

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*

A Statement of Need and Fiscal Impact accompanies this form.

Department of Human Services, Developmental Disabilities

411

Agency and Division		Administrative Rules Chapter Number
Kimberly Colkitt-Hallman	500 Summer Street NE, E-48 Salem, OR 97301-1074	(503) 945-6398
Rules Coordinator	Address	Telephone

RULE CAPTION

ODDS - Employment Services for Adults with Intellectual or Developmental Disabilities

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

November 21, 2014	1:00 p.m.	Human Services Building 500 Summer Street NE, Rm. 160 Salem, Oregon 97301	Staff
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Hearing Date	Time	Location	Hearings Officer
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Auxiliary aids for persons with disabilities are available upon advance request.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT:

411-345-0027, 411-345-0085

AMEND:

Rules in OAR chapter 411, division 345

REPEAL:

411-345-0100 and temporary rules: 411-345-0010(T), 411-345-0020(T), 411-345-0025(T), 411-345-0027(T), 411-345-0030(T), 411-345-0050(T), 411-345-0085(T), 411-345-0090(T), 411-345-0095(T), 411-345-0110(T), 411-345-0130(T), 411-345-0140(T), 411-345-0160(T), 411-345-0170(T), 411-345-0180(T), 411-345-0190(T), 411-345-0200(T), 411-345-0230(T), 411-345-0240(T), 411-345-0250(T), 411-345-0260(T), 411-345-0270(T)

RENUMBER:

AMEND & RENUMBER:

RULE SUMMARY

The Department of Human Services (Department), Office of Developmental Disability Services is updating the rules in OAR chapter 411, division 345 for employment services for adults with intellectual or developmental disabilities to reflect the following:

- Alignment with the rules in OAR chapter 407, division 025, Executive Order No.13-04, and Oregon's "Employment First" policy;
- Alignment with the 1915(c) Home and Community-Based Services waivers and the services available under the waivers;
- Alignment with the Executive Order by outlining the requirements for a Career Development Plan completed as a part of the annual Individual Support Plan (ISP);
- Changes to provider types who may deliver employment services;
- Changes in the funding authority for non-employment services from the 1915(c) Home and Community-Based Services waiver to the 1915(k) Community First Choice state plan amendment; and
- Alignment of provider qualifications and requirements with the rules in OAR chapter 407, division 025 and Executive Order No. 13-04.

The proposed rules:

- Make permanent temporary rule language that became effective on July 1, 2014;
- Change the references to "alternatives to employment" to "attendant care" or "skills training" where appropriate;
- Incorporate the general definitions in OAR 411-317-0000 and update the definitions relating to employment and other available services, provider types, and service descriptions;
- Describe who is eligible to receive services as described in these rules and assure employment services are only available to individuals who are eligible for OSIPM;
- Update provider requirements consistent with the 1915(c) Home and Community-Based Services waiver, incorporate new provider types, and include qualifications for providers by service type;
- Assure that adequate documentation of services is kept by providers;
- Incorporate limits to employment services as described in the 1915(c) Home and Community-Based Services waivers;
- Account for the adoption of rules in OAR chapter 411, division 318 and to recognize the authority of that rule in matters of complaints, individual rights, Notification of Planned Action, and hearings;
- Require and describe a Career Development Plan;

- Reflect new Department terminology and current practice; and
- Correct formatting and punctuation.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

Written comments may be submitted via e-mail to Kimberly.Colkitt-Hallman@state.or.us or mailed to 500 Summer Street NE, E48 Salem, Oregon, 97301-1064. All comments received will be given equal consideration before the Department proceeds with the permanent rulemaking.

November 28, 2014 at 5 p.m.

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Signed Lilia Teninty, Director, Developmental Disabilities

09/24/2014

Signature

Date

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Department of Human Services, Developmental Disabilities

411

Agency and Division

Administrative Rules Chapter Number

ODDS - Employment Services for Adults with Intellectual or Developmental Disabilities

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: The adoption of OAR 411-345-0027 and 411-345-0085; amendment of rules in OAR chapter 411, division 345; the repeal of OAR 411-345-0100; and the repeal of temporary OAR 411-345-0010(T), 411-345-0020(T), 411-345-0025(T), 411-345-0027(T), 411-345-0030(T), 411-345-0050(T), 411-345-0085(T), 411-345-0090(T), 411-345-0095(T), 411-345-0110(T), 411-345-0130(T), 411-345-0140(T), 411-345-0160(T), 411-345-0170(T), 411-345-0180(T), 411-345-0190(T), 411-345-0200(T), 411-345-0230(T), 411-345-0240(T), 411-345-0250(T), 411-345-0260(T), and 411-345-0270(T) relating to employment services.

Statutory Authority: ORS 409.050, 430.662

Other Authority: Executive Order No.13-04

Stats. Implemented: ORS 430.610, 430.662, 430.670

Need for the Rule(s):

The Department needs to permanently update the rules in OAR chapter 411, division 345 for employment services for adults with intellectual or developmental disabilities to make permanent temporary rule language that became effective on July 1, 2014 and to reflect the following:

- Alignment with the rules in OAR chapter 407, division 025, Executive Order No.13-04, and Oregon's "Employment First" policy;
- Alignment with the 1915(c) Home and Community-Based Services waivers and the services available under the waivers;
- Alignment with the Executive Order by outlining the requirements for a Career Development Plan completed as a part of the annual ISP;
- Recognizing changes to provider types who may deliver employment services;
- Changes in the funding authority for non-employment services from the 1915(c) Home and Community-Based Services waiver to the 1915(k) Community First Choice state plan amendment; and
- Alignment of provider qualifications and requirements with the rules in OAR chapter 407, division 025 and Executive Order No. 13-04.

The proposed rules:

- Make permanent temporary rule language that became effective on July 1, 2014;

- Change the references to "alternatives to employment" to "attendant care" or "skills training" where appropriate;;
- Incorporate the general definitions in OAR 411-317-0000 and update the definitions relating to employment and other available services, provider types, and service descriptions;
- Describe who is eligible to receive services as described in these rules and assures employment services are only available to individuals who are eligible for OSIPM;
- Update provider requirements consistent with the 1915(c) Home and Community-Based Services waiver, incorporate new provider types, and include qualifications for providers by service type;
- Assure that adequate documentation of services is kept by providers;
- Incorporate limits to employment services as described in the 1915(c) Home and Community-Based Services waivers;
- Account for the adoption of rules in OAR chapter 411, division 318 and to recognize the authority of that rule in matters of complaints, individual rights, Notification of Planned Action, and hearings;
- Require and describe a Career Development Plan;
- Reflect new Department terminology and current practice; and
- Correct formatting and punctuation.

Documents Relied Upon, and where they are available:

1. Community First Choice 1915 (k) state plan amendment

Available at: <http://www.oregon.gov/dhs/k-plan/Documents/K%20Option%20State%20Plan%20Amendment.pdf>

2. Proposed 1915(c) Support Services Home and Community-Based Services waiver and proposed 1915(c) Comprehensive HCBS waiver.

Available upon request by emailing christina.hartman@state.or.us or calling 503-945-5805.

3. Executive Order No.13-04

Available at: http://www.oregon.gov/gov/docs/executive_orders/eo_13-04.pdf

4. Rules in OAR chapter 407, division 025 for Integrated Employment Services to Individuals with Intellectual and Developmental Disabilities

Available at: http://arcweb.sos.state.or.us/pages/rules/oars_400/oar_407/407_025.html

Fiscal and Economic Impact:

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

The proposed rules change references to "alternatives to employment" to "attendant care" or "skills training" where appropriate.

The Department has determined the proposed rule changes will not impact state agencies, units of local government, individuals receiving services, providers, or the public because while the name of this service has changed, the service itself remains the same and includes support for individuals to socialize and integrate in the community.

Provider organizations have expressed concern regarding the fiscal impact of standardizing the rate for this service. However, moving to a standardized rate for this service is unrelated to any rule change. With regards to the impact of the standardized rate model, providers offering the full array of non-residential services, including employment services, report the standardized rate model will have an overall positive impact on their organizations. Providers who have historically provided 1:1 staffing for social and integration related activities are reporting the rate will adversely impact their ability to continue providing this service on a 1:1 basis for individuals assessed as needing less than 1:1 support.

The fiscal impact of the standardized rate model will vary based on such factors as agency size, service composition/array, and the support level needs or acuity of the individuals served. However, the available service revenue for the provider community has increased. Revenue needs may be addressed by providers transforming services, changing business models, and/or providing additional services to individuals enrolled.

See policy transmittal APD-PT-14-023 for more information regarding the rate model:
<http://www.dhs.state.or.us/policy/spd/transmit/pt/2014/pt14023.pdf>

The proposed rules change the limitation on job coaching from a limit of 25 hours to a limit of 40 hours.

The Department has determined the proposed rule changes will not impact units of local government or the public because the rule changes do not directly impact units of local government or the public.

The Department estimates the following impact on state agencies, individuals receiving services, providers, and businesses:

Department (state agency): Department expenditures for job coaching may increase as a result of this rule change. However, the standardized rate model for all employment services was designed to be budget neutral. While

expenditures are anticipated to increase for job coaching, this is a strategic plan and intentional to encourage providers to provide job coaching. The Department is unable to ascertain a reliable measure of the actual fiscal impact of this specific rule change because, while the Department has data regarding the number of hours individuals utilizing services through the Comprehensive Waiver work in individual integrated employment settings, the Department does not have reliable data regarding the number of hours individuals utilizing services through the Support Services Waiver work in individual integrated employment settings.

Individuals receiving services: The Department estimates there will be an overall positive fiscal and economic impact for individuals because job coaching was previously limited to 25 hours and individuals will now be able to utilize job coaching for up to 40 hours. The increase in the availability of job coaching will likely increase the likelihood that an individual will maintain an individual integrated job. Maintaining an individual integrated job will have a significant positive impact for the individual. The Department is unable to estimate a more precise impact, however, the positive impact of maintaining a job will be maintained for months, years, decades, and even a lifetime.

Providers: The Department estimates a positive fiscal and economic impact for providers who will be able to bill for more job coaching hours. The Department is unable to estimate the extent of the impact because the number of hours a provider can bill is contingent on the hours supported individuals work and the Department is unable to quantify the number of individuals that may be impacted by the rule changes.

Businesses: The Department estimates this rule change will have a positive fiscal and economic impact for businesses because the increase in job coaching is expected to increase employee retention and thereby reduce employee turnover. The Department is unable to estimate the extent of this impact because the Department is unable to quantify the number of individuals that may be impacted by the rule changes.

