a field related to management such as business or public administration, or a field related to developmental disabilities services may be substituted for up to three years required experience; or

(B) Five years of experience in staff supervision or five years of experience in technical or professional level staff work related to developmental disabilities services.

(c) SERVICES COORDINATOR. The services coordinator must meet the qualifications for a case manager described in OAR 411-415-0040.

(d) ELIGIBILITY SPECIALIST. The eligibility specialist must have knowledge of the public service system for developmental disabilities services in Oregon and at least:

(A) A bachelor's degree in behavioral science, social science, or a closely related field;

(B) A bachelor’s degree in any field and one year of human services related experience;

(C) An associate’s degree in behavioral science, social science, or a closely related field and two years of human services related experience; or

(D) Three years of human services related experience.

(e) ASSESSOR. The assessor must meet the qualifications described in OAR 411-425-0035.

(f) ABUSE INVESTIGATOR SPECIALIST. The abuse investigator specialist must have at least:

(A) A bachelor's degree in human science, social science, behavioral science, or criminal science and two years of human services, law enforcement, or investigative experience; or

(B) An associate's degree in human science, social science, behavioral science, or criminal science and four years of human services, law enforcement, or investigative experience.

(g) FOSTER CARE LICENSING AND CERTIFICATION SPECIALIST. A foster care licensing and certification specialist must have knowledge of the public service system for developmental disabilities services in Oregon and at least:

(A) A master's degree in social work;

(B) A bachelor's degree in behavioral science, social work, social science, or a closely related field;

(C) A bachelor’s degree in any field and one year of human services related experience, such as work providing assistance to individuals and groups with issues such as economical disadvantages, employment, abuse and neglect, substance

abuse, aging, disabilities, prevention, health, cultural competencies, or housing;

(D) An associate's degree in a behavioral science, social science, or a closely related field and two years of human services related experience, such as work providing assistance to individuals and groups with issues such as economical disadvantages, employment, abuse and neglect, substance abuse, aging, disabilities, prevention, health, cultural competencies, or housing; or

(E) Three years of human services related experience, such as work providing assistance to individuals and groups with issues such as economical disadvantages, employment, abuse and neglect, substance abuse, aging, disabilities, prevention, health, cultural competencies, or housing.

(6) EMPLOYMENT APPLICATION. An application for employment at the CDDP must inquire whether an applicant has had any founded reports of child abuse or substantiated abuse.

(7) BACKGROUND CHECKS.

(a) Any employee, volunteer, advisor of the CDDP, or any subject individual defined by OAR 407-007-0210, including staff who are not identified in this rule but use public funds intended for the operation of the CDDP, who has or shall have contact with a recipient of CDDP services, must have an approved background check in accordance with OAR 407-007-0200 through 407-007-0370 and ORS 181A.200.

(A) The CDDP may not use public funds to support, in whole or in part, any employee, volunteer, advisor of the CDDP, or any subject individual defined by OAR 407-007-0210, who shall have contact with a recipient of CDDP services and who has been convicted of a disqualifying crime in ORS 443.004.

(B) A person does not meet the qualifications described in this rule if the person has been convicted of a disqualifying crime in ORS 443.004.

(C) Any employee, volunteer, advisor of the CDDP, or any subject individual defined by OAR 407-007-0210, must self-report any potentially disqualifying crime under OAR 125-007-0270 or potentially disqualifying condition under OAR 407-007-0290. The person must notify the Department or the Department's designee within 24 hours.

(b) Subsections (A) and (B) of section (a) do not apply to employees who were hired prior to July 28, 2009 that remain in the current position for which the employee was hired.

(8) VARIANCE. The CDDP must submit a written variance request to the Department prior to employing a person not meeting the minimum qualifications in section (5) of this rule. A variance request may not be requested for sections (6) and (7) of this rule. The written variance request must include:

(a) An acceptable rationale for the need to employ a person who does not meet the minimum qualifications in section (5) of this rule; and

(b) A proposed alternative plan for education and training to correct the deficiencies.

(A) The proposal must specify activities, timelines, and responsibility for costs incurred in completing the alternative plan.

(B) A person who fails to complete the alternative plan for education and training to correct the deficiencies may not fulfill the requirements for the qualifications.

(9) STAFF DUTIES.

(a) SERVICES COORDINATOR DUTIES. The duties of the services coordinator must be specified in the employee's job description and at a minimum include:

(A) The delivery of case management services to individuals as described in OAR chapter 411, division 415;

(B) Assisting the CDDP manager in monitoring the quality of services delivered within the county; and

(C) Assisting the CDDP manager in the identification of existing and insufficient service delivery resources or options.

(b) ELIGIBILITY SPECIALIST DUTIES. The duties of the eligibility specialist must be specified in the employee's job description and at a minimum include:

(A) Completing intake and eligibility determination for individuals applying for developmental disabilities services;

(B) Completing eligibility redetermination for individuals requesting continuing developmental disabilities services; and

(C) Assisting the CDDP manager in the identification of existing and insufficient service delivery resources or options.

(c) ASSESSOR DUTIES. The duties of the assessor must be specified in the employee's job description and at a minimum include conducting Oregon Needs Assessments as described in OAR chapter 411, division 425.

(d) ABUSE INVESTIGATOR SPECIALIST DUTIES. The duties of the abuse investigator specialist must be specified in the employee's job description and at a minimum include:

(A) Conducting abuse investigation and protective services for adult individuals with intellectual or developmental disabilities enrolled in, or previously eligible and voluntarily terminated from, developmental disabilities services;

(B) Assisting the CDDP manager in monitoring the quality of services delivered within the county; and

(C) Assisting the CDDP manager in the identification of existing and insufficient service delivery resources or options.

(e) FOSTER CARE LICENSOR AND CERTIFIER DUTIES. The duties of the foster care licensor and certifier must be specified in the employee's job description and at a minimum include:

(A) In coordination with the Department, assist in the initial licensing and certification and renewals of licenses and certifications of local adult foster homes as described in OAR chapter 411, division 360 and children's foster homes as described in OAR chapter 411, division 346.

(i) Assuring completed application forms from applicants are submitted to the Department.

(ii) Completing and submitting inspection reports.

(iii) Completing and submitting background checks, as needed.

(iv) Making test sites available, administering tests provided by the Department, and sending completed tests to the Department for scoring.

(v) Maintaining a link to the Adult Foster Home Training website where the Basic Training Course, self-study manual, and associated information are maintained and distributing information upon request.

(vi) Assisting in completing any other information necessary for licensing or certifying homes.

(B) Complete foster home visits for rule compliance, issue violation citations, and monitor for correction.

(C) Coordinate the recruitment, retention, placement, and training of foster providers.

(f) Staff must appear as a witness on behalf of the Department during an informal conference and hearing when required by the Department. Staff may not act as a representative for the claimant during an informal conference and hearing.

(10) STAFF TRAINING. Qualified staff of the CDDP must maintain and enhance their knowledge and skills through participation in education and training. The Department provides training materials and the provision of training may be conducted by the Department or CDDP staff, depending on available resources.

(a) The CDDP manager and CDDP supervisor (when designated) must complete Core Competencies for case management within the first year of entering into the position.

(b) The CDDP manager and CDDP supervisor (when designated) must continue to enhance his or her knowledge, as well as maintain a basic understanding of developmental disabilities services and the skills, knowledge, and responsibilities of the staff they supervise.

(A) Each CDDP manager and CDDP supervisor (when designated) must participate in a minimum of 20 hours per year of additional Department-sponsored training or other training in the areas of intellectual or developmental disabilities.

(B) Each CDDP manager and CDDP supervisor (when designated) must attend trainings to maintain a working knowledge of system changes in the area the CDDP manager is managing or supervising.

(c) SERVICES COORDINATOR TRAINING. The services coordinator must participate in the case manager training as described in OAR 411-415-0040.

(d) ELIGIBILITY SPECIALIST TRAINING. The eligibility specialist must participate in a basic training sequence. The basic training sequence is not a substitute for the normal procedural orientation that must be provided by the CDDP to the new eligibility specialist.

(A) The orientation provided by the CDDP to a new eligibility specialist must include:

(i) An overview of eligibility criteria and the intake process;

(ii) An overview of developmental disabilities services and related human services within the county;

(iii) An overview of the Department's rules governing the CDDP;

(iv) An overview of the Department's licensing and certification rules for service providers;

(v) An overview of the enrollment process and required documents needed for enrollment into the Department's payment and reporting systems;

(vi) A review and orientation of Medicaid, SSI, Social Security Administration, home and community-based waiver and state plan services, and OHP; and

(vii) A review (prior to having contact with individuals) of the eligibility specialist's responsibility as a mandatory reporter of abuse, including abuse of individuals with intellectual or developmental disabilities, individuals with mental illness, older adults, individuals with physical disabilities, and children.

(B) The eligibility specialist must attend and complete eligibility core competency training within the first year of entering into the position and demonstrate competency after completion of core competency training. Until completion of eligibility core competency training, or if competency is not demonstrated, the eligibility specialist must consult with another trained eligibility specialist or consult with a Department diagnosis and evaluation coordinator when making eligibility determinations.

(C) The eligibility specialist must continue to enhance his or her knowledge, as well as maintain a basic understanding of the skills, knowledge, and responsibilities necessary to perform the position.

(i) Each eligibility specialist must participate in Department-sponsored trainings for eligibility on an

annual basis.

(ii) Each eligibility specialist must participate in a minimum of 20 hours per year of Department-sponsored training or other training in the areas of intellectual or developmental disabilities.

(e) ASSESSOR TRAINING. The assessor must participate in and complete the training described in OAR 411-425-0035.

(f) ABUSE INVESTIGATOR SPECIALIST TRAINING. The abuse investigator specialist must participate in core competency training. Training materials are provided by OTIS. The core competency training is not a substitute for the normal procedural orientation that must be provided by the CDDP to the new abuse investigator specialist.

(A) The orientation provided by the CDDP to a new abuse investigator specialist must include:

(i) An overview of developmental disabilities services and related human services within the county;

(ii) An overview of the Department's rules governing the CDDP;

(iii) An overview of the Department's licensing and certification rules for service providers;

(iv) A review and orientation of Medicaid, SSI, Social Security Administration, home and community-based waiver and state plan services, OHP, and the individual support planning processes; and

(v) A review (prior to having contact with individuals) of the abuse investigator specialist's responsibility as a mandatory reporter of abuse, including abuse of individuals with intellectual or developmental disabilities, individuals with mental illness, older adults, individuals with physical disabilities, and children.

(B) The abuse investigator specialist must attend and pass core competency training within the first ~~year~~ six months of entering into the position and demonstrate competency after completion of core competency training. Until completion of core competency training, or if competency is not demonstrated, the abuse investigator specialist must consult with OTIS prior to completing the abuse investigation and protective services report.

(C) The abuse investigator specialist must complete 20 hours of additional training each year to continue to enhance his or her knowledge, as well as maintain a basic understanding of the skills, knowledge, and responsibilities necessary to perform the position. Each abuse investigator specialist must participate in quarterly meetings held by OTIS.

(g) FOSTER CARE LICENSOR AND CERTIFIER TRAINING. The foster care licensor and certifier must participate in any Department required trainings.