The proposed rules include Discovery for individuals who want to pursue individual integrated employment in the coming year but need additional support to identify employment skills and interests that may be transferred to an individual integrated job. Discovery is utilized when additional information about an individual is needed and the tools available through Vocational Rehabilitation (VR), including vocational assessments, will not effectively capture the information sought. Discovery is intended to be a stepping stone to job development and results in a Discovery Profile and referral to VR.

The Department has determined the proposed rule changes will not impact the public because the rule changes do not directly impact the public.

The Department estimates the following impact on state agencies, units of local government, individuals receiving services, and providers:

Department and VR (state agencies): Approximately 1,100 individuals utilizing Department-funded services access VR for job development annually. This number increased from 890 in 2013 to 1,150 in 2014. VR job development is an expected outcome of Discovery although there may be a small number of individuals who utilize Discovery who do not utilize VR job development. A percentage of individuals pursuing VR job development may also pursue Discovery through the Department.

VR data reflects that a significant amount of funding and staff time has been spent doing career exploration and assessment with minimum successful “closures” for individuals with intellectual and developmental disabilities. Adding Discovery will result in better quality information and more prepared individuals referred to VR. This is in turn expected to reduce the time from application to establishing an Employment Plan.

The Department is unable to estimate the overall impact of this rule change because the Department is unable to quantify the percentage of individuals that may be impacted by the rule changes.

Discovery is a new employment service that needs to be trained for those providing the service, as well as those authorizing the service. Currently, training is being provided through the Department and the contract Employment First has with Wise.

Community Developmental Disability Programs (CDDPs) (local government) and Support Services Brokerages (Brokerages) (providers): Service coordinators and personal agents who authorize Discovery will be responsible for taking the time to review the Discovery Profile in order to ensure all information the service was authorized for was obtained. Service coordinators and personal agents will also be responsible for ensuring VR receives the Discovery Profile along with a referral, where appropriate. Service coordinators and personal agents will be required to attend training. Training may be applied to the already required 20 hours per year of continued education. Training and case management costs have been accounted for in the new CDDP and Brokerage Workload Model developed by the Department. 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, the Department is unable to estimate the overall impact of the rule changes.

Individuals receiving services: The Department estimates an increasing number of individuals who utilize Discovery, including individuals with the most significant disabilities, will be able to obtain competitive integrated jobs in the general workforce. This has a significant fiscal and economic impact on an individual who has not been able to obtain and maintain a competitive integrated job in the past. Additionally, time spent identifying good job matches may be reduced. The Department is unable to estimate the overall impact to individuals because the estimated impact of this service on the actual number of individuals who are able to obtain and maintain a competitive integrated job is unknown.

Providers: Providers will experience a positive economic impact because they will be able to bill for Discovery. This provides new business and opportunity for revenue. The Department is unable to estimate the extent of the impact because the Department is unable to quantify the number of individuals that may be impacted by the rule changes.

The proposed rules require that employment specialists participate in training prior to providing employment services. Additionally, employment service provider organizations will be required to have at least one employee who has obtained Department approved credentialing by July 1, 2016. This is to meet compliance with Executive Order 13-04 and the rules in OAR chapter 407, division 025 regarding integrated employment.

The Department has determined the proposed rule changes will not impact units of local government, individuals receiving services, and the public because the rule changes do not directly impact units of local government, individuals receiving services, and the public.

The Department estimates the following impact on state agencies and providers:

Department (state agency): Department funding in the budget for 2013-2015, allocated by the Oregon Legislature to support the implementation of Executive Order 13-04 and Oregon's Employment First Policy, has and continues to sponsor a number of trainings and technical assistance strategies for providers and units of local government. These trainings and technical assistance services will help to significantly offset many provider costs and meet the training and credentialing requirements. The Department estimates that more qualified and credentialed providers will result in a better trained and credentialed provider pool. Decrease in turnover will likely result in a more efficient system and less duplication of services.

Providers: The Department estimates that this rule change will have a positive fiscal and economic impact for providers because it is estimated that a better trained workforce will lead to a decrease in turnover of employees. The Department estimates a negative fiscal and economic impact may also result because employment specialist will be required to participate in a competency based supported employment training. A variety of training options are available online and in person. Providers will likely have to pay for the time required for employees to participate in these trainings. The Department estimates that the impact will include, on average, 10 hours per employment specialist for travel and training time.

The Department estimates a larger fiscal and economic impact for provider organizations that will be required to have an employment specialist who has obtained the Department approved credentialing. The Department intends to authorize several nationally recognized programs that offer certifications for employment specialists. Certification is expected to require an average of \$160 per employee and an average of 3 days in time and travel expenses in order to take the exam.

The Department is investing significant training and technical assistance resources to help providers meeting training requirements, including provider transformation grants, start up and expansion grants, and Department funded trainings and technical assistance. Additionally, because of the estimated fiscal and economic to providers, particularly in light of provider's concerns regarding employee turnover, the Department only requires that one employee from each provider organization be certified through the Department approved program. However, all employment specialists will still be expected to participate in at least one employment related training.

The proposed rules require that Career Development Planning occur as part of the annual service planning process and, in order to utilize Department-funded employment services, individuals have an employment related goal in his or her ISP and Career Development Plan.

The Department has determined the proposed changes will not impact individuals receiving services and the public because the rule changes do not directly impact individuals receiving services and the public.

The Department estimates the following impact on state agencies, units of local government, and providers:

Department (state agencies): The Department will need to provide initial training and ongoing technical assistance for the implementation of the Career Development Plan. The Department plans to accomplish these activities with existing staff and fiscal resources.

CDDPs (local government): The impact to CDDPs is addressed in the Notice of Proposed Rulemaking Hearing and Fiscal Impact Statement for the rules proposed in OAR chapter 411, division 320.

Brokerages (providers): The impact to Brokerages is addressed in the Notice of Proposed Rulemaking Hearing and Fiscal Impact Statement for the rules proposed in OAR chapter 411, division 340.

Providers: Providers are not required to participate in the development of a Career Development Plan although in many instances, a provider will choose to participate. The Department is unable to estimate the overall impact to providers because the number of these situations is unknown and the duration of provider participation cannot be estimated.

The proposed rules require that an advance written notice of an involuntary reduction of services be provided to an individual and their representative when a provider is reducing services provided to the individual.

The Department has determined the proposed rule changes will not impact individuals receiving services and the public because the rule changes do not directly impact individuals receiving services and the public.

The Department estimates the following impact on state agencies, units of local government, and providers.

Department (state agency): The Department will be providing trainings, developing transmittals, updating forms, and providing technical assistance. Training materials, transmittals, and forms will be made available on-line for easy accessibility. The Department plans to accomplish these activities with existing staff and fiscal resources.

CDDPs (local government): The Department may request that a CDDP assist in gathering information relevant to a hearing request and submit the information to the Department. Service coordinators will need to explain to an individual and their representative the hearing process and their right to a hearing and may assist the individual and their representative with the hearing process. The costs for these activities have been accounted for in the new CDDP Workload Model developed by the Department. 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, the Department is unable to estimate the overall impact of the rule changes.

Providers: The Department estimates that a provider who issues a notice of an involuntary reduction of services will incur a cost of approximately \$50 per notice for wages, benefits, paper mailing, and delivery. Providers may also need to prepare and present documents for a hearing and possibly retain an attorney. The Department is unable to estimate the overall impact to providers because the cost for presentation and representation would vary case-by-case and the Department is unable to quantify the number of notices but estimates that only a few notices impacted by the rule changes will be issued.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

The Department endorses 152 geographic locations to provide employment services. The agencies and providers of employment services may be considered small businesses as defined in ORS 183.310.

Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

The impact is described above in the Department's statement of cost of compliance.

c. Equipment, supplies, labor and increased administration required for compliance:

The Impact is described above in the Department's statement of cost of compliance.

How were small businesses involved in the development of this rule?

Representatives from the Oregon Rehabilitation Association which represents provider organizations participated on the Rule Advisory Committee (RAC). A representative from the Community Providers Association of Oregon also participated on the RAC. Small businesses as defined in ORS 183.310 will also be included in the public review and comment period.

Administrative Rule Advisory Committee consulted?:

Yes. The RAC met in person on July 21st and August 1st to consider proposed rule changes and discuss the fiscal impact. The RAC included representation from CDDPs, support services brokerages, providers, provider organizations, Association of Oregon Counties, Community Providers Association of Oregon, Disability Rights Oregon, Oregon Council on Developmental Disabilities, Oregon Health Authority, Oregon Home Care Commission, Oregon Rehabilitation Association, Oregon Small Provider Coalition, Oregon Support Services Association, Service Employees International Union Local 503, individuals with intellectual or developmental disabilities, family members of individuals with intellectual or developmental disabilities, and the Department.

Signed Lilia Teninty, Director, Developmental Disabilities

09/24/2014

Signature

Date

DEPARTMENT OF HUMAN SERVICES
DEVELOPMENTAL DISABILITIES
OREGON ADMINISTRATIVE RULES

CHAPTER 411
DIVISION 345

~~EMPLOYMENT AND ALTERNATIVES TO~~ EMPLOYMENT SERVICES
FOR ADULTS WITH INTELLECTUAL OR DEVELOPMENTAL
DISABILITIES

411-345-0010 Statement of Purpose

(1) These rules, OAR 411-345-0010 through 411-345-0270, effectuate Oregon's Employment First policy under which the employment of individuals with developmental disabilities in fully integrated work settings is the highest priority over unemployment, segregated employment, or other non-work day activities.

(2) For those who successfully achieve the goal of integrated employment, future service planning focuses on maintaining employment or considering additional career or advancement opportunities.

(3) Employment services are considered and provided using a person-centered approach based on informed choice and consistent with the philosophy of self-determination.

(4) These rules prescribe service standards and requirements for providing employment services and the qualifications and eligibility requirements for employment services for adults with intellectual or developmental disabilities. These rules also prescribe the standards and procedures by which the Department endorses agency service providers to provide employment services.

~~The rules in OAR chapter 411, division 345 prescribe standards for providing employment and alternatives to employment services for adults with intellectual or developmental disabilities receiving residential services. These rules also prescribe the standards and procedures by which the Department endorses service providers to provide employment and alternatives to employment services.~~

Stat. Auth.: ORS 409.050, 427.007, and 430.662

Stats. Implemented: ORS 430.610, 430.662, and 430.670

411-345-0020 Definitions

Unless the context indicates otherwise, the following definitions and the definitions in OAR 411-317-0000 apply to the rules in OAR chapter 411, division 345:

(1) "Abuse" means "abuse of an adult" as defined in OAR 407-045-0260.

(2) "ADL" means "activities of daily living". ADL are basic personal everyday activities, such as eating, using the restroom, grooming, dressing, bathing, and transferring.

(3) "Adult" means an individual who is 18 years or older with an intellectual or developmental disability.

(4) "Agency Service Provider" means a public or private community agency or organization that provides recognized developmental disability services and is certified by the Department to provide services under these rules and is endorsed under these rules or the rules in OAR chapter 411, division 323.

(5) "Attendant Care" means assistance with ADL, IADL, and health-related tasks through cueing, monitoring, reassurance, redirection, set-up, hands-on, standby assistance, and reminding.

(6) "Brokerage" means "Brokerage" as defined in OAR 411-340-0020.

(7) "Career Development Plan" means the part of an ISP or annual service plan that identifies:

(a) The employment goals and objectives for an individual;

(b) The services and supports needed to achieve those goals;

(c) The people, agencies, and providers assigned to assist the individual to attain those goals;

(d) The obstacles to the individual working in an individualized job in an integrated employment setting; and

(e) The services and supports necessary to overcome those obstacles.

(8) "CDDP" means "Community Developmental Disability Program" as defined in OAR 411-320-0020.

(9) "Certificate" means the document issued by the Department to an agency service provider that certifies the agency service provider is eligible under these rules or the rules in OAR chapter 411, division 323 to receive state funds for the provision of services in an endorsed employment setting.

(10) "Choice" means the expression of preference, opportunity for, and active role of an individual in decision-making related to services received and from whom including, but not limited to, case management, service providers, services, and service settings. Individuals are supported in opportunities to make changes when so expressed. Choice may be communicated through a variety of methods. Choice may be expressed orally, through sign language, or by other communication methods.

(11) "Collective Bargaining Agreement" means the Collective Bargaining Agreement between the Home Care Commission and the Service Employees International Union, Local 503, Oregon Public Employees Union regarding wages, hours, rules, and working conditions.

(12) "Competitive Integrated Employment" means employment where an individual is compensated at a rate that:

(a) Is not less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C.206(a)(1)) or the rate specified in the applicable state or local minimum wage law; and

(b) Is not less than the customary rate paid by the employer for the same or similar work performed by other employees who are not individuals with disabilities, and who are similarly situated in similar

occupations by the same employer and who have similar training, experience, and skills; or

(c) In the case of an individual who is self-employed, yields an income that is comparable to the income received by other individuals who are not individuals with disabilities, and who are self-employed in similar occupations or on similar tasks and who have similar training, experience, and skills; and

(d) Is eligible for the level of benefits provided to other employees.

(13) "Customized Integrated Employment" means competitive integrated employment for an individual with a disability that is based on an individualized determination of the strengths, needs, and interests of the individual, is designed to meet the specific abilities of the individual and the business needs of the employer, and is carried out through flexible strategies, such as:

(a) Job exploration by the individual;

(b) Working with an employer to facilitate placement, including:

(A) Customizing a job description based on current employer needs or on previously unidentified and unmet employer needs;

(B) Developing a set of job duties, a work schedule and job arrangement, and specifics of supervision (including performance evaluation and review), and determining a job location;

(C) Representation by a professional chosen by the individual, or self-representation of the individual, in working with an employer to facilitate placement; and

(D) Providing services and supports at the job location.

(14) "Department" means the Department of Human Services.

(15) "Designated Representative" means any adult, such as a parent, family member, guardian, advocate, or other person, who is chosen by an individual, not a paid provider for the individual, and authorized in writing by the individual to serve as the representative of the individual in connection with the provision of funded supports. An individual is not required to appoint a designated representative.

(16) "Developmental Disability" means "developmental disability" as defined in OAR 411-320-0020 and described in OAR 411-320-0080.

(17) "Director" means the Director of the Department of Human Services, Office of Developmental Disability Services or Office of Licensing and Regulatory Oversight, or the designee of the Director.

(18) "Discovery" is a comprehensive and person-centered employment planning support service to better inform an individual seeking an individualized job in a competitive integrated employment setting and create a Discovery Profile. Discovery includes a series of work or volunteer related activities to inform the individual and the job developer about the strengths, interests, abilities, skills, experiences, and support needs of the individual, as well as identify the conditions and settings in which the individual will be successful. Discovery is also an opportunity for the individual to begin active pursuit of competitive integrated employment.

(19) "Discovery Profile" is a comprehensive and person-centered report produced as an outcome of discovery, representing an individual and providing information to better inform employment service planning and job development activities. The Discovery Profile includes information about the strengths, interests, abilities, skills, experiences, and support needs of the individual, as well as information about conditions and settings for the success of the individual.

(20) "Employment Path Services" means services to provide learning and work experiences, including volunteer opportunities, for an individual to develop general, non-job-task-specific strengths, and skills that contribute to employability in paid employment in integrated community settings.

(21) "Employment Service" means a service that has obtaining and maintaining individual integrated employment as the primary goal. Employment services include supported employment - individual employment support (job coaching and job development), supported employment - small group employment support, discovery, and employment path services. Employment services do not include vocational assessments in sheltered workshops or facility-based settings.

(22) "Employment Specialist" means an employee of an agency service provider, an independent provider, or an employee of an independent provider who has specific qualifications and training to provide employment services under these rules, including supported employment - individual employment support (job coaching and job development), supported employment - small group employment support, discovery, and employment path services.

(23) "Endorsement" means the authorization issued by the Department to a certified agency service provider that has met the qualification criteria outlined in these rules and the rules in OAR chapter 411, division 323.

(24) "Entry" means admission to a Department-funded developmental disability service.

(25) "Evidence-Based Practices" means well-defined best practices, which have been demonstrated to be effective by multiple peer-reviewed research studies that are specific to the relevant population or subset of that population.

(26) "Executive Director" means the person designated by a board of directors or corporate owner of an agency service provider who is responsible for the administration of agency provided employment services, attendant care, and skills training.

(27) "Exit" means termination or discontinuance of a Department-funded developmental disability service by an agency service provider.

(28) "Facility-Based" means a service that is operated at a fixed site owned, operated, or controlled by a service provider where an individual has few or no opportunities to interact with people who do not have a disability except for paid staff.

(29) "Functional Needs Assessment":

(a) Means the comprehensive assessment or re-assessment that:

(A) Documents physical, mental, and social functioning;

(B) Identifies risk factors, choices and preferences, service and support needs, strengths, and goals; and

(C) Determines the service level.

(b) The functional needs assessment may be the Adult Needs Assessment (ANA), Support Needs Assessment Profile (SNAP), or Supports Intensity Scale (SIS).

(A) The Department incorporates Version B of the ANA dated July 1, 2014 into these rules by this reference. The ANA is maintained by the Department at:
www.dhs.state.or.us/spd/tools/dd/cm/ANA_Adult_In-home.xls.

(B) The Department incorporates the SNAP into these rules by this reference. The SNAP is maintained by the Department at
<http://www.oregon.gov/dhs/dd/rebar/pages/assess-afc.aspx>.

(C) The Department incorporates the SIS into these rules by this reference.

(c) A printed copy may be obtained by calling (503) 945-6398 or writing the Department of Human Services, Developmental Disabilities, ATTN: Rules Coordinator, 500 Summer Street NE, E-48, Salem, OR 97301.

(30) "IADL" means "instrumental activities of daily living". IADL include activities other than ADL required to continue independent living such as:

(a) Meal planning and preparation;

(b) Budgeting;

(c) Shopping for food, clothing, and other essential items;

(d) Performing essential household chores;

(e) Communicating by phone or other media; and

(f) Traveling around and participating in the community.

(31) "Important for an Individual" means the areas of the life of an individual that relate to being healthy, safe, and a valued member of the community.

(32) "Incident Report" means the written report of any injury, accident, act of physical aggression, use of protective physical intervention, or unusual incident involving an individual.

(33) "Independence" means the extent to which an individual exerts control and choice over his or her own life.

(34) "Independent Provider" means a person selected by an individual acting in the role of an independent contractor or self-employed person authorized to provide services for the individual based upon the ISP for the individual. Services provided by an independent provider do not require Department certification and endorsement.

(35) "Individual" means an adult with an intellectual or developmental disability applying for, or determined eligible for, Department-funded services. Unless otherwise specified, references to individual also include the legal or designated representative of the individual, who has the ability to act for the individual and exercise the rights of the individual.

(36) "Integrated Employment Setting" means employment at a location where an employee interacts with other persons who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that individuals who are not individuals with disabilities and who are in comparable positions interact with other persons; and that, as appropriate, presents opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions.

(37) "Integration" as defined in ORS 427.005 means:

(a) The use by individuals with intellectual or developmental disabilities of the same community resources used by and available to other people;

(b) Participation by individuals with intellectual or developmental disabilities in the same community activities in which people without an intellectual or developmental disability participate, together with regular contact with people without an intellectual or developmental disability; and

(c) Individuals with intellectual or developmental disabilities reside in homes or home-like settings that are in proximity to community resources and foster contact with people in the community.

(38) "Intellectual Disability" means "intellectual disability" as defined in OAR 411-320-0020 and described in OAR 411-320-0080.

(39) "Involuntary Reduction" means an agency service provider has made the decision to reduce the services provided to an individual and the individual has not given prior approval.

(40) "Involuntary Transfer" means an agency service provider has made the decision to transfer an individual to be served at another site and the individual has not given prior approval.

(41) "ISP" means "Individual Support Plan". An ISP includes the written details of the supports, activities, and resources required for an individual to achieve and maintain personal goals and health and safety. The ISP is developed at least annually to reflect decisions and agreements made during a person-centered process of planning and information gathering. The ISP reflects the services and supports that are important for the individual to meet the needs of the individual identified through a functional needs assessment as well as the preferences of the individual for service providers, delivery, and frequency of services and supports. The ISP is the plan of care for Medicaid purposes and reflects whether services are provided through a waiver, the Community First Choice state plan, natural supports, or alternative resources.

(42) "ISP Action Plan" means the written documentation of the commitment of an ISP team in supporting an individual to resolve or improve particular aspects of the life of the individual. An ISP Action Plan identifies the necessary measurable steps to be taken, who is accountable for assuring implementation, and timelines for completion.