(A) The orientation provided by a CDDP to a new foster care licensor and certifier must include:

(i) An overview of developmental disabilities services and related human services within the county;

(ii) An overview of the Department's rules governing the CDDP;

(iii) An overview of the Department's licensing and certification rules for service providers;

(iv) A review of policy and procedures that address conflict of interests, including the prohibition against licensing or certifying a foster home in the following circumstances:

(I) While also providing case management services to the individuals or children in the home.

(II) By a licensor or certifier who is related by blood, marriage, or adoption to the foster care applicant or current foster provider, or an individual or child to be served in the foster home.

(III) If after a local CDDP assessment of any conflict of interest or appearance of conflict of interest is identified.

(B) A review (prior to having contact with individuals) of the licensor and certifier's responsibility as a mandatory reporter of abuse, including abuse of individuals with intellectual or developmental disabilities, individuals with mental illness, older adults, individuals with physical disabilities, and children.

(h) DOCUMENTATION. The CDDP must keep documentation of required training in the personnel files of the individual employees including the CDDP manager, CDDP supervisor (when designated), services coordinator, eligibility specialist, abuse investigator specialist, and other employees providing services to individuals.

(11) ADVISORY COMMITTEE. Each CDDP must have an advisory committee.

(a) The advisory committee must meet at least quarterly.

(b) The membership of the advisory committee must be broadly representative of the community with a balance of age, sex, ethnic, socioeconomic, geographic, professional, and consumer interests represented. Membership must include advocates for individuals as well as individuals and the individuals' families.

(c) The advisory committee must advise the LMHA, CDDP director, and CDDP manager on community needs and priorities for services, and assist in planning, reviewing, and evaluating services, functions, duties, and quality assurance activities described in the CDDP's management plan.

(d) When the Department or a private corporation is operating the

CDDP, the advisory committee must advise the LMHA, CDDP director, and CDDP manager on community needs and priorities for services, and assist in planning, reviewing, and evaluating services, functions, duties, and quality assurance activities described in the CDDP's management plan.

(e) The advisory committee may function as the disability issues advisory committee as described in ORS 430.631 if so designated by the LMHA.

(12) LOCAL NEEDS ASSESSMENT, PLANNING, AND COORDINATION. Upon the Department's request, the CDDP must assess local needs for services to individuals and must submit planning and assessment information to the Department.

(13) FINANCIAL MANAGEMENT.

(a) There must be up-to-date accounting records for each developmental disabilities service accurately reflecting all revenue by source, all expenses by object of expense, and all assets, liabilities, and equities. The accounting records must be consistent with generally accepted accounting principles and conform to the requirements of OAR 309-013-0120 through 309-013-0220.

(b) There must be written statements of policy and procedure as are necessary and useful to assure compliance with any Department administrative rules pertaining to fraud and embezzlement and financial abuse or exploitation of individuals.

(c) Billing for Title XIX funds must in no case exceed customary charges to private pay individuals for any like item or service.

(14) POLICIES AND PROCEDURES. There must be such other written and implemented statements of policy and procedure as necessary and useful to enable the CDDP to accomplish its service objectives and to meet the requirements of the contract with the Department, these rules, and other applicable standards and rules.

(a) The CDDP must have procedures for the ongoing involvement of individuals and their requested family member or other representative

in the planning and review of consumer satisfaction with the delivery of case management provided by the CDDP.

(b) Copies of the procedures for planning and review of case management services, consumer satisfaction, and complaints must be maintained on file at the CDDP offices. The procedures must be available to:

(A) CDDP employees who work with individuals;

(B) Individuals who are receiving services from the CDDP and the families of individuals;

(C) Legal or designated representatives (as applicable) and providers of individuals; and

(D) The Department.

Stat. Auth.: ORS 409.050, 427.104, 427.105, 427.115, 430.662, 430.731
Stats. Implemented: ORS 427.007, 427.104, 427.105, 427.115, 430.215, 430.610, 430.620, 430.662, 430.664, 430.731-430.768

**411-320-0040 Program Responsibilities**

The CDDP must ensure the provision of the following services and system supports.

(1) ACCESS TO SERVICES.

(a) In accordance with the Civil Rights Act of 1964 (codified as 42 USC 2000d et seq.), any person may not be denied community developmental disabilities services on the basis of race, color, creed, gender, national origin, or duration of residence. CDDP contractors must comply with Section 504 of the Rehabilitation Act of 1973 (codified as 29 USC 794 and as implemented by 45 CFR Section 84.4) that states in part, "No qualified person must, on the basis of handicap, be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination under any program or activity that receives or benefits from federal financial assistance".

(b) The CDDP must ensure that eligibility for developmental disabilities services is determined as described in OAR 411-320-0080 by an eligibility specialist trained in accordance with OAR 411-320-0030.

(c) Any individual determined eligible for developmental disabilities services by the CDDP must also be eligible for any developmental disabilities services subject to eligibility requirements described in the OAR associated with the service.

(2) COORDINATION OF SERVICES.

(a) COMMUNITY SERVICES. Planning and implementation of services for individuals served by the CDDP must be coordinated between components of the CDDP, other local and state human service agencies, and any other providers as appropriate for the needs of the individual.

(b) NONRESIDENT CHILDREN.

(A) The CDDP must compile and maintain a list of local providers who are qualified to provide home and community-based services in their service area. CDDPs shall assist a parent in obtaining home and community-based services for the parent's child if:

(i) The parent resides in Oregon;

(ii) The parent has a child who does not reside in Oregon but who visits the parent in Oregon for at least six weeks each year; and

(iii) The child qualifies for home and community-based services in the child's state of residence.

(B) CDDP ASSISTANCE. CDDPs shall:

(i) Provide the parent with a list of local providers;

(ii) Contact the state Medicaid agency in the child's state

of residence to facilitate payment for the home and community-based services;

(iii) Assist the parent in providing any documentation required by the child's state of residence; and

(iv) Notify the Department of the individual seeking services.

(3) PAYMENT AND REPORTING SYSTEM.

(a) ENROLLMENT. The CDDP must ensure all individuals determined to be eligible for developmental disabilities services are enrolled in the Department payment and reporting systems. The county of origin must enroll the individual into the Department payment and reporting systems for all developmental disabilities service except in the following circumstances:

(A) The Department completes the enrollment or termination for children entering or leaving a licensed 24-hour residential setting that is directly contracted with the Department.

(B) The Department completes the enrollment, termination, and billing forms for children entering or leaving CIIS.

(C) When an individual is enrolled in a Brokerage and the individual moves from one CDDP geographic service area to another CDDP geographic service area, the new CDDP must enroll the individual in the Department payment and reporting systems.

(b) The CDDP must terminate an individual in the Department payment and reporting systems when an individual exits all developmental disabilities services.

(c) The CDDP retains responsibility for maintaining enrollment in the Department payment and reporting systems for individuals enrolled in support services until the individual exits support services.

(4) CASE MANAGEMENT SERVICES.

(a) The CDDP must deliver case management, as described in OAR chapter 411, division 415, to individuals who are eligible for and desire case management from the CDDP. A CDDP may provide case management to individuals who are waiting for a determination of eligibility and reside in the county at the time they apply.

(b) For an individual newly determined eligible for developmental disabilities services, the CDDP must assure that the individual and legal representative are provided a description of case management and other service delivery options. This information must include:

(A) A description of processes involved in using developmental disabilities services, including person-centered planning, evaluation, and how to raise and resolve concerns about developmental disabilities services;

(B) Clarification of CDDP employee responsibilities as mandatory abuse reporters; and

(C) Disclosure of any potential affiliation between the CDDP and providers available to the individual.

(5) ABUSE INVESTIGATIONS.

(a) The CDDP must assure that abuse investigations for adults with intellectual or developmental disabilities are appropriately reported and conducted by trained staff according to statute and administrative rules, including the investigation of complaints of abuse, writing investigation reports, and monitoring the implementation of report recommendations. When there is reason to believe a crime has been committed, the CDDP must report to law enforcement.

(b) The CDDP must report any suspected or observed abuse of a child directly to the Department or local law enforcement.

(6) PROTECTIVE SERVICES. When a CDDP or OTIS abuse investigator determines that a CDDP must take a protective services action following a report of abuse, the CDDP must implement the action. If unable to implement the action, the CDDP must immediately notify the abuse

investigator.

(a) Any protective services must be provided in a manner that is least intrusive to adult individuals and provide for the greatest degree of independence available within existing resources.

(b) The CDDP must report the outcome of protective services to the abuse investigator upon completion.

(7) RECOMMENDED ACTIONS. When a CDDP receives a recommended action included in an Abuse Investigation and Protective Services Report, as described in OAR 407-045-0320, the CDDP must:

(a) Implement the recommended actions within specified timelines and report back to the abuse investigator that the recommended actions were completed; or

(b) With prior agreement from the abuse investigator, implement alternative actions and report back to the abuse investigator that the actions were completed.

(~~6~~8) FOSTER HOMES. When there is need for additional foster care providers, the CDDP must recruit applicants to operate foster homes and maintain forms and procedures necessary to license or certify foster homes. The CDDP must maintain copies of the following records:

(a) Initial and renewal applications for a foster home;

(b) All inspection reports completed by the CDDP, including required annual renewal inspection and any other inspections;

(c) General information about the foster home;

(d) Documentation of references, classification information, credit check (if necessary), background check, and training for providers and substitute caregivers;

(e) Documentation of foster care exams for adult foster home providers;

(f) Correspondence;

(g) Any meeting notes;

(h) Financial records;

(i) Annual agreement or contract;

(j) Legal notices and final orders for rule violations, conditions, denials, or revocations (if any); and

(k) Copies of the annual license or certificate for the foster home.

(~~7~~9) AGENCY COORDINATION. The CDDP must assure coordination with other agencies to develop and manage resources within the county or region to meet the needs of individuals.

(~~8~~10) EMERGENCY PLANNING. The CDDP must ensure the availability of a written emergency procedure and disaster plan for meeting all civil or weather emergencies and disasters. The emergency procedure and disaster plan must be immediately available to the CDDP manager and employees. The emergency procedure and disaster plan must:

(a) Be integrated with the county emergency preparedness plan, where appropriate;

(b) Include provisions on coordination with all developmental disabilities service provider agencies in the county and any Department offices, as appropriate;

(c) Include provisions for identifying individuals most vulnerable; and

(d) Include any plans for health and safety checks, emergency assistance, and any other plans that are specific to the type of emergency.

(~~9~~11) Civil commitment services must be provided in accordance with ORS 427.215 to 427.306.

(~~10~~12) The CDDP must forward a signed variance request form submitted

by a developmental disabilities service provider to the Department within 30 calendar days from the receipt of the request indicating the position of the CDDP on the proposed variance.

Stat. Auth.: ORS 409.050, 427.104, 427.105, 427.115, 430.662, 430.731
Stats. Implemented: ORS ~~427.005,~~ 427.007, 427.104, 427.105, 427.115, 430.215, 430.610, 430.620, 430.662, 430.664, 430.731-430.768 ~~- 430.695~~

**411-320-0045 Quality Assurance Responsibilities**

(1) Each CDDP must draft a local CDDP management plan as described in OAR 411-320-0030 that supports the Department's Quality Management Strategy for meeting CMS' six waiver quality assurances, as required and defined by 42 CFR 441.301 and 441.302. CMS' six waiver assurances are:

(a) Administrative authority;

(b) Level of care;

(c) Qualified service providers;

(d) Service plans;

(e) Health and welfare; and

(f) Financial accountability.

(2) Each CDDP must implement, maintain, and monitor minimum quality assurance activities, as required by the Department and set forth in section (3) of this rule. CDDPs may conduct additional quality assurance activities that consider local community needs and priorities for services and the unique organizational structure, policies, and procedures of the CDDP.

(3) The CDDP must conduct, monitor, and report the outcomes and any remediation as a result of the following Department required activities:

(a) Individual case file reviews;

(b) Customer satisfaction surveys administered at least every two years;

(c) Service provider file reviews;

(d) Until a CDDP is certified as a CAM user by the Department, ~~A~~analysis of SERT (Serious Event Review Team) system data which may include:

(A) Review by service provider, location, reason, status, outcome, and follow-up;

(B) Identification of trends;

(C) Review of timely reporting of abuse allegations; and

(D) Coordination of delivery of information requested by the Department, such as the Serious Event Review Team (SERT).

Stat. Auth.: ORS 409.050, ~~and~~ 427.104, 427.105, 427.115, 430.662, 430.731
Stats. Implemented: ORS ~~427.005,~~ 427.007, 427.104, 427.105, 427.115, 430.215, 430.610, 430.620, ~~and~~ 430.662, 430.664, 430.731-430.768 ~~to 430.695~~

**REPEAL 411-320-0050 Management of Regional Services**

~~(1) INTERGOVERNMENTAL AGREEMENT. The management entity for a group of counties to deliver community training, quality assurance activities, or other services, must have an intergovernmental agreement with each affiliated CDDP.~~

~~(2) REGIONAL PLAN. The CDDP or private corporation acting as the management entity for the region must prepare, in conjunction with affiliated CDDP's, a plan detailing the services that are to be administered regionally. The regional plan must be updated when needed and submitted to the Department for approval. The regional plan must include:~~

~~(a) A description of how services are to be administered;~~

~~(b) An organizational chart and staffing plan; and~~

~~(c) A detailed budget, on forms provided by the Department.~~

~~(3) IMPLEMENTATION. The CDDP or private corporation acting as the management entity for the region must work in conjunction with the affiliated CDDP's to implement the regional plan as approved by the Department, within available resources.~~

~~(4) MANAGEMENT STANDARDS. The region, through the management entity and the affiliated CDDP partners, must maintain compliance with the management standards outlined in OAR 411-320-0030 and this rule.~~

~~Stat. Auth.: ORS 409.050, 430.662~~
~~Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662 - 430.695~~

**411-320-0140 Abuse Investigations and Protective Services**

(1) GENERAL DUTIES.

(a) For the purpose of conducting abuse investigations and provision of protective services for adults, the CDDP is the designee of the Department. Each CDDP must conduct abuse investigations and provide protective services or arrange for the conduct of abuse investigations and the provision of protective services through cooperation and coordination with other CDDPs and when applicable, ~~support services b~~Brokerages.

(~~a~~A) Investigations must be done in accordance with OAR 407-045-0250 through 407-045-0370.

(~~b~~B) If determined necessary or appropriate, the Department may conduct an investigation itself rather than allow the CDDP to investigate the alleged abuse or the Department may conduct an investigation in addition to the investigation by the CDDP. Under such circumstances, the CDDP must receive authorization from the Department before conducting any separate investigation.

(~~2~~b) ~~ELIGIBILITY.~~ Unless otherwise directed by the Department, the CDDP must investigate allegations of abuse of individuals with

intellectual or developmental disabilities who are:

(~~a~~A) ~~Eighteen~~ Adults 18 years of age or older, unless an adult is under 21 years of age and residing in a certified child foster home setting; and

(~~b~~B) Receiving case management services; or

(~~c~~C) Receiving any Department-funded services for individuals; or

(~~d~~D) Previously determined eligible for developmental ~~disability~~ disabilities services and voluntarily terminated from services in accordance with OAR 411-415-0030.

(~~3~~2) ABUSE INVESTIGATIONS. The CDDP must have and implement written protocols that describe the conduct of an abuse investigation, a risk assessment, implementation of any actions, and the report writing process. ~~Abuse investigations must be conducted in accordance with OAR 407-045-0250 to 407-045-0360.~~

(~~4~~3) COORDINATION WITH OTHER AGENCIES. The CDDP must cooperate and coordinate investigations and protective services with other agencies that have authority to investigate allegations of abuse for adults or children.

(~~5~~4) INITIAL COMPLAINTS OF ABUSE.

(a) Until certified by the Department as a CAM user, ~~i~~initial complaints of abuse must immediately be submitted electronically~~,~~ using the Department's system for reporting serious events.

(b) Once certified by the Department as a CAM user, initial complaints of abuse must be submitted electronically using CAM, within one business day of receiving the complaint. An entry of a report of suspected abuse does not fulfill the requirement of a mandatory reporter to report suspected abuse.

(~~6~~5) CONFLICT OF INTEREST. The CDDP may not investigate allegations of abuse made against employees of the CDDP. Abuse investigations of

CDDP staff are conducted by the Department or a CDDP not subject to an actual or potential conflict of interest.

(~~7~~6) NOTIFICATION. Upon the initiation and completion of an abuse investigation, the CDDP must comply with the notification requirements ~~as~~ described in OAR 407-045-0285, 407-045-0291, and OAR 407-045-032~~0~~50.

(~~8~~7) REPORTS. The CDDP must complete and maintain an ~~a~~Abuse ~~i~~Investigation and ~~p~~Protective ~~s~~Services ~~r~~Report according to OAR 407-045-0320. A copy of the final ~~a~~Abuse ~~i~~Investigation and ~~p~~Protective ~~s~~Services ~~r~~Report must be provided to the Department within five ~~working~~ business days of the report's completion and approval by ~~OAAPI~~OTIS. ~~Abuse investigation and protective service reports must be maintained by the CDDP in accordance with OAR 407-045-0320.~~

(~~9~~8) DISCLOSURE. The CDDP must disclose an ~~a~~Abuse ~~i~~Investigation and ~~p~~Protective ~~s~~Services ~~r~~Report and related documents as described in OAR 407-045-0330.

Stat. Auth.: ORS 409.050, ~~and~~ 427.104, 427.105, 427.115, 430.662, 430.731
Stats. Implemented: ORS ~~427.005,~~ 427.007, 427.104, 427.105, 427.115, 430.215, 430.610, 430.620, ~~and~~ 430.662, 430.664, 430.731-430.768 ~~to 430.695~~

**DEPARTMENT OF HUMAN SERVICES**
**DEVELOPMENTAL DISABILITIES**
**OREGON ADMINISTRATIVE RULES**

**CHAPTER 411**
**DIVISION 340**

**SUPPORT SERVICE BROKERAGES FOR ADULTS WITH INTELLECTUAL OR DEVELOPMENTAL DISABILITIES**

**411-340-0040 Abuse Reporting ~~and Unusual Incidents~~**

(1) ABUSE PROHIBITED. No individual ~~as defined in OAR 411-340-0020~~ shall be abused nor shall any employee, staff, or volunteer of a Brokerage condone abuse.

(a) Brokerages must have in place appropriate and adequate disciplinary policies and procedures to address instances when a staff member has been identified as an accused person in an abuse investigation as well as when the allegation of abuse has been substantiated.

(b) All employees of a Brokerage are mandatory reporters. The Brokerage must:

(A) Notify all employees of mandatory reporting status at least annually on forms provided by the Department; and

(B) Provide all employees with a Department-produced card regarding abuse reporting status and abuse reporting.

(2) IMMEDIATE NOTIFICATION. A Brokerage must immediately report to the CDDP any incident or allegation of potential or suspected abuse.

(~~2~~3) INCIDENT REPORTS.

(a) A Brokerage must prepare an incident report for instances of potential or suspected abuse ~~or an unusual incident~~ when staff of the Brokerage become aware of the potential or suspected abuse. ~~, involving an individual and a Brokerage employee. The incident report must be placed in the record of the individual and must include:~~

~~(A) Conditions prior to or leading to the potential or suspected abuse or unusual incident;~~

~~(B) A description of the potential or suspected abuse or unusual incident;~~

~~(C) Staff response at the time; and~~

~~(D) Review by the Brokerage administration and follow-up to be taken to prevent recurrence of the potential or suspected abuse or unusual incident.~~

(b) A Brokerage must send copies of all incident reports involving potential or suspected abuse ~~that occurs while an individual is receiving brokerage or support services~~ to ~~the CDDP~~ an abuse investigator within five business days.

~~(3) IMMEDIATE NOTIFICATION (a) The brokerage must immediately report to the CDDP, any incident or allegation of potential or suspected abuse falling within the scope of OAR 407-045-0260.~~

~~(A) When an abuse investigation has been initiated, the CDDP provides notice according to OAR 407-045-0285 and OAR 407-045-0291.~~

~~(B) When an abuse investigation has been completed, the CDDP provides notice of the outcome of the investigation according to OAR 407-045-0320.~~

~~(b) In the case of emergency overnight hospitalization due to illness or injury to an individual, the Brokerage must immediately notify the legal representative, parent, next of kin, designated contact person, or other significant person of the individual (as applicable).~~

~~(c) In the event of the death of an individual, the Brokerage must immediately notify:~~

~~(A) The Office of Developmental Disabilities Services;~~

~~(B) The legal representative, parent, next of kin, designated contact person, or other significant person of the individual (as applicable); and~~

~~(C) The CDDP.~~

(4) PROTECTIVE SERVICES. When a CDDP or OTIS abuse investigator determines that a Brokerage must take a protective services action following a report of abuse, the Brokerage must implement the action. If unable to implement

the action, the Brokerage must immediately notify the abuse investigator.

(a) Any protective services must be provided in a manner that is least intrusive to adult individuals and provide for the greatest degree of independence available within existing resources.

(b) The Brokerage must report the outcome of protective services to the abuse investigator upon completion.

(5) RECOMMENDED ACTIONS. When a Brokerage receives a recommended action included in an Abuse Investigation and Protective Services Report, as described in OAR 407-045-0320, the Brokerage must:

(a) Implement the recommended actions within specified timelines and report back to the abuse investigator that the recommended actions were completed; or

(b) With prior agreement from the abuse investigator, implement alternative actions and report back to the abuse investigator that the actions were completed.

Stat. Auth.: ORS 409.050, 427.104, 427.154, 430.662, 430.731
Stats. Implemented: ORS ~~427.005,~~ 427.007, 427.104, 427.154-427.163, ~~427.400-427.410,~~ 430.610, 430.620, 430.662, 430.664, 430.731-430.768~~-430.695~~

**DEPARTMENT OF HUMAN SERVICES**
**DEVELOPMENTAL DISABILITIES**
**OREGON ADMINISTRATIVE RULES**

**CHAPTER 411**
**DIVISION 415**

# CASE MANAGEMENT SERVICES FOR INDIVIDUALS WITH INTELLECTUAL OR DEVELOPMENTAL DISABILITIES

## 411-415-0050 Standards for Case Management Services

(1) The CME must apply the principles of self-determination and person-centered practices to provision of case management services.

(2) The CME must ensure that a case manager is available to provide case management services and other supports to the individual.

(a) Case management services include the activities related to:

(A) Assessment and periodic reassessment of an eligible individual to determine service needs, including activities that focus on needs identification, to determine the need for any medical, educational, social, or other services including those assessments described in OAR 411-415-0060.