(43) "ISP Meeting" means an annual meeting facilitated by a services coordinator or personal agent and attended by the ISP team. The purpose of the ISP meeting is to determine the needs of an individual, coordinate services and training, and develop the ISP for the individual.

(44) "ISP Team" means a team composed of an individual receiving services and the legal or designated representative of the individual (as applicable), services coordinator or personal agent, and others chosen by the individual, such as service providers and family members.

(45) "Job Coaching" means support for an individual to maintain an individual job in a competitive integrated employment setting in the general workforce, including customized employment or self-employment.

(46) "Job Development" means support for an individual to obtain an individual job in a competitive integrated employment setting in the general workforce, including customized employment or self-employment.

(47) "Legal Representative" means an attorney at law who has been retained by or for an individual, an individual acting under the authority granted in a power of attorney, or a person or agency authorized by a court to make decisions about services for an individual.

(48) "Mandatory Reporter" means any public or private official as defined in OAR 407-045-0260 who, while acting in an official capacity, comes in contact with an adult with an intellectual or developmental disability and has reasonable cause to believe the adult has suffered abuse, or comes in contact with any person whom the public or private official has reasonable cause to believe abused the adult. Nothing contained in ORS 40.225 to 40.295 affects the duty to report imposed by this definition, except that a psychiatrist, psychologist, clergy, or attorney is not required to report if the communication is privileged under ORS 40.225 to 40.295.

(49) "Medicaid Agency Identification Number" means the numeric identifier assigned by the Department to a service provider following the enrollment of the service provider as described in OAR chapter 411, division 370.

(50) "Medicaid Performing Provider Number" means the numeric identifier assigned by the Department to an entity or person following the enrollment of the entity or person to deliver Medicaid funded services as described in OAR chapter 411, division 370. The Medicaid Performing Provider Number is used by the rendering service provider for identification and billing purposes associated with service authorizations and payments.

(51) "OHP Plus" means only the Medicaid benefit packages provided under OAR 410-120-1210(4)(a) and (b). This excludes individuals receiving Title XXI benefits.

(52) "OIS" means "Oregon Intervention System". OIS is the system of providing training of elements of positive behavior support and non-aversive behavior intervention. OIS uses principles of pro-active support and describes approved protective physical intervention techniques used to maintain health and safety.

(53) "OSIPM" means "Oregon Supplemental Income Program-Medical" as described in OAR 461-001-0030. OSIPM is Oregon Medicaid insurance coverage for individuals who meet the eligibility criteria described in OAR chapter 461.

(54) "Person-Centered Planning":

(a) Means a timely and formal or informal process that is driven by an individual, includes people chosen by the individual, ensures that the individual directs the process to the maximum extent possible, and that the individual is enabled to make informed choices and decisions consistent with 42 CFR 441.540.

(b) Person-centered planning includes gathering and organizing information to reflect what is important to and for the individual and to help:

(A) Determine and describe choices about personal goals, activities, services, service providers, service settings, and lifestyle preferences;

(B) Design strategies and networks of support to achieve goals and a preferred lifestyle using individual strengths, relationships, and resources; and

(C) Identify, use, and strengthen naturally occurring opportunities for support at home and in the community.

(c) The methods for gathering information vary, but all are consistent with the cultural considerations, needs, and preferences of the individual.

(55) "Personal Agent" means "personal agent" as defined in OAR 411-340-0020.

(56) "Personal Support Worker" means "personal support worker" as defined in OAR 411-375-0010.

(57) "PRN" means the administration of medication to an individual on an 'as needed' basis (pro re nata).

(58) "Productivity" as defined in ORS 427.005 means:

(a) Regular engagement in income producing work, preferably competitive integrated employment with supports and accommodations to the extent necessary, by an individual with an intellectual or developmental disability, which is measured through improvements in income level, employment status, or job advancement; or

(b) Engagement by an individual with an intellectual or developmental disability in work contributing to a household or community.

(59) "Protection" means the necessary actions offered to an individual as soon as possible to prevent subsequent abuse or exploitation of the individual, to prevent self-destructive acts, or to safeguard the person, property, and funds of an individual.

(60) "Protective Physical Intervention" means any manual physical holding of, or contact with, an individual that restricts freedom of movement.

(61) "Psychotropic Medication" means a medication the prescribed intent of which is to affect or alter thought processes, mood, or behavior including, but not limited to, anti-psychotic, antidepressant, anxiolytic (anti-anxiety), and behavior medications. The classification of a medication depends upon its stated, intended effect when prescribed.

(62) "Self-Determination" means a philosophy and process by which an individual is empowered to gain control over the selection of services and supports that meets the needs of the individual. The basic principles of self-determination are:

(a) Freedom. The ability for an individual, together with freely chosen family, friends, and professionals, to plan for employment beyond the parameters of a predefined program;

(b) Authority. The ability for an individual, together with the ISP team, to declare a chosen employment path and to plan supports accordingly;

(c) Autonomy. Planning for and accessing resources that support an individual to seek employment; and

(d) Responsibility. The acceptance of a valued role of an individual in the community through employment, organizational affiliations, personal development, and general caring for others in the community, as well as accountability for spending public dollars in ways that are life-enhancing for the individual.

(63) "Service Level" means the amount of attendant care, hourly relief care, or skills training services determined necessary by a functional needs assessment and made available to meet the identified support needs of an individual.

(64) "Service Provider" means:

(a) An agency service provider as defined by these rules;

(b) An independent provider, as defined by these rules, qualified to provide services under these rules; or

(c) A personal support worker as defined in OAR 411-375-0010, qualified to provide services under these rules.

(65) "Services Coordinator" means "services coordinator" as defined in OAR 411-320-0020.

(66) "Sheltered Workshop" means the service as defined under OAR 407-025-0010.

(67) "Situational Assessment" means an assessment that maintains the qualities of a vocational assessment but is administered on-site in an integrated employment setting, where an individual is evaluated in the performance of work activities typical to the setting where the assessment is administered.

(68) "Skills Training" means the activities that are intended to maximize the independence of an individual through training, coaching, and prompting the individual to accomplish ADL, IADL, and health-related skills.

(69) "Staff" means paid employees of service provider agencies responsible for providing supports or services to individuals for which payment is made through the Department.

(70) "Support Services" means "support services" as defined in OAR 411-340-0020.

(71) "Supported Employment - Individual Employment Support" means job coaching or job development services to obtain or maintain an individual job in a competitive integrated employment setting in the general workforce, including customized employment or self-employment.

(72) "Supported Employment - Small Group Employment Support" means services and training activities provided in regular business, industry, and community settings for groups of two to eight individuals with disabilities. Small group employment support is provided in a manner that promotes

integration into the workplace and interaction between participants and people without disabilities in those workplaces.

(73) "These Rules" mean the rules in OAR chapter 411, division 345.

(74) "Transfer" means movement of an individual from one site to another site administered or operated by the same agency service provider.

(75) "Transition Plan" means the ISP describing necessary services and supports for an individual upon entry to a new service setting. The Transition Plan is approved by a services coordinator or personal agent and includes a summary of the services necessary to facilitate adjustment to the services offered, the supports necessary to ensure health and safety, and the assessments and consultations necessary for further ISP development.

(76) "Unusual Incident" means any incident involving an individual that includes serious illness or an accident, death, injury or illness requiring inpatient or emergency hospitalization, a suicide attempt, a fire requiring the services of a fire department, an act of physical aggression, or any incident requiring an abuse investigation.

(77) "Variance" means the temporary exception from a regulation or provision of these rules that may be granted by the Department upon written application by an agency service provider.

(78) "Vocational Assessment" means an assessment administered to provide employment related information essential to the development of, or revision of, the employment related planning documents for an individual including, but not limited to, the ISP and Career Development Plan.

~~Unless the context indicates otherwise, the following definitions apply to the rules in OAR chapter 411, division 345:~~

~~(1) "Abuse" means "abuse of an adult" as defined in OAR 407-045-0260.~~

~~(2) "Abuse Investigation and Protective Services" means the reporting and investigation activities as required by OAR 407-045-0300 and any subsequent services or supports necessary to prevent further abuse as required in OAR 407-045-0310.~~

~~(3) "Activities of Daily Living (ADL)" mean basic personal everyday activities, including but not limited to tasks such as eating, using the restroom, grooming, dressing, bathing, and transferring.~~

~~(4) "ADL" means "activities of daily living" as defined in this rule.~~

~~(5) "Administration of Medication" means the act of placing a medication in or on an individual's body by a staff member who is responsible for the individual's care.~~

~~(6) "Adult" means an individual 18 years or older with an intellectual or developmental disability.~~

~~(7) "Aid to Physical Functioning" means any special equipment prescribed for an individual by a physician, therapist, or dietician that maintains or enhances the individual's physical functioning.~~

~~(8) "Alternatives to Employment Services" mean the services conducted away from an individual's residence that addresses the individual's academic, recreational, social, or therapeutic needs.~~

~~(9) "Case Management" means the functions performed by a services coordinator. Case management includes determining service eligibility, developing a plan of authorized services, and monitoring the effectiveness of services and supports.~~

~~(10) "CDDP" means "community developmental disability program" as defined in this rule.~~

~~(11) "Certificate" means the document issued by the Department to a service provider that certifies the service provider is eligible under the rules in OAR chapter 411, division 323 to receive state funds for the provision of endorsed employment and alternatives to employment services.~~

~~(12) "Choice" means an individual's expression of preference, opportunity for, and active role in decision-making related to services received and from whom, including but not limited to case management, service providers, and service settings. Personal outcomes, goals, and activities are supported in the context of balancing an individual's rights, risks, and~~

~~personal choices. Individuals are supported in opportunities to make changes when so expressed. Choice may be communicated verbally, through sign language, or by other communication methods.~~

~~(13) "Community-Based Service" means any service or program providing opportunities for the majority of an individual's time to be spent in community participation or integration.~~

~~(14) "Community Developmental Disability Program (CDDP)" means the entity that is responsible for plan authorization, delivery, and monitoring of services for individuals with intellectual or developmental disabilities according to OAR chapter 411, division 320.~~

~~(15) "Community First Choice (K Plan)" means Oregon's state plan amendment authorized under section 1915(k) of the Social Security Act.~~

~~(16) "Complaint Investigation" means the investigation of any complaint that has been made to a proper authority that is not covered by an abuse investigation.~~