(B) Development and periodic revision of an ISP or Annual Plan based on the information collected through an assessment or reassessment that specifies the desired outcomes, goals, and actions to address the medical, employment, social, educational, and other services needed by the eligible individual as described in OAR 411-415-0070.

(C) Support to access available services, including referral and related activities to help an individual obtain needed services as described in OAR 411-415-0080.

(D) Monitoring and follow-up activities, including activities and contacts that are necessary to ensure that the ISP or Annual Plan is effectively implemented and adequately addresses the needs of the eligible individual as described in OAR 411-415-0090.

(b) Other supports provided by a CME may include, but are not limited to:

(A) Authorizing services in the Department's electronic payment and reporting system;

(B) Arranging employer-related supports that may include, but are not limited to:

(i) Education about employer responsibilities;

(ii) Orientation to basic wage and hour issues; and

(iii) Use of common employer-related tools, such as service agreements.

(C) Assisting the Department with establishing provider credentials; and

(D) Assistance with understanding and accessing financial, medical, and other benefits.

(3) Prior to an initial ISP, at least annually, and at the request of an individual, or as applicable the legal representative of the individual, a CME must provide a Notification of Rights (form 0948) and an explanation of the individual rights described in OAR 411-318-0010 to the individual and if applicable the legal representative of the individual.

(4) A CME may not authorize services that are delivered by an affiliated entity.

(5) Developmental disabilities services must be authorized in accordance with OAR 411-415-0070. A case manager must authorize any developmental disabilities services and delivery of those services by a qualified provider chosen by the individual, or as applicable the legal or designated representative of the individual, for which the individual is eligible as described in the relevant program rules.

(a) NOTIFICATION OF PLANNED ACTION. In the event that a developmental disabilities service is denied, reduced, suspended, or terminated, or a chosen qualified provider is not authorized to deliver a chosen service to an individual, a written advance Notification of Planned Action (form 0947) must be provided as described in OAR 411-318-0020.

(b) HEARINGS.

(A) Hearings must be addressed in accordance with ORS chapter 183 and OAR 411-318-0025.

(B) An individual may request a hearing as provided in ORS chapter 183 and OAR 411-318-0025.

(c) Upon entry into case management, upon request, and annually thereafter, a notice of hearing rights and the policy and procedures for hearings as described in OAR chapter 411, division 318 must be explained and provided to an individual, and as applicable the legal or designated representative of the individual.

(6) Services authorized in an ISP must be entered into the Department's electronic payment and reporting system within 30 calendar days of the start of the services being delivered by any individual provider.

(7) If an individual loses eligibility for a Medicaid Title XIX (OHP) Benefit Package, a case manager must assist the individual to identify why the eligibility was lost. Whenever possible, the case manager must assist the individual in reestablishing the eligibility. The case manager must document the assistance given in the service record for the individual.

~~(8) A case manager must participate in the delivery of protective services for adults and children when required by Oregon Administrative Rule or Oregon Revised Statute.~~

(~~9~~8) CHOICE ADVISING. Through choice advising, the CME must assure that case management and other developmental disabilities service options, provider options, and setting options, including non-disability specific settings and an option for a private or shared unit in a residential program, are described to all individuals receiving case management services from the CME, or to the legal representative of the individual.

(a) An individual newly determined eligible for developmental disabilities services must receive choice advising, including the choice of institutional or home and community-based services, prior to the authorization of the initial ISP.

(b) Choice advising occurs as part of the person-centered planning process and must be conducted prior to an initial ISP and prior to a review of the ISP

when required according to OAR 411-415-0070.

(c) Choice advising, including the choice of institutional or home and community-based services, must occur at least six months before the18th birthday of a child.

(d) Prior to entry into a 1915(c) Home and Community-Based Services waiver, an individual, or as applicable their legal representative, must be informed of their choice to receive home and community-based or institutional services and verify their choice using the Freedom of Choice form (DHS 2808).

(e) If a CME is affiliated with an agency provider of developmental disabilities services in addition to case management services, the CME must disclose the relationship and inform the individual, or as applicable the legal or designated representative of the individual, that the CME cannot authorize the affiliated provider. The CME must discuss other case management provider options when the individual, or as applicable the legal or designated representative of the individual, expresses interest in receiving services from the affiliated provider.

(~~10~~9) A case manager must coordinate services with the child welfare caseworker assigned to a child to ensure the provision of required supports from the Department, CDDP, and child welfare.

(~~11~~10) The case manager must participate in transition planning by attending IEP meetings or other transition planning meetings for students 16 years of age or older to discuss the transition of the student to adult living and work situations, unless the attendance of the case manager is refused by the parent or guardian of the student or the student if the student is 18 years or older. The case manager must participate in transition planning as young as age 14, if transition planning deemed appropriate by the student's IEP team, unless the attendance of the case manager is refused by the parent or guardian of the student or the student if the student is 18 years or older.

(~~12~~11) When appropriate, a case manager must coordinate with vocational rehabilitation regarding employment services. When appropriate, a case manager must facilitate referrals to vocational rehabilitation.

(~~13~~12) Until a CME is certified as a CAM user by the Department, ~~A~~a services coordinator at a CDDP must ensure that all serious events related to an individual are reported to the Department using the SERT system. The CDDP must ensure

that there is monitoring and follow-up on both individual events and system trends.

(~~14~~13) A services coordinator at a CDDP must participate in the appointment of the health care representative of an individual as described in OAR chapter 411, division 365.

(~~15~~14) The CME must implement procedures to address individual, designated representative, or family complaints regarding service delivery that have not been resolved using the complaint procedures of a provider agency. The complaint procedures must be consistent with the requirements in OAR 411-318-0015.

(~~16~~15) A case manager must coordinate with other state, public, and private agencies regarding services to individuals.

(~~17~~16) When appropriate, a case manager must facilitate referrals to nursing facilities as described in OAR 411-070-0043.

(~~18~~17) A case manager must coordinate and monitor the services provided to an eligible individual living in a nursing facility.

(~~19~~18) A Department case manager must make referrals for entry and participate in all entry meetings for children in residential programs, CIIS, and the Stabilization and Crisis Unit.

(~~20~~19) The CME must provide case management services to individuals who are eligible for and desire them. If an individual receiving case management services from a CDDP is receiving other developmental disabilities services in more than one county, the county of origin must be responsible for case management services unless otherwise negotiated and documented in writing with the mutually agreed upon conditions.

(~~21~~20) CHANGE OF CASE MANAGER.

(a) If the CME changes the assignment of a case manager for any reason, the CME must notify the individual, the legal and designated representative of the individual (as applicable), and all providers within 10 business days of the change. The notification must be in writing and include the name, telephone number, email address, and mailing address of the new case manager.

(b) The individual receiving services, or as applicable the legal or designated representative of the individual, may request a new case manager within the

same CME or request a change of case management entity.

(~~22~~21) FAMILY RECONNECTION. The CME and a case manager must provide assistance to the Department when a family member is attempting to reconnect with an individual who was previously discharged from Fairview Training Center or Eastern Oregon Training Center or an individual who is currently receiving developmental disabilities services.

(a) If a family member contacts the CME for assistance in locating an individual, the CME must refer the family member to the Department. A family member may contact the Department directly.

(b) The Department shall send the family member a Department form requesting further information to be used in providing notification to the individual. The form shall include the following information:

(A) Name of requestor;

(B) Address of requestor and other contact information;

(C) Relationship to individual;

(D) Reason for wanting to reconnect; and

(E) Last time the family had contact.

(c) The Department shall determine:

(A) If the individual was previously a resident of Fairview Training Center or Eastern Oregon Training Center;

(B) If the individual is deceased or living;

(C) Whether the individual is currently or previously enrolled in Department services; and

(D) The county in which services are being provided, if applicable.

(d) With permission from the individual, the Department shall notify the family member if the individual is enrolled or no longer enrolled in Department services within 10 business days from the receipt of the request.

(e) If the individual is enrolled in Department services, the Department shall send the completed family information form to the individual and the case manager.

(f) If the individual is deceased, the Department shall follow the process for identifying the personal representative of the individual as provided for in ORS 192.573.

(A) If the personal representative and the requesting family member are the same, the Department shall inform the personal representative that the individual is deceased.

(B) If the personal representative is different from the requesting family member, the Department shall contact the personal representative for permission before sharing information about the individual with the requesting family member. The Department must make a good faith effort to find the personal representative and obtain a decision concerning the sharing of information as soon as practicable.

(g) When an individual is located, the CME must facilitate a meeting with the individual to discuss and determine if the individual wishes to have contact with the family member.

(A) The case manager must assist the individual in evaluating the information to make a decision regarding initiating contact, including providing the information from the form and any relevant history with the family member that may support contact or present a risk to the individual.

(B) If the individual does not have a legal representative or is unable to express his or her wishes, the ISP team of the individual must be convened to review factors and choose the best response for the individual after evaluating the situation.

(h) If the individual wishes to have contact, the individual or ISP team designee may directly contact the family member to make arrangements for the contact.

(i) If the individual does not wish to have contact, the CME must notify the Department. The Department shall inform the family member in writing that no contact is requested.

(j) The notification to the family member regarding the decision of the individual must be within 60 business days from the receipt of the information form from the family member.

(k) The decision by the individual is not appealable.

Stat. Auth.: ORS 409.050, 427.104, 427.105, 427.115, 427.154, 430.662, 430.731
Stats. Implemented: ORS 427.007, 427.104, 427.105, 427.115, 427.121, 427.154, 427.160, 430.212, 430.215, 430.610, 430.620, 430.662, 430.664, 430.731-430.768

**411-415-0055 Abuse and Serious Incident Management**

(1) Once certified by the Department to be a CAM user, a CME must ensure that all serious incidents related to an individual are recorded using the CAM system.

(a) All reports of abuse and serious incidents must be entered into CAM regardless of the date of the incident.

(b) A serious incident must be entered into CAM within seven calendar days of the CME becoming aware that a serious incident has occurred.

(c) A complaint of abuse may only be entered into CAM by an abuse investigator.

(d) Every serious incident entered into CAM must be closed in CAM no more than 30 calendar days from the date the incident was entered into CAM.

(e) The CME must form an incident management team to review serious incidents for evidence of trends. The CME must submit findings to the Department quarterly on a format determined by the Department.

(A) The incident management team at a CDDP must include at a minimum three people, including an abuse investigator and a management level staff member.

(B) The incident management team at a Brokerage must include at a minimum three people, including a personal agent and a management level staff member.

(2) When a CME is notified that an individual has had serious illness, serious injury,

or has died, the CME must assure that notification is made to all of the following (as applicable) within one business day of becoming aware of the serious illness, serious injury, or death:

(a) All paid provider agencies and common law employers.

(b) The individual's legal representative, designated representative, family, and other significant person identified by the individual to be contacted under these circumstances.

(c) A Brokerage, in the event of the death of an individual, must immediately, but not later than one business day, notify all of the following:

(A) The Department.

(B) An abuse investigator at the local CDDP.

(3) If an abuse investigator does not make an attempted initial contact following a complaint of abuse, an abuse investigator may require an attempted initial contact be completed by an individual's CME. When a CME is instructed by an abuse investigator to attempt an initial contact, the CME must assure that an initial contact with an alleged victim is made within the end of the next business day of receiving a complaint of abuse. The initial contact must be completed consistent with OAR 407-045-0295 to assess adult protective service needs and determine if the adult is in danger or in need of immediate protective services.

(4) If an abuse investigator does not inform an individual's legal representative of a complaint of abuse, an abuse investigator may require a CME to notify the individual's legal representative within one business day of the complaint of abuse.

Stat. Auth.: ORS 409.050, 427.104, 427.105, 427.115, 427.154, 430.662, 430.731
Stats. Implemented: ORS 427.007, 427.104, 427.105, 427.115, 427.121, 427.154, 427.160, 430.212, 430.215, 430.610, 430.620, 430.662, 430.664, 430.731-430.768

**411-415-0070 Service Planning**

This rule prescribes standards for the development and implementation of an ISP or Annual Plan.

(1) An ISP must meet the following requirements:

(a) Be developed using a person-centered planning process consistent with OAR 411-004-0030 and in a manner that addresses issues of independence, integration, and provides opportunities to seek employment and work in competitive integrated employment settings, in order to assist with establishing outcomes, planning for supports, and reviewing and redesigning support strategies.

(b) Be designed to enhance an individual's quality of life.

(c) Be consistent with the following principles:

(A) Adult individuals have the right to make informed choices about the level of family member participation.

(B) The preferences of an individual, and when applicable a child's legal representative or family, must serve to guide the ISP team. The case manager must facilitate active participation of the individual throughout the planning process.

(C) The planning process is designed to identify the types of services and supports necessary to achieve an individual's preferences, and when applicable a child's legal representative or family, identify the barriers to providing those preferred services, and develop strategies for reducing the barriers.

(D) Specify cost-effective arrangements for obtaining the required supports and applying public, private, formal, and alternative resources available to an eligible individual.

(E) When planning for a child in a 24-hour residential program ~~or~~ foster home, or host home, the following must apply:

(i) Unless contraindicated, there must be a goal for family reunification.

(ii) The number of moves or transfers must be kept to a minimum.

(iii) Unless contraindicated, if the placement of a child is distant from their family, the case manager must continue to seek a placement that brings the child closer to their family.

(d) Be developed based on assessed need.

(e) For community living supports, be developed within the service level as defined in OAR 411-450-0020 and as determined by a functional needs assessment.

(2) An individual enrolled in waiver or Community First Choice state plan services must have an ISP, completed on a Department approved document, consistent with the outcome of the person-centered planning process and OAR 411-004-0030.

(a) An initial ISP may begin a transition period as defined in OAR 411-415-0020. During a transition period, the ISP must include the minimum necessary services and supports for an individual upon entry to a new program type, setting, or CME. The ISP during a transition period must include, at a minimum, the following:

(A) An authorization of necessary services.

(B) The supports needed to facilitate adjustment to the services offered.

(C) The supports necessary to ensure health and safety.

(D) The assessments and consultations necessary for further ISP development.

(b) An initial ISP has a duration of 12 full months, beginning the month following the authorization of the ISP.

(c) The duration of an annual ISP is 12 months. With an individual's consent, or as applicable their legal or designated representative, a start date for an initial ISP may be established within the 12 months when the individual enters or exits any of the following:

(A) A 24-hour residential program as described in OAR chapter 411, division 325. A transfer to a new setting within the same 24-hour residential program may not cause a new start date for an ISP.

(B) A host home program as described in OAR chapter 411, division 348. A transfer to a new setting within the same host home program may not cause a new start date for an ISP.

(~~B~~C) A supported living program as described in OAR chapter 411, division 328. A transfer to a new setting within the same supported living program may not cause a new start date for an ISP.

(~~C~~D) Foster care as described in OAR chapter 411, division 346 for children or OAR chapter 411, division 360 for adults.

(~~D~~E) A CIIS program.

(d) All Department-funded developmental disabilities services included in an ISP must be consistent with the ISP manual, Department policy, and the Expenditure Guidelines, when applicable.

(e) For Community First Choice state plan and waiver services, the supports included in an ISP must reflect the services and supports that are important for the individual to meet the needs identified through an assessment of functional need, as well as what is important to the individual with regard to preferences for the delivery of such services and supports.

(3) INDIVIDUALLY-BASED LIMITATIONS.

(a) An initial or annual ISP authorized to begin on or after March 1, 2017 for individuals receiving services in a residential setting, must include any applicable individually-based limitations to the following freedoms:

(A) Support and freedom to access the individual’s personal food at any time.

(B) Visitors of the individual's choosing at any time.

(C) A lock on the individual's bedroom, lockable by the individual.

(D) Choice of a roommate, if sharing a bedroom.

(E) Freedom to furnish and decorate the individual's bedroom as the individual chooses in accordance with the Residency Agreement.

(F) Freedom and support to control the individual's schedule and activities.

(b) An individually-based limitation must be in accordance with OAR 411-004-

0040 and be supported by a specific assessed need due to threats to the health and safety of the individual or others.

(c) An initial or annual ISP authorized to begin on or after July 1, 2017 for individuals receiving services in any setting, must include any applicable individually-based limitations to an individual's freedom from restraint.

(d) An individually-based limitation must only include a safeguarding intervention that:

(A) Meets the definition found in OAR 411-317-0000 and complies with OAR 411-304-0150, OAR 411-304-0160, and applicable program rules.

(B) When used to address a challenging behavior, is directed in a Positive Behavior Support Plan written by a behavior professional qualified to author the safeguarding intervention according to ODDS-approved behavior intervention curriculum and certification as described in OAR 411-304-0150.

(C) When used to address a medical condition or medical support need, is included in a medical order written by an individual's licensed health care provider. The medical order may only indicate the use of safeguarding intervention to address a medical condition and must include all of the following:

(i) The medical need for the use of the safeguarding intervention.

(ii) Situations for when to use the safeguarding intervention.

(iii) The length of time or situations permitted for the use of the safeguarding intervention.

(e) An individually-based limitation must only include safeguarding equipment that:

(A) Meets the definition found in OAR 411-317-0000 and complies with OAR 411-304-0150 and applicable program rules.

(B) When used to address a challenging behavior, is directed in a Positive Behavior Support Plan written by a behavior professional as described in OAR 411-304-0150.

(C) When used to address a medical condition or medical support need, is included in a medical order written by an individual's licensed health care provider. The medical order may only indicate the use of safeguarding equipment to address a medical condition and must include all of the following:

(i) The medical condition the safeguarding equipment addresses.

(ii) The type of safeguarding equipment.

(iii) Situations for when to use the safeguarding equipment.

(iv) The length of time or situations permitted for the use of the safeguarding equipment.

(4) TEMPORARY EMERGENCY SAFETY PLAN. A Temporary Emergency Safety Plan described in OAR 411-304-0150 may be in effect for up to 90 calendar days. The date may be extended up to an additional 90 calendar days with approval from the individual and the individual's case manager to allow additional time for the completion of a Functional Behavior Assessment and Positive Behavior Support Plan.

(5) CAREER DEVELOPMENT PLAN.

(a) A Career Development Plan must be completed as part of the ISP:

(A) When the individual is working age; or

(B) Prior to the expected exit from school for students eligible for services under the Individuals with Disabilities Education Act (I.D.E.A.). If a student leaves school prior to the expected exit, the student must have the opportunity to have a Career Development Plan within one year of the unexpected exit.

(b) The Career Development Plan must meet the following requirements:

(A) For an individual who uses employment services under OAR chapter 411, division 345, include goals and objectives related to obtaining, maintaining, or advancing in competitive integrated employment, or, at minimum, exploring competitive integrated employment or developing

skills that may be used in competitive integrated employment.

(B) Be developed based on a presumption that, with the right support and job match, the individual may succeed and advance in an integrated employment setting and earn minimum wage or better.

(C) Prioritize competitive integrated employment in the general workforce.

(D) For an individual who has competitive integrated employment, person-centered planning must focus on maintaining employment, maximizing the number of hours an individual works consistent with their preferences and interests, improving wages and benefits, and promoting additional career or advancement opportunities.

(E) For an individual using job coaching or job development services, the Career Development Plan must document either a goal or discussion regarding opportunities for maximizing work hours and other career advancement opportunities. The recommended standard for planning job coaching and job development is the opportunity to work at least 20 hours per week. Individualized planning should ultimately be based on individual choice, preferences, and circumstances, and recognize that an individual may choose to pursue working full-time, part-time, or another goal identified by the individual.

(F) Document all employment service options presented, including the option to use employment services in a non-disability specific setting, meaning a setting that is not owned, operated, or controlled by a provider of home and community-based services.

(G) For individuals who use employment services in sheltered workshop settings, the Career Development Plan must document the individual has been encouraged to choose a community-based employment service option and not a sheltered workshop setting option.

(6) ISP REVIEWS.

(a) An ISP must be reviewed, revised, and re-authorized as needed:

(A) No more than 30 calendar days following a functional needs assessment conducted pursuant to OAR 411-415-0060.

(B) Prior to the expiration of the ISP.

(C) No later than the end of a transition period.

(D) When the circumstances or needs of an individual change significantly.

(E) At the request of an individual or as applicable their legal or designated representative.

(b) For an individual who changes CME, but remains in an in-home setting, the ISP authorized by the previous CME may be used as authorization for available services when the services in the new setting remain appropriate.

(7) TEAM PROCESS IN PERSON-CENTERED PLANNING. This section applies to an ISP developed for an individual receiving services in a residential program.

(a) The ISP is developed by the individual, their legal or designated representative (as applicable), and the services coordinator. Others may be included as a part of the ISP team at the invitation of the individual and as applicable their legal or designated representative. In order to assure adequate planning, provider representatives are necessary informants to the ISP team even when not ISP team members.

(b) In circumstances where an individual is unable to express their opinion or choice using words, behaviors, or other means of communication and the individual does not have a legal or designated representative, the following apply:

(A) On behalf of the individual, the ISP team is empowered to make a decision the ISP team feels best meets the health, safety, and assessed needs of the individual.

(B) Consensus amongst ISP team members is prioritized. When consensus may not be reached, majority agreement is used. For purposes of reaching a majority agreement each interested party, which may be represented by more than one person, is considered as one member of the ISP team. Interested parties may include, but are not limited to, the provider, family, services coordinator, and designated representative.

(C) No one member of an ISP team has the authority to make decisions for the ISP team.

(c) Any objections to decisions of the ISP team by a member of the ISP team must be documented in the ISP.

(d) A services coordinator must track the ISP timelines and coordinate the resolution of complaints and conflicts arising from ISP discussions.

(8) ISP AUTHORIZATION.

(a) An initial and annual ISP must be authorized prior to implementation.

(b) Unless noted otherwise in these or program rules, an initial ISP must include the Medicaid funded developmental disabilities services for which an individual is eligible and desires. An initial ISP must be authorized no more than 90 calendar days from the date of the request for the services when the individual making the request is enrolled in a Medicaid Title XIX benefit package. A completed application, as defined in OAR 411-317-0000 and submitted to the CDDP, is a request for services if the individual is enrolled in a Medicaid Title XIX benefit package at the time of the submission.

(c) A revision to an initial or annual ISP that involves the types of developmental disabilities services paid using Department funds must be authorized prior to implementation.

(d) A revision to an initial or annual ISP that does not involve the types of developmental disabilities services paid using Department funds does not require authorization. Documented agreement to the revision by the individual, or as applicable their legal or designated representative, is required prior to implementation of the revision.