~~(17) "Controlled Substance" means any drug classified as Schedules 1 to 5 under the Federal Controlled Substance Act.~~

~~(18) "Day" means a calendar day unless otherwise specified in these rules.~~

~~(19) "Department" means the Department of Human Services.~~

~~(20) "Designated Representative" means a parent, family member, guardian, advocate, or other person authorized in writing by an individual to serve as the individual's representative in connection with the provision of funded supports. An individual is not required to appoint a designated representative.~~

~~(21) "Developmental Disability" means a neurological condition that originates in the developmental years, that is likely to continue, and significantly impacts adaptive behavior as diagnosed and measured by a qualified professional as described in OAR 411-320-0080.~~

~~(22) "Director" means the director of the Department's Office of Developmental Disability Services or the director's designee.~~

~~(23) "Discovery" is a focused time-limited service engaging an individual in identifying the individual's strengths, needs, and interests to prepare for integrated employment.~~

~~(24) "Employment Services" means any service that has the employment of individuals as the primary goal, including job assessment, job development, training, and ongoing supports.~~

~~(25) "Endorsement" means the authorization to provide employment and alternatives to employment services issued by the Department to a certified service provider that has met the qualification criteria outlined in these rules and the rules in OAR chapter 411, division 323.~~

~~(26) "Entry" means admission to a Department-funded developmental disability service.~~

~~(27) "Executive Director" means the person designated by a board of directors or corporate owner that is responsible for the administration of employment and alternatives to employment services.~~

~~(28) "Exit" means termination or discontinuance of a Department-funded developmental disability service by a Department-licensed or certified provider.~~

~~(29) "Facility Based Service" means any service or program operated by a service provider that occurs in a location supporting more than eight individuals as a group.~~

~~(30) "Founded Reports" means the Department's or Law Enforcement Authority's (LEA) determination, based on the evidence, that there is reasonable cause to believe that conduct in violation of the child abuse statutes or rules has occurred and such conduct is attributable to the person alleged to have engaged in the conduct.~~

~~(31) "Functional Needs Assessment" means a comprehensive assessment that documents the following:~~

~~(a) Physical, mental, and social functioning; and~~

~~(b) Risk factors, choices and preferences, service and support needs, strengths, and goals.~~

~~(32) "Home and Community-Based Waiver Services" mean the services approved by the Centers for Medicare and Medicaid Services in accordance with section 1915(c) and 1115 of the Social Security Act.~~

~~(33) "Important for an Individual" means the areas of an individual's life that relate to being healthy, safe, and a valued member of the community.~~

~~(34) "Important to an Individual" means an individual's perspective on the people, places, and things the individual likes, personal values, spirituality, and a sense of self. This is learned by listening to what is being said by words or actions. When there is a conflict between words and actions, actions are considered first.~~

~~(35) "Incident Report" means the written report of any injury, accident, act of physical aggression, or unusual incident involving an individual.~~

~~(36) "Independence" means the extent to which an individual exerts control and choice over his or her own life.~~

~~(37) "Individual" means an adult with an intellectual or developmental disability applying for, or determined eligible for, developmental disability services.~~

~~(38) "Individual Support Plan (ISP)" means the written details of the supports, activities, and resources required for an individual to achieve and maintain personal outcomes. The ISP is developed at minimum annually to reflect decisions and agreements made during a person-centered process of planning and information gathering. Individual support needs are identified through a functional needs assessment. The manner in which services are delivered, service providers, and the frequency of services are reflected in an ISP. The ISP is the individual's plan of care for Medicaid purposes and reflects whether services are provided through a waiver, state plan, or natural supports.~~

~~(39) "Individual Support Plan (ISP) Action Plan" means the written documentation of an ISP team's commitment in supporting an individual to resolve or improve particular aspects of the individual's life. An ISP Action~~

~~Plan identifies the necessary measurable steps to be taken, who is accountable for assuring implementation, and timelines for completion.~~

~~(40) "Individual Support Plan (ISP) Meeting" means an annual meeting facilitated by a services coordinator and attended by an individual's ISP team. The purpose of the ISP meeting is to determine the individual's needs, coordinate services and training, and develop the individual's ISP.~~

~~(41) "Individual Support Plan (ISP) Team" means a team composed of an individual receiving services and the individual's legal or designated representative (as applicable), services coordinator, and others chosen by the individual or the individual's representative, such as service providers and family members.~~

~~(42) "Integration" as defined in ORS 427.005 means:~~

~~(a) The use by an individual with an intellectual or developmental disability of the same community resources used by and available to a person without an intellectual or developmental disability;~~

~~(b) Participation by an individual with an intellectual or developmental disability in the same community activities in which a person without an intellectual or developmental disability participates, together with regular contact with a person without an intellectual or developmental disability; and~~

~~(c) An individual with an intellectual or developmental disability resides in a home or home-like setting that is in proximity to community resources and fosters contact with people in the community.~~

~~(43) "Intellectual Disability" means "intellectual disability" as defined in OAR 411-320-0020 and described in OAR 411-320-0080.~~

~~(44) "Involuntary Transfer" means a service provider has made the decision to transfer an individual and the individual, or as applicable the individual's legal or designated representative, has not given prior approval.~~

~~(45) "ISP" means "individual support plan" as defined in this rule.~~

~~(46) "Job Development" means assistance and support for an individual to pursue employment and obtain job placement.~~

~~(47) "Legal Representative" means an attorney at law who has been retained by or for an individual, or a person or agency authorized by a court to make decisions about services for an individual.~~

~~(48) "Mandatory Reporter" means any public or private official as defined in OAR 407-045-0260, who is a staff or volunteer working with an adult, who while acting in an official capacity comes in contact with and has reasonable cause to believe an adult with an intellectual or developmental disability has suffered abuse, or comes in contact with any person whom the official has reasonable cause to believe abused an adult with an intellectual or developmental disability. Nothing contained in ORS 40.225 to 40.295 affects the duty to report imposed by this section of this rule, except that a psychiatrist, psychologist, clergy, or attorney is not required to report if the communication is privileged under ORS 40.225 to 40.295.~~

~~(49) "Medicaid Agency Identification Number" means the numeric identifier assigned by the Department to a service provider following the service provider's enrollment as described in OAR chapter 411, division 370.~~

~~(50) "Medicaid Performing Provider Number" means the numeric identifier assigned to an entity or person by the Department following enrollment to deliver Medicaid funded services as described in OAR chapter 411, division 370. The Medicaid Performing Provider Number is used by the rendering service provider for identification and billing purposes associated with service authorizations and payments.~~

~~(51) "Medication" means any drug, chemical, compound, suspension, or preparation in suitable form for use as a curative or remedial substance taken either internally or externally by any person.~~

~~(52) "Natural Supports" means the voluntary resources available to an individual from the individual's relatives, friends, significant others, neighbors, roommates, and the community that are not paid for by the Department.~~

~~(53) "Oregon Intervention System (OIS)" means the system of providing training to people who work with designated individuals to provide elements~~

~~of positive behavior support and non-aversive behavior intervention. OIS uses principles of pro-active support and describes approved protective physical intervention techniques that are used to maintain health and safety.~~

~~(54) "OSIP-M" means "Oregon Supplemental Income Program-Medical" as defined in OAR 461-101-0010. OSIP-M is Oregon Medicaid insurance coverage for individuals who meet the eligibility criteria described in OAR chapter 461.~~

~~(55) "Path to Employment" means a concept that identifies an individual's preferences in moving toward employment using principles of self-determination and a set of questions and strategies that assist the Individual Support Plan team when planning.~~

~~(56) "Person-Centered Planning":~~

~~(a) Means a timely and formal or informal process that is driven by an individual with an intellectual or developmental disability that gathers and organizes information that helps an individual:~~

~~(A) Determine and describe choices about employment, personal goals, activities, services, service providers, and lifestyle preferences;~~

~~(B) Design strategies and networks of support to achieve goals and a preferred lifestyle using individual strengths, relationships, and resources; and~~

~~(C) Identify, use, and strengthen naturally occurring opportunities for support at home and in the community.~~

~~(b) The methods for gathering information vary, but all are consistent with the individual's cultural considerations, needs, and preferences.~~

~~(57) "Person-Centered Process" means a practice of identifying what is important to and for an individual, and the supports necessary to address issues of health, safety, behavior, and financial support.~~

~~(58) "Plan of Care" means the written plan of Medicaid services required by Medicaid regulation. Oregon's plan of care is the Individual Support Plan.~~

~~(59) "PRN" means the administration of medication to an individual on an 'as needed' basis (pro re nata).~~

~~(60) "Productivity" as defined in ORS 427.005 means:~~

~~(a) Engagement in income producing work by an individual that is measured through improvements in income level, employment status, or job advancement; or~~

~~(b) Engagement by an individual in work contributing to a household or community.~~

~~(61) "Protection" means the necessary actions taken as soon as possible to prevent subsequent abuse or exploitation of an individual, to prevent self-destructive acts, or to safeguard an individual's person, property, and funds.~~

~~(62) "Protective Physical Intervention (PPI)" means any manual physical holding of, or contact with, an individual that restricts the individual's freedom of movement.~~

~~(63) "Psychotropic Medication" means a medication the prescribed intent of which is to affect or alter thought processes, mood, or behavior, including but not limited to anti-psychotic, antidepressant, anxiolytic (anti-anxiety), and behavior medications. The classification of a medication depends upon its stated, intended effect when prescribed.~~

~~(64) "Self-Administration of Medication" means an individual manages and takes his or her own medication, identifies his or her own medication and the times and methods of administration, places the medication internally in or externally on his or her own body without staff assistance upon the written order of a physician, and safely maintains the medication without supervision.~~

~~(65) "Self-Determination" means a philosophy and process by which an individual is empowered to gain control over the selection of services that meets the individual's needs. The basic principles of self-determination are:~~

~~(a) Freedom. The ability for an individual, together with freely chosen family, friends, and professionals, to plan for employment beyond the parameters of a predefined program;~~

~~(b) Authority. The ability for an individual, together with the Individual Support Plan team, to declare a chosen employment path and to plan supports accordingly.~~

~~(c) Autonomy. Planning for and accessing resources that support an individual to seek employment; and~~

~~(d) Responsibility. The acceptance of a valued role in an individual's community through employment, organizational affiliations, personal development, and general caring for others in the community, as well as accountability for spending public dollars in ways that are life-enhancing for individuals.~~