(e) An initial ISP, and a revision to an initial or annual ISP requiring authorization, is authorized on the date:

(A) The signature of the individual, or as applicable their legal or designated representative, is present on the ISP, or documentation is present explaining the reason an individual who does not have a legal or designated representative may be unable to sign the ISP.

(i) Acceptable reasons for an individual without a legal or designated representative not to sign the ISP include physical or behavioral inability to sign the ISP.

(ii) Unavailability is not an acceptable reason for an individual, or as applicable their legal or designated representative, not to sign the ISP.

(iii) Documented oral agreement may substitute for a signature for up to 10 business days when a revision to an initial or annual ISP is in response to an immediate, unexpected change in circumstance, and the revision is necessary to prevent injury or harm to the individual.

(B) The signature of the case manager involved in the development of, or revision to, the ISP is present on the ISP.

(f) A renewing ISP signed as described in this section, is authorized to begin the first calendar day after the previous ISP expired.

(g) All authorized developmental disabilities services funded through the Community First Choice state plan or home and community-based services waivers must occur in a setting consistent with OAR 411-004-0020 by September 1, 2018.

(h) Community First Choice state plan and waiver services are only funded by the Department when the services are authorized in an ISP developed in a manner consistent with this rule.

(i) A legal or designated representative responsible for directing the development of the ISP on behalf of an individual (as applicable) may not be authorized to be a paid provider for the individual.

(j) An ISP may only have services authorized for personal support workers when the services are consistent with the payment limitations described in OAR 411-375-0040.

(k) The ISP for an adult enrolled in a foster home under OAR chapter 411, division 360, must include at least six hours of activities each week that are of interest to the individual that do not include television or movies made available by the provider. Activities are those available in the community and

made available or offered by the provider or the CDDP.

(A) Activities may include the following:

(i) Recreational and leisure activities.

(ii) Other activities required to meet the needs of an individual as described in the ISP for the individual.

(B) Activities that contribute to the six hours may not include any of the following:

(i) Rehabilitation.

(ii) Educational services.

(iii) Employment services.

(l) Not more than two weeks after authorization, the CME must provide a copy of the most current ISP to the individual, their legal and designated representative (as applicable), and others as identified by the individual. The ISP must be made available using language, format, and presentation methods appropriate for effective communication according to the needs and abilities of the individual receiving services and the people important in supporting the individual. When an authorized ISP must be translated from English, translation must be initiated within two weeks of authorization and the translated document must be provided to the individual by the CME upon receipt.

(m) A case manager may not knowingly authorize a community living supports agency to utilize an agency employee to deliver community living supports skills training or attendant care services, other than day support activities as defined in OAR chapter 411, division 450, to an individual that also engages the same person for services as the individual's personal support worker.

(9) DEVELOPMENTAL DISABILITIES SERVICE AUTHORIZATIONS.

(a) Developmental disabilities services may not be authorized or must be terminated in the following circumstances:

(A) The individual does not meet the service eligibility requirements in

the program rule corresponding to the service.

(B) The case manager is not permitted to conduct a monitoring visit to the home as required in OAR 411-415-0090 if services can be expected to occur in the home.

(C) The individual fails to participate in, or be available for, the conducting of the components of an ONA within the timeframes identified in OAR 411-415-0060.

(b) The CME may deny, or must terminate, services from a provider, services in a setting, or a combination of services, selected by an eligible individual or the legal or designated representative of the individual in the following circumstances:

(A) The setting has dangerous conditions that jeopardize the health or safety of the individual and necessary safeguards are not available to improve the setting.

(B) Services may not be provided safely or adequately by the service provider based on:

(i) The extent of the service needs of the individual; or

(ii) The choices or preferences of the eligible individual or as applicable their legal or designated representative.

(C) Dangerous conditions in the service setting jeopardize the health or safety of the service provider authorized and paid for by the Department, and necessary safeguards are not available to minimize the dangers.

(D) The individual does not have the ability to express their informed decision, does not have a designated representative to make decisions on their behalf, and the Department or CME are unable to take necessary safeguards to protect the safety, health, and welfare of the individual.

(c) The case manager must present the individual, or as applicable their legal or designated representative, with information on service alternatives and provide assistance to assess other choices when the service provider or service setting selected by the individual, or as applicable their legal or

designated representative, is not authorized.

(d) A services coordinator employed by a CDDP, or a sub-contractor of a CDDP contracted to deliver case management, may authorize an eligible individual to receive the following developmental disabilities services:

(A) Community First Choice 1915(k) state plan services.

(B) Services described in the Adults' and Children's 1915(c) waivers.

(C) State Plan Personal Care as described in OAR chapter 411, division 455.

(D) Private duty nursing as described in OAR chapter 410, division 132 and OAR 411-300-0150.

(E) Family support services as described in OAR chapter 411, division 305.

(e) A personal agent may authorize an eligible individual to receive the following developmental disabilities services:

(A) Community First Choice 1915(k) state plan services, except services delivered as part of a residential program.

(B) Services described in the Adults' 1915(c) waiver.

(C) State Plan Personal Care as described in OAR chapter 411, division 455.

(D) Private duty nursing as described in OAR chapter 410, division 132 and OAR 411-300-0150.

(f) A CIIS services coordinator may authorize an eligible individual to receive the following developmental disabilities services:

(A) Community First Choice 1915(k) state plan services.

(B) Services described in the following 1915(c) waivers:

(i) Medically Involved Children's Waiver.

(ii) Medically Fragile (Hospital) Model Waiver.

(iii) Behavioral (ICF/IID) Model Waiver.

(C) State Plan Personal Care as described in OAR chapter 411, division 455.

(D) Private duty nursing as described in OAR chapter 410, division 132 and OAR 411-300-0150.

(g) The Department authorizes entry for children into residential programs, CIIS, and the Stabilization and Crisis Unit.

(10) ANNUAL PLANS. Individuals enrolled in case management services, but not accessing Community First Choice state plan or waiver services must have an Annual Plan.

(a) A case manager must develop an Annual Plan within 90 calendar days from the date of the enrollment of an individual into case management services, and annually thereafter if the individual is not enrolled in any Community First Choice state plan or waiver services.

(b) An Annual Plan must be developed as follows:

(A) For an adult, a written Annual Plan must be documented as an Annual Plan or as a comprehensive progress note in the service record for the individual and consist of the following:

(i) A review of the current living situation of the individual.

(ii) A review of the employment status of the individual and a summary of any related support needs.

(iii) A review of any personal health, safety, or behavioral concerns.

(iv) A summary of the support needs of the individual.

(v) Actions to be taken by the case manager and others.

(B) For a child receiving family support services, a services coordinator must coordinate with the child and their parent or legal representative in the development of an Annual Plan. The Annual Plan for a child receiving family support services must be in accordance with OAR 411-305-0225.

(c) An Annual Plan must be kept current. A case manager must ensure that a current Annual Plan is maintained for each individual receiving services.

Stat. Auth.: ORS 409.050, 427.104, 427.105, 427.115, 427.154, 430.662, 430.731
Stats. Implemented: ORS 427.007, 427.104, 427.105, 427.115, 427.121, 427.154, 427.160, 430.212, 430.215, 430.610, 430.620, 430.662, 430.664, 430.731-430.768

**411-415-0075 Authorization and Documentation of Support Technology in a Residential Program**

(1) When an individual consents to the use of support technology as a method of receiving attendant care support, the use of support technology must be identified in the individual's ISP as the least restrictive, preferred method of the individual for service delivery. The use of support technology may only be included as part of service delivery in a residential program. Preferences must describe all of the following:

(a) The specific health and safety risk addressed through the use of support technology.

(b) The alternatives for providing attendant care support without the use of support technology and why those alternatives have been ruled out.

(c) The activities or times the support technology shall be in use or may not be used, if applicable.

(d)The specific device and how it shall be used.

(e) The location of the monitoring device.

(f) Who may and may not have access to the feed from the support technology, as applicable.

(g) A back-up plan for addressing support needs if the support technology is not available.

(h) Established timelines for review of the use of the support technology no less than every 12 months.

(2) The use of support technology must be reported to the Department according to Department policies.

Stat. Auth.: ORS 409.050, 427.104, 427.105, 427.115, 427.154, 430.662, 430.731
Stats. Implemented: ORS 427.007, 427.104, 427.105, 427.115, 427.121, 427.154, 427.160, 430.212, 430.215, 430.610, 430.620, 430.662, 430.664, 430.731-430.768

**411-415-0080 Accessing Developmental Disabilities Services**

(1) A CME is required to:

(a) Provide assistance in finding and arranging resources, services, and supports. When an individual or their legal or designated representative chooses to receive supports delivered by a personal support worker, the CME must not limit their choice of qualified providers, including all those available on the Home Care Commission Registry.

(b) Provide information and technical assistance to an individual, and as applicable the legal or designated representative of the individual, in order to make informed decisions. This may include, but is not limited to, information about support needs, settings, programs, and types of providers.

(c) Provide a brief description of the services available from the CME, including typical timelines for activities, required assessments, monitoring and other activities required for participation in a Medicaid program, and the planning process.

(d) Inform the individual, or as applicable the legal or designated representative of the individual, of any potential conflicts of interest between the CME and providers available to the individual.

(e) Inform providers of the responsibility:

(A) To carry out their duty as mandatory reporters of suspected abuse; and

(B) To immediately notify anyone specified by the individual of any

incident that occurs when the provider is providing services when the incident may have a serious effect on the health, safety, physical, or emotional well-being, or level of services required.

(2) LICENSED OR CERTIFIED RESIDENTIAL PLACEMENT SETTING OPTIONS. In accordance with ORS 427.121, a case manager must present at least three appropriate licensed or certified residential setting options, including at least two different types of settings, to an adult individual eligible for and desiring to receive services in a licensed or certified residential setting, or to the legal representative, prior to the entry of the adult individual into a licensed or certified residential setting. The case manager is not required to present the licensed or certified residential placement setting options if:

(a) The case manager demonstrates that three appropriate licensed or certified residential placement settings or two different types of settings are not available within the geographic area where the individual wishes to reside;

(b) The individual selects a licensed or certified residential placement setting option and waives the right to be presented with other licensed or certified residential setting options; or

(c) The individual has an imminent risk to health or safety in the current licensed or certified residential setting.

(3) In accordance with the rules for home and community-based services in OAR chapter 411, division 004, an individual, or as applicable the legal or designated representative of the individual, must be advised regarding non-residential service options including employment services and non-residential community living supports. For services considered, a non-disability specific setting option must be presented and documented in the person-centered service plan.

(4) WRITTEN INFORMATION REQUIRED. A case manager must give the relevant content from the ISP that is necessary to for each provider to deliver the services the provider is authorized to deliver, prior to the start of services. The content must include the relevant risks included in the risk management plan. The risks are relevant when they may reasonably be expected to threaten the health and safety of the individual, the provider, or the community at large without appropriate precautions during the delivery of the service authorized for the provider to deliver. If an individual, or as applicable the legal representative of the individual, refuses to disclose the information, the CME must disclose the refusal to the provider, who may choose to refuse to deliver the services.

(a) The necessary information is conveyed on a Department approved Service Agreement containing the required content. For an agency provider or independent provider who is not a personal support worker, the ISP may be used in lieu of a Service Agreement with the consent of the individual.

(b) For agency operators of a residential program or employment program, the case manager must provide to the agency:

(A) A document indicating safety skills, including the ability of the individual to evacuate from a building when warned by a signal device and adjust water temperature for bathing and washing;

(B) A brief written history of any behavioral challenges, including supervision and support needs;

(C) A record of known communicable diseases and allergies;

(D) Copies of protocols, the risk tracking record or risk identification tool, and any support documentation (if applicable);

(E) Copies of documents relating to health care representation; and

(F) A copy of the most recent Behavior Support Plan and assessment, Nursing Service Plan, and mental health treatment plan (if applicable).

(c) In addition to sub-section (b) of this section, residential programs must be given:

(A) A copy of the eligibility determination document;

(B) A medical history and information on health care supports that includes (when available):

(i) The results of the most recent physical exam;

(ii) The results of any dental evaluation;

(iii) A record of immunizations;

(iv) A record of major illnesses and hospitalizations; and

(v) A written record of any current or recommended medications, treatments, diets, and aids to physical functioning.

(C) A copy of the most recent functional needs assessment. If the needs of an individual have changed over time, the previous functional needs assessments must also be provided;

(D) Copies of documents relating to the guardianship or conservatorship, power of attorney, court orders, probation and parole information, or any other legal restrictions on the rights of the individual (if applicable);

(E) Written documentation that the individual is participating in out-of-residence activities, including public school enrollment for individuals less than 21 years of age; and

(F) A copy of any completed and signed forms documenting consent to an individually-based limitation described in OAR 411-004-0040. The form must be signed by the individual, or, if applicable the legal representative of the individual.

(d) In addition to sub-section (b) of this section, agency providers of employment services must be given:

(A) The Career Development Plan.

(B) Protocols that are necessary to assure the health and safety of the individual.

(e) When an individual is known to be accessing Vocational Rehabilitation services, the Vocational Rehabilitation counselor must be given the Career Development Plan.

(f) If the individual is being entered into a residential program from the family home and the information required in subsection (b) and (c) of this section is not available, the case manager must ensure that the residential program provider assesses the individual upon entry for issues of immediate health or safety.

(A) The case manager must develop and document a plan to secure the information listed in subsection (a) of this section no later than 30

calendar days after entry.

(B) The plan must include a written justification as to why the information is not available and a copy of the plan must be given to the provider at the time of entry.

(5) ENTRY MEETING. No later than the date of entry of an individual into a residential program, a case manager must convene a meeting of the ISP team to review referral material in order to determine appropriateness of entry. An entry meeting may be held for entry into services other than a residential program when a member of the ISP team requests one. A potential provider may request an entry meeting and may refuse entry to an individual who refuses to permit one. Findings of the entry meeting must be recorded in the service record for the individual and distributed to the ISP team members. The findings of the entry meeting must include, at a minimum:

(a) The name of the individual proposed for services.

(b) The date of the entry meeting.

(c) The date determined to be the date of entry.

(d) Documentation of the participants included in the entry meeting;

(e) Documentation of information required by section (4) of this rule when entering a residential program.

(f) Documentation of the decision to serve the individual requesting services.

(6) TRANSFER MEETING. A meeting of the ISP team must precede any transfer of an individual that was not initiated by the individual, or as applicable the legal representative of the individual, unless the individual declines to have a meeting. Findings of the transfer meeting must be recorded in the service record for the individual and include, at a minimum:

(a) The name of the individual considered for transfer.

(b) The date of the transfer meeting.

(c) Documentation of the participants included in the transfer meeting.

(d) Documentation of the circumstances leading to the proposed transfer.

(e) Documentation of the alternatives considered instead of transfer.

(f) Documentation of the reasons any preferences of the individual, or as applicable the legal or designated representative or family members of the individual, may not be honored.

(g) Documentation of the decision regarding the transfer, including verification of the voluntary decision to transfer or a copy of the Notice of Involuntary Reduction, Transfer, or Exit.

(h) The written plan for services for the individual after transfer.

(7) EXIT MEETING. A case manager must offer the individual, and legal or designated representative, an opportunity to convene the ISP team prior to an exit of an individual from a residential program or from agency provided employment services. Findings of the exit meeting must be recorded in the service record for the individual and include, at a minimum:

(a) The name of the individual considered for exit.

(b) The date of the exit meeting.

(c) Documentation of the participants included in the exit meeting.

(d) Documentation of the circumstances leading to the proposed exit.

(e) Documentation of the discussion of the strategies to prevent the exit of the individual from services, unless the individual or legal representative is requesting the exit.

(f) Documentation of the decision regarding the exit of the individual, including verification of the voluntary decision to exit or a copy of the Notice of Involuntary, Reduction, Transfer, or Exit.

(g) The written plan for services for the individual after the exit.

(h) Requirements for an exit meeting may be waived if an individual or the individual's legal representative, if applicable, declines to have an exit meeting

or is immediately removed from the applicable program under the following conditions:

(A) The individual or legal representative requests an immediate exit from the program; or

(B) The individual is removed by legal authority acting pursuant to civil or criminal proceedings other than detention for an individual less than 18 years of age.

(8) When services are provided by an independent provider:

(a) The case manager must provide the individual, and as applicable the designated representative of the individual, a brief description of the responsibilities for use of public funds.

(b) Using a Department approved service agreement, the CME must inform an independent provider engaged to provide supports of:

(A) The type and amount of services authorized in the ISP for the independent provider to deliver; and

(B) Behavioral, medical, known risks, and other information about the individual that is required for the provider to safely and adequately deliver services to the individual.

(c) COMMON LAW EMPLOYER. The CME must assure that a person is identified to act as a common law employer for the personal support worker consistent with OAR 411-375-0055.

(A) The CME may require intervention as defined in OAR 411-375-0055.

(B) The CME may deny a request for an employer representative if the requested employer representative has:

(i) A history of substantiated abuse of an adult as described in OAR 407-045-0250 through 407-045-0370;

(ii) A history of founded abuse of a child as described in ORS 419B.005;

(iii) Participated in billing excessive or fraudulent charges; or

(iv) Failed to meet the employer responsibilities described in OAR 411-375-0055, including previous termination as a result of failing to meet the employer.

(C) The CME shall mail a notice informing the individual, and as applicable the legal or designated representative of the individual, when:

(i) The CME denies, suspends, or terminates an employer from performing the employer responsibilities described in 411-375-0055; and

(ii) The CME denies, suspends, or terminates an employer representative from performing the employer responsibilities because the employer representative does not meet the qualifications of an employer representative.

(D) If an individual, or as applicable the legal or designated representative or employer representative of the individual, is dissatisfied with the decision of the CME to remove an employer or employer representative, the individual, or as applicable the legal or designated representative or employer representative of the individual, may request reinstatement as described in OAR 411-375-0055 or file a complaint with the CME or Department as described in OAR 411-318-0015.

Stat. Auth.: ORS 409.050, 427.104, 427.105, 427.115, 427.154, 430.662, 430.731
Stats. Implemented: ORS 427.007, 427.104, 427.105, 427.115, 427.121, 427.154, 427.160, 430.212, 430.215, 430.610, 430.620, 430.662, 430.664, 430.731-430.768

**411-415-0090 Case Management Contact and Monitoring of Services**

(1) CASE MANAGEMENT CONTACT.

(a) Every individual who has an ISP must have a case management contact no less than once every three months.

(A) The purpose of a case management contact must be to assure one of the following:

(i) Known health and safety risks are adequately addressed.

(ii) The support needs of an individual have not significantly changed.

(iii) An individual and their designated representative are satisfied with the current services and supports.

(B) Over the course of an ISP year, the case manager must assure subsections (i) through (iii) of section (A) are met.

(b) Individuals with three or more significant health and safety risks as identified in the Risk Management Plan, or if determined to be necessary by the case manager, must have monthly case management contact.

(c) For a child, reciprocal contact with the child's parent or legal representative may substitute for contact with the child, except as specified in sub-section (d).

(d) At least one case management contact per year must be face to face with the individual, including when the individual is a child. If an individual or their legal representative agrees, other case management contact may be made by telephone or by other interactive methods.

(e) The outcome of all case management contact must be recorded in the individual's progress notes.

(2) MONITORING OF SERVICES: A case manager must conduct monitoring activities using the framework described in this section.

(a) A case manager is required to provide assistance to the individual or the legal or designated representative with monitoring and improving the quality of supports.

(b) For all individuals with an ISP that authorizes waiver or Community First Choice state plan services, monitoring must include an assessment of the following:

(A) Are services being provided as described in the ISP and do the services result in the achievement of the identified action plans?

(B) Are the personal, civil, and legal rights of the individual protected in accordance with OAR chapter 411, division 318?

(C) Are the personal desires of the individual, and as applicable the legal or designated representative or family of the individual, addressed?

(D) Do the services authorized in the ISP continue to meet the assessed needs of the individual and what is important to, and for, the individual?

(E) Do identified desired outcomes and associated goals and action plans remain relevant and are the goals supported and being met?

(F) Are technological and adaptive equipment and environmental modifications being maintained and used as intended?

(G) Have changing needs or availability of other resources altered the need for continued use of Department funds to purchase supports?

(H) Are the services delivered in a setting that is in compliance with OAR 411-004-0020(1)?

(I) Are all the necessary protocols or mitigation strategies present that are needed to keep the individual healthy and safe?

(c) For an individual receiving employment services, the case manager must:

(A) Assess the progress of the individual toward competitive integrated employment; and

(B) When an individual is receiving facility based employment path services, visit each setting at least twice per plan year, while the individual is present, to verify and document the progress being made to support the individual to achieve employment goals documented in the Career Development Plan. Visits must be at least three months apart.

(d) When a case manager receives an incident report documenting the use of an emergency physical restraint, the case manager must review the use for potential abuse.

(e) When a case manager becomes aware that a wrongful use of a physical or chemical restraint, as described in ORS 430.735, may have been employed, the case manager must document the following efforts:

(A) Direction to the provider, and as applicable the common law employer, that the use of such restraint must immediately cease.

(B) Notification to the individual and the individual's legal representative of their right to be free from unauthorized restraint.

(C) Report of potential abuse by the wrongful use of a physical or chemical restraint.

(f) When a case manager receives three incident reports in a six-month period documenting the use of an emergency physical restraint, the case manager must assess the effectiveness of existing services authorized in the individual's ISP and take appropriate action.

(g) When an individual or legal representative has consented to an individually-based limitation, service monitoring must include an evaluation of the ongoing need for the limitation.

(h) Unless specified in these rules, the minimum frequency of service monitoring must be determined by the case manager, based on the needs of an individual, not less than once per plan year.

(i) For an individual receiving only case management services and not enrolled in any other funded developmental disabilities services, the case manager must make contact with the individual at least once annually.

(A) Whenever possible, annual contact must be made in person. If annual contact is not made in person, a progress note in the service record must document how contact was achieved.

(B) If the individual has any identified high-risk medical issue including, but not limited to, risk of death due to aspiration, seizures, constipation, dehydration, diabetes, or significant behavioral issues, the case manager must maintain contact in accordance with planned actions as described in the Annual Plan.

(j) For an individual who is enrolled in a residential program the monitoring of services may be combined with the site visits described in section (3) of this rule. In addition:

(A) During the ISP year, the services coordinator must review, at least

once, services specific to health, safety, and behavior, using questions established by the Department.

(B) A semi-annual review of the process by which an individual accesses and utilizes their own funds must occur, using questions established by the Department. The services coordinator must determine whether financial records, bank statements, and personal spending funds are correctly reconciled and accounted for.