~~(66) "Service Provider" means a public or private community agency or organization that provides recognized developmental disability services and is certified and endorsed by the Department to provide these services under these rules and the rules in OAR chapter 411, division 323.~~

~~(67) "Services Coordinator" means an employee of a community developmental disability program or other agency that contracts with the county or Department, who is selected to plan, procure, coordinate, and monitor services, and to act as a proponent for individuals with intellectual or developmental disabilities. A services coordinator is an individual's person-centered plan coordinator as defined in the Community First Choice state plan.~~

~~(68) "Staff" means paid employees responsible for providing services to individuals whose wages are paid in part or in full with funds contracted with the community developmental disability program or contracted directly through the Department.~~

~~(69) "Substantiated" means an abuse investigation has been completed by the Department or the Department's designee and the preponderance of the evidence establishes the abuse occurred.~~

~~(70) "Support" means the assistance that an individual requires, solely because of the affects of an intellectual or developmental disability, to maintain or increase independence, achieve community presence and participation, and improve productivity. Support is subject to change with time and circumstances.~~

~~(71) "Supported Employment" means the provision of situational assessment, job development, job training, and ongoing support necessary to place, maintain, or change the employment of an individual in an integrated work setting. The individual is compensated in accordance with the Fair Labor Standards Act.~~

~~(72) "These Rules" mean the rules in OAR chapter 411, division 345.~~

~~(73) "Transfer" means movement of an individual from one site to another site administered or operated by the same service provider.~~

~~(74) "Transition Plan" means the written plan of services and supports for the period of time between an individual's entry into a particular service and the development of the individual's Individual Support Plan (ISP). The Transition Plan is approved by the individual's services coordinator and includes a summary of the services necessary to facilitate adjustment to the services offered, the supports necessary to ensure health and safety, and the assessments and consultations necessary for ISP development.~~

~~(75) "Unit of Service" means the equivalent of an individual receiving services 25 hours per week, 52 weeks per year, minus the following:~~

~~(a) Personal, vacation, or sick leave allowed by a service provider or employer;~~

~~(b) Holidays as recognized by the state of Oregon; and~~

~~(c) Up to four days for all-staff in-service training.~~

~~(76) "Unusual Incident" means any incident involving an individual that includes serious illness or an accident, death, injury or illness requiring inpatient or emergency hospitalization, a suicide attempt, a fire requiring the services of a fire department, or any incident requiring an abuse investigation.~~

~~(77) "Variance" means the temporary exception from a regulation or provision of these rules that may be granted by the Department upon written application by a service provider.~~

~~(78) "Volunteer" means any person assisting a service provider without pay to support the services and supports provided to an individual.~~

~~(79) "Waiver Services" means "home and community-based waiver services" as defined in this rule.~~

Stat. Auth.: ORS 409.050 ~~and~~ 430.662

Stats. Implemented: ORS 430.610, 430.662, ~~and~~ 430.670

411-345-0025 Services Provided

(1) Employment is the preferred activity for individuals receiving services under these rules. Individual integrated employment is the highest priority over unemployment, segregated or sheltered employment, small group supported employment, or non-work day activities.

(2) The delivery of employment services provided under these rules presumes all individuals eligible for services are capable of working in an integrated employment setting and earning at least minimum wage.

(3) Consistent with the person-centered approach to these services, individuals accessing employment services under these rules must be encouraged, on an ongoing basis, to explore their interests, strengths, and abilities relating to employment or career advancement.

(4) Employment services have an optimal and expected outcome of sustained paid employment and work experience leading to further career development and individual integrated employment for which an individual is compensated at or above the state's minimum wage, with a goal of not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities.

(5) Employment services are provided under these rules in accordance with the State of Oregon Executive Order No. 13-04 and OAR chapter 407, division 025.

(6) Employment services must be evidence-based where evidence-based practices have been identified.

(7) Employment services must be:

(a) Offered to eligible individuals in accordance with OAR 411-345-0140;

(b) Provided to eligible individuals under the authorization of an ISP in accordance with OAR 411-345-0160;

(c) Offered in accordance with these rules when services are provided by a certified provider organization;

(d) Provided in a non-residential setting, unless an individual is operating a home-based business;

(e) Provided in the most integrated employment setting appropriate to the needs of an individual, and consistent with the choice of the individual regarding services, providers, and goals; and

(f) Designed to:

(A) Increase independence, integration, and productivity;

(B) Promote integration into the workforce and workplace;

(C) Promote interaction with people without disabilities; and

(D) Support successful employment outcomes consistent with personal and career goals.

(8) Employment services do not include:

(a) Services available to an individual under the Rehabilitation Act of 1973;

(b) Services available to an individual under P.L. 94-142 (Individuals with Disabilities Education Act); or

(c) Vocational assessments in a sheltered workshop.

(9) Employment service providers operating under these rules must provide one or more of the following employment services:

(a) SUPPORTED EMPLOYMENT - INDIVIDUAL EMPLOYMENT SUPPORT:

(A) JOB COACHING:

(i) Support to assist an individual to maintain an individualized job in a competitive integrated employment setting in the general workforce, including customized employment or self-employment. Job coaching does not include support in volunteer work.

(ii) Individuals utilizing this service for jobs obtained prior to December 28, 2014 are optimally compensated at or above the minimum wage. Effective July 1, 2015, all jobs that pay below minimum wage must be supported through another employment service available under these rules.

(iii) Job coaching services must be provided, at minimum, for the number of hours identified in an ISP. Providers may bill job coaching hours based on the hours a supported individual works.

(iv) Support to maintain self-employment requires the following:

(I) Ongoing assistance, counseling, and guidance after a business has been launched.

(II) This service cannot be provided to defray the operational expenses of the business.

(III) The self-employment must yield an income that is comparable to the income received by other individuals who are not individuals with disabilities.

and who are self-employed in similar occupations or in similar tasks and who have similar training, experience, and skills.

(IV) Evidence of the self-employment must be documented and reviewed by the service coordinator or personal agent on an annual basis. Documentation may include, but is not limited to, tax records submitted to the Internal Revenue Service and an annual business plan.

(B) JOB DEVELOPMENT:

(i) Support for an individual to obtain an individual job in a competitive integrated employment setting in the general workforce, including customized employment or self-employment.

(ii) The job developed must provide compensation at or above the minimum wage but not less than the customary wage and level of benefits paid by the employer for the same or similar work.

(iii) The job developed must meet criteria established in a Career Development Plan.

(iv) Job development may be authorized in the limited circumstances where:

(I) A current denial from Vocational Rehabilitation is in the file for an individual and there has been no change in circumstances; or

(II) An individual has exhausted Vocational Rehabilitation services resulting in an unsuccessful closure and the Department has approved authorization.

(b) SUPPORTED EMPLOYMENT - SMALL GROUP EMPLOYMENT SUPPORT:

(A) To provide services and training activities in regular business, industry, and community settings.

(B) May be provided in groups of two to eight individuals.

(C) Must be provided in a manner that promotes integration into the work place and interaction with people without disabilities in those work places.

(D) Does not include vocational services provided in a provider owned, operated, or controlled setting, or a facility-based work setting.

(E) This service does not include support in volunteer work.

(F) Individuals utilizing this service for jobs obtained prior to December 28, 2014, are optimally compensated at or above the minimum wage. Effective July 1, 2015, a job that pays below minimum wage must be supported through another Employment Service available under these rules.

(c) DISCOVERY:

(A) A comprehensive and person-centered employment planning support service to better inform an individual seeking individual integrated employment and develop a Discovery Profile. It includes a series of work or volunteer related activities to inform the individual and the job developer about the strength's, interests, abilities, skills, experiences, and support needs of the individual, as well as identify the conditions or employment settings in which the individual will be successful. It is also an opportunity for the individual to begin active pursuit of individual integrated employment.

(B) May include job and task analysis activities, assessment for use of assistive technology, job shadowing, informational interviewing, employment preparation, resume development, and volunteerism to identify transferable skills and job or career interests.

(C) Must be completed within a three month period. A three month extension may be authorized if the individual and the services coordinator or personal agent determines there is a legitimate reason. Legitimate reasons may include, but are not limited to:

(i) The individual has a medical event that delayed completing discovery;

(ii) The individual had a medical event that significantly changed his or her strengths, interests, and abilities; or

(iii) An opportunity to participate in particular work trials or volunteer positions may only be scheduled outside of the three month period.

(D) Must have an outcome of a Discovery Profile. The Discovery Profile must meet requirements established by the Department.

(E) Discovery should result in a referral to vocational rehabilitation services.

(F) By July 1, 2015, a discovery provider must be qualified as a vendor through Vocational Rehabilitation to provide job placement.

(d) EMPLOYMENT PATH SERVICES:

(A) To provide learning and work experiences, including volunteer work, where an individual may develop general, non-job-task-specific strengths and skills that contribute to employability in integrated community settings. Producing goods or services may be incidental to this service but the primary purpose must be to develop general employment skills that may be transferred to an individual integrated job.

(B) Are expected to occur over a defined period of time with specific outcomes to be achieved, as determined by the

individual and his or her service and supports planning team through an ongoing person-centered planning process.

(C) Requires that an individual have an employment-related goal in his or her ISP. General habilitation activities accessed through employment path services must be designed to support such employment goals.

(D) Employment path services are a facility-based service if delivered at a fixed site operated, owned, or controlled by the service provider and where the supported individual has few or no opportunities to interact with people who do not have a disability except for paid staff. Facility-based employment path services may include support in a sheltered workshop if support is to develop general skills that may be transferred to an individual integrated job.

(10) Attendant care and skills training must be:

(a) Provided to eligible individuals under the authorization of an ISP; and

(b) Offered in accordance with these rules, when services are provided by an agency service provider.

(11) Attendant care and skills training do not include:

(a) Services available to an individual under the Rehabilitation Act of 1973; or

(b) Services available to an individual under P.L. 94-142 (Individuals with Disabilities Education Act).

(12) Agency service providers operating under these rules may provide one or more of the following services:

(a) ATTENDANT CARE SERVICES:

(A) ADL services that include, but are not limited to:

(i) Basic personal hygiene - providing or assisting with needs, such as bathing (tub, bed, bath, shower), hair care, grooming, shaving, nail care, foot care, dressing, skin care, or oral hygiene;

(ii) Toileting, bowel, and bladder care - assisting to and from the bathroom, on and off toilet, commode, bedpan, urinal, or other assistive device used for toileting, changing incontinence supplies, following a toileting schedule, managing menses, cleansing an individual or adjusting clothing related to toileting, emptying a catheter, drainage bag, or assistive device, ostomy care, or bowel care;

(iii) Mobility, transfers, and repositioning - assisting with ambulation or transfers with or without assistive devices, turning an individual or adjusting padding for physical comfort or pressure relief, or encouraging or assisting with range-of-motion exercises;

(iv) Nutrition - preparing meals and special diets, assisting with adequate fluid intake or adequate nutrition, assisting with food intake (feeding), monitoring to prevent choking or aspiration, assisting with adaptive utensils, cutting food, and placing food, dishes, and utensils within reach for eating;

(v) Medication and medical equipment - assisting with ordering, organizing, and administering medications (including pills, drops, ointments, creams, injections, inhalers, and suppositories), monitoring an individual for choking while taking medications, assisting with the administration of medications, maintaining equipment, or monitoring for adequate medication supply;

(vi) Delegated nursing tasks;

(vii) First aid and handling emergencies - addressing medical incidents related to the conditions of an individual, such as seizure, aspiration, constipation, or

dehydration or responding to the call of the individual for help during an emergent situation or for unscheduled needs requiring immediate response;

(viii) Assistance with necessary medical appointments - help scheduling appointments, arranging medical transportation services, accompaniment to appointments, follow up from appointments, or assistance with mobility, transfers, or cognition in getting to and from appointments; and

(ix) Observation of the status of an individual and reporting of significant changes to a physician, health care professional, or other appropriate person;

(B) IADL services that include, but are not limited to:

(i) Light housekeeping tasks necessary to maintain an individual in a healthy and safe environment - cleaning surfaces and floors, making the individual's bed, cleaning dishes, taking out the garbage, dusting, and laundry;

(ii) Grocery and other shopping necessary for the completion of other ADL and IADL tasks;

(iii) Cognitive assistance or emotional support provided to an individual due to an intellectual or developmental disability - helping the individual cope with change and assisting the individual with decision-making, reassurance, orientation, memory, or other cognitive functions; and

(iv) Social support in the community around socialization and participation in the community.

(l) Support with socialization - assisting an individual in acquiring, retaining, and improving self-awareness and self-control, social responsiveness, social amenities, and interpersonal skills.

(II) Support with community participation - assisting an individual in acquiring, retaining, and improving skills to use available community resources, facilities, or businesses; and

(III) Support with communication - assisting an individual in acquiring, retaining, and improving expressive and receptive skills in verbal and non-verbal language and the functional application of acquired reading and writing skills.

(C) Assistance with ADLs, ~~and~~ IADLs and health related tasks may include cueing, monitoring, reassurance, redirection, set-up, hands-on, or standby assistance. Assistance may be provided through human assistance or the use of electronic devices or other assistive devices. Assistance may also require verbal reminding to complete any of the IADL tasks described in subsection (B) of this section.

(i) "Cueing" means giving verbal, audio, or visual clues during an activity to help an individual complete the activity without hands-on assistance.

(ii) "Hands-on" means a provider physically performs all or parts of an activity because an individual is unable to do so.

(iii) "Monitoring" means a provider observes an individual to determine if assistance is needed.

(iv) "Reassurance" means to offer an individual encouragement and support.

(v) "Redirection" means to divert an individual to another more appropriate activity.

(vi) "Set-up" means the preparation, cleaning, and maintenance of personal effects, supplies, assistive devices, or equipment so that an individual may perform an activity.

(viii) "Stand-by" means a provider is at the side of an individual ready to step in and take over the task if the individual is unable to complete the task independently.

(b) SKILLS TRAINING. Skills training are specifically tied to accomplishing ADL, IADL, and other health-related tasks as identified by the functional needs assessment and ISP and are a means for an individual to acquire, maintain, or enhance independence.

(A) Skills training may be applied to the use and care of assistive devices and technologies.

(B) Skills training are authorized when:

(i) The anticipated outcome of the skills training, as documented in the ISP, is measurable;

(ii) Timelines for measuring progress towards the anticipated outcome are established in the ISP; and

(iii) Progress towards the anticipated outcome are measured and the measurements are evaluated by a services coordinator or personal agent no less frequently than every six months, based on the start date of the initiation of the skills training.

(C) When anticipated outcomes are not achieved within the timeframe outline in the ISP, the services coordinator or personal agent must reassess or redefine the use of skills training with the individual for that particular goal.

(c) Attendant care and skills training is a facility-based service if it is delivered at a fixed site operated, owned, or controlled by the service provider and where the supported individual has few or no opportunities to interact with people who do not have a disability except for paid staff.

~~(1) Employment and alternatives to employment services must be designed to increase an individual's independence, integration, and productivity and offered to eligible adult individuals in accordance with OAR 411-345-0140.~~

~~(2) Employment is the preferred activity for individuals receiving services. Individuals must be provided opportunity to move forward on a path to employment.~~

~~(3) All services, with the exception of individual employment supports, must be provided in a non-residential setting. Employment and alternatives to employment businesses operating as a service provider from a facility base must provide training and skill-building for all individuals served.~~

~~(4) Service providers operating under these rules must provide one or more of the following services:~~

~~(a) Individual employment supports provided to assist an individual to:~~

~~(A) Maintain employment in the community; or~~

~~(B) Pursue self-employment.~~

~~(b) Support and supervision of two to eight individuals working in the community as a crew, enclave, or small business unit;~~

~~(c) Job development, when not available under the Rehabilitation Act of 1973 or P.L. 94-142 (Individuals with Disabilities Education Act);~~

~~(d) Facility-based sheltered employment programs providing training and skill development for individuals. Group employment of nine or more individuals in a crew or enclave is considered sheltered employment;~~

~~(e) Activities preparing individuals for employment, including discovery activities, volunteer positions, and work-experience positions; or~~

~~(f) Alternatives to employment services providing support for individuals to participate in:~~

~~(A) Community inclusion activities based upon individuals' interests;~~

~~(B) Volunteer positions; or~~

~~(C) Other non-paid activities.~~

Stat. Auth.: ORS 409.050, & 410.070

Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0027 Qualification for Services

(1) To receive employment services, attendant care, or skills training, an individual must:

(a) Be an Oregon resident;

(b) Be determined eligible for developmental disability services by the CDDP of the county of origin as described in OAR 411-320-0080;

(c) Meet the level of care as defined in OAR 411-320-0020; and

(d) Have services under these rules authorized in an ISP by the CDDP or Brokerage providing case management services.

(2) To be eligible for employment services, an individual must:

(a) Meet the criteria in section (1) of this rule;

(b) Be eligible for OSIPM;

(c) Be legally eligible to work in the United States; and

(d) Have an employment related goal in their ISP.

(3) Employment services for individuals under the age of 18 years must have Department approval. Employment services do not include services available to an individual under the Rehabilitation Act of 1973 or services available to an individual under P.L. 94-142 (Individuals with Disabilities Education Act).

(4) To be eligible for attendant care or skills training, an individual must meet the criteria in section (1) of this rule and must:

(a) Be eligible for OHP Plus;

(b) Have an assessed need for attendant care based upon a functional needs assessment; and

(c) Have attendant care or skills training identified as a service in their ISP.

(5) As of October 1, 2014, an individual receiving medical benefits under OAR chapter 410, division 200 requesting Medicaid coverage for services in a nonstandard living arrangement (see OAR 461-001-0000) is subject to the rules regarding transfer of assets (see OAR 461-140-0210 to 461-140-0300) in the same manner as if the individual was requesting these services under OSIPM.

(a) This includes, but is not limited to, the following assets:

(A) An annuity that is evaluated according to OAR 461-145-0022;

(B) A transfer of property when an individual retains a life estate that is evaluated according to OAR 461-145-0310;

(C) A loan made by an individual that is evaluated according to OAR 461-145-0330; or

(D) An irrevocable trust that is evaluated according to OAR 461-145-0540.

(b) When an individual is disqualified for a transfer of assets, the individual must receive a notice meeting the requirements of OAR 461-175-0310 in the same manner as if the individual was requesting services under OSIPM.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

411-345-0030 Service Provider Requirements Program Management

(1) Providers of employment services must be:

(a) A provider certified under OAR chapter 411, division 323;

(b) A provider certified under OAR chapter 411, division 340; or

(c) A qualified independent provider.

(2) EMPLOYMENT SERVICE PROVIDER REQUIREMENTS:

(a) EMPLOYMENT SPECIALISTS. All employment specialists who provide employment services must:

(A) Provide services designed to support successful employment outcomes consistent with the personal and career goals of an individual, including goals identified in the ISP and Career Development Plan for the individual;

(B) Ensure all records are confidential as described in OAR 411-323-0060;

(C) Perform the duties as a mandatory reporter when appropriate and as required by law; and

(D) Have a service agreement or job description with clearly stated job responsibilities. The service agreement must be current, signed by the employment specialist, and dated. The service agreement must also include duties specific to the area of specialization, including job coach, job developer, discovery provider, or employment path services provider.

(b) INDEPENDENT PROVIDERS. All qualified independent providers must:

(A) Be at least 18 years of age.

(B) Have approval to work based on Department policy and a background check completed by the Department in accordance with OAR 407-007-0200 to 407-007-0370. Additionally:

(i) A subject individual as defined in OAR 407-007-0210 may be approved for one position to work with multiple individuals statewide when the subject individual is working in the same employment role; and

(ii) The Background Check Request form must be completed by the subject individual to show intent to work statewide;

(C) Not have been convicted of any of the disqualifying crimes listed in OAR 407-007-0275, unless hired or contracted with prior to July 28, 2009, remaining in the current position for which the independent provider was hired.

(D) Be legally eligible to work in the United States;

(E) Not be the spouse of the supported individual;

(F) Hold a current, valid, and unrestricted appropriate professional license or certification where services and supervision requires specific professional education, training, and skill;

(G) Understand requirements of maintaining confidentiality and safeguarding individual information;

(H) Not be on the list of excluded or debarred providers maintained by the Office of Inspector General (<http://exclusions.oig.hhs.gov/>);

(I) If providing transportation, have a valid driver's license and proof of insurance, as well as any other license or certification that may be required under state and local law depending on the nature and scope of the transportation service;

(J) Meet the required qualifications for the employment service provided including those required for an employment specialist; and

(K) Sign a Medicaid provider agreement and be enrolled as a Medicaid provider prior to delivery of any services.

(c) AGENCY SERVICE PROVIDERS.