(i) The financial review standards for 24-hour residential programs are described in OAR 411-325-0380.

(ii) The financial review standards for adult foster homes are described in OAR 411-360-0170.

(iii) Any misuse of funds must be reported to the CDDP and the Department. The Department determines whether a referral to the Medicaid Fraud Control Unit is warranted.

(C) The services coordinator must monitor reports of serious ~~and unusual~~ incidents.

(k) If State Plan Personal Care services are authorized in an Annual Plan, the services must be monitored as described in OAR chapter 411, division 455.

(3) SITE VISITS.

(a) The CDDP must ensure that quarterly site visits are conducted at each child or adult foster home, each host home, and each 24-hour residential program setting licensed by the Department to serve individuals with intellectual or developmental disabilities.

(b) The CDDP must establish an annual schedule for site visits to each site that is owned, operated, or controlled by:

(A) An employment program certified and endorsed under OAR chapter 411, division 345; and

(B) A community living supports program certified and endorsed under OAR chapter 411, division 450.

(c) The CDDP must conduct at least one visit annually to the home of an individual receiving services in a supported living setting.

(d) When services are anticipated to be delivered in an individual’s home, the CME must conduct at least one visit annually to the individual's home.

(e) Site visits may be increased for any of the following reasons including, but not limited to the following:

(A) Increased certified and licensed capacity.

(B) New individuals receiving services.

(C) Newly licensed or certified and endorsed provider.

(D) An abuse investigation.

(E) A serious ~~event~~incident.

(F) A change in the management or staff of the licensed site or certified and endorsed program operator.

(G) An ISP team request.

(H) Significant change in the functioning of an individual who receives services at the site.

(f) The CME must develop a procedure for the conduct of the site visits.

(g) The CME must document site visits and provide information concerning the site visits to the Department upon request.

(h) If there are no Department-funded individuals at the site, a visit by the CME is not required.

(i) When a provider is a Department-contracted and licensed, certified, and endorsed 24-hour residential program for children and the children's residential services coordinator for the Department is assigned to monitor services, the children's residential services coordinator and the CDDP shall coordinate the site visit. If the site visit is made by Department staff, Department staff shall provide the results of the site visit to the local services

coordinator.

(j) The Department may conduct site visits on a more frequent basis than described in this section based on program needs.

(4) MONITORING FOLLOW-UP. A case manager and the CME are responsible for ensuring the appropriate follow-up to monitoring of services, except in the instance of children in 24-hour residential programs directly contracted with the Department when the Department conducts the follow-up.

(a) If the case manager determines that developmental disabilities services are not being delivered as agreed in the ISP for an individual, or that the service needs of an individual have changed since the last review, the case manager must initiate at least one of the following actions:

(A) Update the ISP of the individual.

(B) To remediate service delivery shortcomings, provide or refer technical assistance to an agency provider or common law employer for a personal support worker.

(b) If there are concerns regarding the ability of a provider to provide services, the CME must determine the need for technical assistance or other follow-up activities, such as coordination or provision of technical assistance, referral to the CDDP manager or brokerage director for consultation or corrective action, requesting assistance from the Department for licensing or other administrative support, or meeting with the executive director or board of directors of the provider.

(c) The CME must ensure that there is monitoring and follow-up on serious incidents.

(5) DEPARTMENT NOTIFICATION. The CME must notify the Department when:

(a) A provider demonstrates substantial failure to comply with any applicable licensing, certification, or endorsement rules for Department-funded programs.

(b) A personal support worker may have met any of the conditions identified in OAR 411-375-0070 that would cause the Department to inactivate or terminate the provider enrollment of the worker.

(c) The CME finds a serious and current threat endangering the health, safety, or welfare of individuals in a program ~~for which an immediate action by the Department is required~~.

~~(d) Any individual receiving Department-funded developmental disabilities services dies. Notification must be made within one business day from the date of their death. Entry must be made into the Serious Event Review System according to Department guidelines.~~

Stat. Auth.: ORS 409.050, 427.104, 427.105, 427.115, 427.154, 430.662, 430.731
Stats. Implemented: ORS 427.007, 427.104, 427.105, 427.115, 427.121, 427.154, 427.160, 430.212, 430.215, 430.610, 430.620, 430.662, 430.664, 430.731-430.768

**411-415-0100 Specialized Services in a Nursing Facility**

An individual residing in a nursing facility determined to require specialized services, as described in OAR 411-070-0043, must have an annual plan for specialized services incorporated with a plan of care by the nursing facility.

(1) A case manager must coordinate with the individual, the legal representative of the individual, the staff of the nursing facility, and other service providers, as appropriate, to provide or arrange the specialized services. The plan for specialized services must include:

(a) The name of the service provider.

(b) A description of the specialized services to be provided.

(c) The number of hours of service per month.

(d) A description of how the services must be tracked.

(e) A description of the process of communication between the specialized service provider and the nursing facility in the event of ~~unusual~~ serious incidents, serious illness, absence, and emergencies.

(2) A case manager must complete an annual review of the plan for specialized services or when there has been a significant change in the level of functioning of the individual.

Stat. Auth.: ORS 409.050, 427.104, 427.105, 427.115, 427.154, 430.662, 430.731

Stats. Implemented: ORS ~~427.005,~~ 427.007, 427.~~101~~104, 427.105, 427.115, 427.121, 427.154~~-427.163~~, 427.160, 430.212, 430.215, 430.610, 430.620, 430.662~~-430.695~~, 430.664, 430.731-430.768

**411-415-0110 Record Requirements**

(1) In order to meet Department and federal record documentation requirements, the CME through the employees of the CME, must maintain a service record for each individual who receives services from the CME. The service record must include:

(a) Documentation of the functional needs assessment defining the support needs for ADL, IADL, and other health-related tasks. This may be a current ONA available in the Department's electronic payment and reporting system.

(b) Documentation of choice advising.

(c) Documentation that the individual is eligible for any service authorized in an ISP.

(d) Referral information or documentation of referral materials sent to a provider or another CME.

(e) Progress notes written by a case manager as described in section (2) of this rule.

(f) The findings from service monitoring.

(g) Medical information, as appropriate.

(h) Entry and exit meeting documentation related to residential programs, including plans developed as a result of the meeting.

(i) Current and previous ISP or Annual Plan, including support documents and documentation that the plan is authorized by a case manager.

(j) A Nursing Service Plan must be present when Department funds are used to purchase services requiring the education and training of a licensed professional nurse.

(k) Copies of any incident reports initiated by a CME representative for a~~ny unusual~~ serious incident~~ that occurred at the CME or in the presence of the~~

~~CME representative~~.

(l) Documentation of a review of ~~unusual~~ serious incidents received from providers. Documentation of the review of ~~unusual~~ serious incidents must be made in CAM, for a CME certified as a CAM user, and progress notes and a copy of the incident report must be maintained by the CME.

(m) Documentation of Medicaid eligibility, if applicable.

(n) For individuals whose level of care was determined before July 1, 2018, the initial and, when present, the annual level of care determination on a form prescribed by the Department.

(o) The CDDP must maintain a copy of the initial level of care determination form completed by the CDDP. For an individual whose level of care was determined before July 1, 2018 and is receiving CIIS or services in a 24-hour residential program for children, the CDDP must maintain a copy of annual level of care determinations or maintain documentation of attempts to obtain them.

(p) Legal records, such as guardianship papers, civil commitment records, court orders, and probation and parole information (as appropriate).

(q) A case manager must maintain documentation of the referral process of an individual to a provider and if applicable, include the reason the provider preferred by the individual declined to deliver services to the individual.

(r) An information sheet or reasonable alternative must be kept current and reviewed at least annually for each individual receiving case management services. Information must include:

(A) The name of the individual, current address, date of entry into the CME, date of birth, gender, marital status (for individuals 18 or older), religious preference, preferred hospital, medical prime number and private insurance number (where applicable), and guardianship status; and

(B) The name, address, and telephone number of:

(i) For an adult, the legal or designated representative, family, and other significant person of the individual (as applicable), and for a

child, the parent or guardian and education surrogate (if applicable);

(ii) The primary care provider and clinic preferred by the individual;

(iii) The dentist preferred by the individual;

(iv) The school, day program, or employer of the individual (if applicable);

(v) Other agency representatives providing services to the individual; and

(vi) Any court ordered or legal representative authorized contacts or limitations from contact for individuals living in a foster home, supported living program, or 24-hour residential program.

(2) PROGRESS NOTES. Progress notes must include documentation of the delivery of case management services provided to an individual by a case manager. Progress notes must be recorded chronologically in the order they are made and documented consistent with CME policies and procedures. All late entries must be appropriately noted as such. At a minimum, progress notes must include:

(a) The month, day, and year the services were rendered and the month, day, and year the entry was made if different from the date services were rendered;

(b) The name of the individual receiving service;

(c) The name of the CME, the person providing the services (i.e., the signature and title of the case manager), and the date the entry was recorded and signed;

(d) The nature and content of the case management services delivered and whether goals specified in the service plan have been achieved;

(e) Place of service. Place of service means the county where the CME or agency providing case management services is located, including the main address. The place of service may be a standard heading on each page of the progress notes; and

(f) For notes pertaining to meetings with or discussions about the individual,

the names of other participants, including the titles and agency representation of the participants, if any.

(3) For individuals living in their own or family home, the CME must maintain a minimum acceptable record of expenditures for at least three years that includes:

(a) Itemized invoices and receipts to record the purchase of any single item.

(b) A trip log indicating purpose, date, and total miles to verify vehicle mileage reimbursement.

(c) Pay records to record employee services, including timesheets signed by both employee and employer.

(d) Itemized invoices for any services purchased from independent contractors, provider agencies, and professionals. Itemized invoices must include:

(A) The name of the individual to whom services were provided;

(B) The date of the services;

(C) The amount of services; and

(D) A description of the services.

(e) Evidence confirming the receipt, and securing the use of, assistive devices, environmental safety modifications, and environmental modifications.

(A) When an assistive device is obtained for the exclusive use of an individual, the CME must record the purpose, final cost, and date of receipt.

(B) The CME must secure use of equipment or furnishings costing more than $500 through a written agreement between the CME and the individual or the legal representative of the individual that specifies the time period the item is to be available to the individual and the responsibilities of all parties if the item is lost, damaged, or sold within that time period.

(4) Verification that providers meet the requirements to deliver services they are

authorized to deliver including:

(a) Verification of a valid license to drive for any personal support worker, and proof of current auto insurance for the vehicle used for transportation, upon authorization of community transportation services.

(b) Documentation supporting the rate paid to a provider when it is above the minimum described in rule, policy, Expenditure Guidelines, or the base rate for a personal support worker identified in the current Collective Bargaining Agreement, including support for an enhanced and an exceptional personal support worker rate.

(5) Failure to furnish written documentation upon the written request from the Department, the Oregon Department of Justice Medicaid Fraud Unit, Centers for Medicare and Medicaid Services, or their authorized representatives, immediately or within timeframes specified in the written request, may be deemed reason to recover payments or deny further assistance.

Stat. Auth.: ORS 409.050, 427.104, 427.105, 427.115, 427.154, 430.662, 430.731
Stats. Implemented: ORS 427.007, 427.104, 427.105, 427.115, 427.121, 427.154, 427.160, 430.212, 430.215, 430.610, 430.620, 430.662, 430.664, 430.731-430.768