(A) INSPECTIONS AND INVESTIGATIONS. The agency service provider must allow inspections and investigations as described in OAR 411-323-0040.

(B) AGENCY MANAGEMENT AND PERSONNEL PRACTICES. The agency service provider must comply with the agency management and personnel practices as described in OAR 411-323-0050.

(C) PERSONNEL FILES AND QUALIFICATION RECORDS. The agency service provider must maintain written documentation of six hours of pre-service training prior to staff providing services or supports to individuals, including mandatory abuse reporting training, training to work with individuals with developmental disabilities, and training on the support needs of the individual to whom they will provide support;

(D) STAFFING REQUIREMENTS:

(i) Each agency service provider must provide direct service staff appropriate to the number and level of individuals served, to ensure individual rights, basic health, and safety are met;

(ii) Staff must have approval to work based on current Department policy and procedures for background checks in OAR 411-323-0050;

(iii) When individuals are present at an agency site, the service provider must provide and document there are staff trained in the following areas:

(l) At least one staff member on duty with CPR certification at all times;

(II) At least one staff member on duty with current First Aid certification at all times;

(III) At least one staff member on duty with training to meet other specific medical needs as determined through ISP processes; and

(IV) At least one staff member on duty with training to meet other specific behavior intervention needs as determined through ISP processes.

(3) EMPLOYMENT PROVIDER QUALIFICATIONS:

(a) EMPLOYMENT SPECIALISTS. Employment specialists must possess and demonstrate the following qualifications:

(A) Knowledge of developmental disability services;

(B) Knowledge of the rules governing employment services;

(C) Ability to provide skills training for individuals to increase employability;

(D) Ability to support individuals to maintain and be successful in employment; and

(E) Demonstrate by background, education, references, skills, and abilities that the employment specialist is capable of safely and adequately performing the tasks to support the ISP and Career Development Plan for an individual, with such demonstration confirmed in writing by the individual, including:

(i) Ability and sufficient education to follow oral and written instructions and keep any records required;

(ii) Responsibility, maturity, and reputable character exercising sound judgment;

(iii) Ability to communicate with the individual; and

(iv) Training of a nature and type sufficient to ensure that the employment specialist has knowledge of emergency procedures specific to the individual receiving services.

(b) JOB DEVELOPERS. A provider of job development services must also possess and demonstrate the following qualifications:

(A) Possess knowledge of best practice methodologies for job development; and

(B) Be able to demonstrate the core competencies of a job developer within one year of employment, including those pertaining to skills assessment, job matching, job customization, job carving, community building, mapping and networking, analyzing labor trends, identifying patterns in job markets, identifying incentives for businesses, and mentoring job seekers.

(c) JOB COACHES. A provider of job coaching services must also possess and demonstrate the following qualifications:

(A) Knowledge of best practice methodologies for job coaching; and

(B) Be able to demonstrate the core competencies of a job coach within one year of employment, including skills to recognize and adapt supports to individual learning styles and needs, conduct task design and accommodations, train instructional and schedule procedures, and collaborate with employee, employer, co-workers, and support team.

(d) DISCOVERY PROVIDER. A provider of discovery services must also possess and demonstrate the following qualifications:

(A) Knowledge of best practice methodologies for conducting discovery; and

(B) Be able to demonstrate the core competencies of a discovery provider within one year of employment, including

skills to facilitate the discovery process, apply person-centered planning techniques, develop an employment portfolio, identify a job seekers strengths, interests, and talents, and integrate all pertinent information required by the Department into a Discovery Profile.

(e) EMPLOYMENT PATH SKILLS PROVIDERS. A provider of employment path services must also possess and demonstrate the following qualifications:

(A) Knowledge of best practice methodologies for providing employment path services; and

(B) Be able to demonstrate the core competencies of an employment path skills provider within one year of employment, including skills to provide learning and work experiences to teach general, non-job-task-specific strengths and skills.

(4) EMPLOYMENT PROVIDER TRAINING:

(a) Employment specialists employed by an agency service provider must complete the following training:

(A) A review of these rules;

(B) CPR and First Aid by a recognized training agency within 90 days of hire;

(C) Six hours of pre-service training including:

(i) Mandatory abuse reporting training;

(ii) Training to work with individuals with developmental disabilities; and

(iii) Training on the employment service and support needs of the individual to whom they will provide support.

(b) An agency service provider must keep documentation of required training in the personnel files of the employment specialist.

(c) All employment specialists must complete a competency based employment training as follows:

(A) Job coaches must complete a minimum of one Department approved training for job coaching within 90 days of providing job coaching.

(B) Job developers must complete a minimum of one Department approved training for job developers within 90 days of providing job development.

(C) Discovery providers must complete a minimum of one Department approved training for discovery before being authorized to provide discovery.

(D) Employment path providers must complete a minimum of one Department approved training for employment path providers within 90 days of providing employment path services.

(d) Effective July 1, 2016, agency service providers and independent providers must have a minimum of one employee who has the Department approved credentialing.

(5) DISQUALIFICATION. Employment specialists must self-report any potentially disqualifying condition as described in OAR 407-007-0280 and OAR 407-007-0290. The employment specialists must notify the Department or the designee of the Department within 24 hours.

~~(1) CERTIFICATION, ENDORSEMENT, AND ENROLLMENT. To provide employment and alternatives to employment services, a service provider must have:~~

~~(a) A certificate and an endorsement to provide employment and alternatives to employment services as set forth in OAR chapter 411, division 323;~~

~~(b) A Medicaid Agency Identification Number assigned by the Department as described in OAR chapter 411, division 370; and~~

~~(c) For each specific geographic service area where employment and alternatives to employment services shall be delivered, a Medicaid Performing Provider Number assigned by the Department as described in OAR chapter 411, division 370.~~

~~(2) INSPECTIONS AND INVESTIGATIONS. The service provider must allow inspections and investigations as described in OAR 411-323-0040.~~

~~(3) AGENCY MANAGEMENT AND PERSONNEL PRACTICES. The service provider must comply with the agency management and personnel practices as described in OAR 411-323-0050.~~

~~(4) PERSONNEL FILES AND QUALIFICATION RECORDS. The service provider must maintain written documentation of six hours of pre-service training prior to supervising individuals including mandatory abuse reporting training, training to work with individuals with developmental disabilities, and training on the support needs of the individual to whom they will provide support;~~

~~(5) CONFIDENTIALITY OF RECORDS. The service provider must ensure all individuals' records are confidential as described in OAR 411-323-0060.~~

~~(6) DOCUMENTATION REQUIREMENTS. All entries required by these rules, unless stated otherwise must:~~

~~(a) Be prepared at the time, or immediately following the event being recorded;~~

~~(b) Be accurate and contain no willful falsifications;~~

~~(c) Be legible, dated, and signed by the person making the entry; and~~

~~(d) Be maintained for no less than five years.~~

Stat. Auth.: ORS 409.050, & 410.070

Stats. Implemented: ORS 430.610, 430.630, ~~430.662~~, & 430.670

411-345-0050 Reciprocal Compliance for Agency Service Providers

(1) The Department may accept compliance with other formally recognized standards as assurance of compliance with all or part of these rules.

(2) An employment ~~or alternative to employment~~ service provider seeking an endorsement based on compliance with other standards must provide the Department with a copy of the complete detailed report from the reviewing group. Where there are differences between other standards and Oregon Administrative Rules, the Oregon Administrative Rules shall take precedence.

Stat. Auth.: ORS 409.050, & ~~410.070~~430.662

Stats. Implemented: ORS 430.610, 430.~~630~~662, & 430.670

411-345-0085 Reports and Recordkeeping

(1) For each individual supported, service providers being paid for job development services must report activity at least monthly to the services coordinator or personal agent for the individual.

(2) For each individual supported, service providers being paid for discovery services must complete a Discovery Profile and submit the Discovery Profile to the services coordinator or personal agent for the individual.

(3) All documentation required by these rules, unless stated otherwise, must:

(a) Be prepared at the time, or immediately following the event being recorded;

(b) Be accurate and contain no willful falsifications;

(c) Be legible, dated, and signed by the person making the entry; and

(d) Be maintained for no less than five years.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

411-345-0090 Variances for Agency Service Providers

(1) The Department may grant a variance to these rules based upon a demonstration by the agency service provider that an alternative method or different approach provides equal or greater program effectiveness and does not adversely impact the welfare, health, safety, or rights of individuals or violate applicable state or federal laws.

(2) The agency service provider requesting a variance must submit, ~~in writing,~~ an written application to the CDDP that contains the following:

(a) The section of the rule from which the variance is sought;

(b) The reason for the proposed variance;

(c) The alternative practice, service, method, concept, or procedure proposed; and

(d) If the variance applies to ~~an individual's~~ the services of an individual, evidence that the variance is consistent with ~~an individual's~~ the currently authorized ISP for the individual.

(3) The CDDP must forward the signed variance request form to the Department within 30 days ~~of from the~~ receipt of the request ~~for variance~~ indicating the ~~CDDP's~~ position of the CDDP on the proposed variance.

(4) The ~~Department shall approve or deny the~~ request for a variance is approved or denied by the Department. ~~(5) The Department's decision shall be~~ The decision of the Department is sent to the agency service provider, the CDDP, and to all relevant Department programs or offices within 30 ~~calendar~~ days ~~of from~~ the receipt of the variance request.

~~(65)~~ The agency service provider may ~~appeal~~ request an administrative review of the denial of a variance. The Department must receive a written request for an administrative review within 10 working business days ~~of from~~ the receipt of the denial, ~~by sending a written request for review to the Director and~~. The agency service provider must send a copy of the written request for an administrative review to the CDDP. The ~~Director's~~ decision of the Director is the final response from the Department.

(76) The Department shall determine the duration of the variance is determined by the Department.

(87) The agency service provider may implement a variance only after written approval from the Department.

Stat. Auth.: ORS 409.050, & ~~410.070~~430.662

Stats. Implemented: ORS 430.610, 430.6~~230~~6230, & 430.670

411-345-0095-Provider Service and Payment Limitations

(1) Effective service rates as authorized in Department payment and reporting systems for individuals enrolled in employment, attendant care, and skills training and paid to providers for delivering services, as described in these rules, shall be based upon the collective bargaining agreement or the agency fee schedule published by the Department.

(2) Only one service may be billed per individual per hour. Payments based on an outcome are not in conflict with payments made based on direct service delivery.

(3) Employment services and payment for employment service are limited to:

(a) An average of 25 hours per week for any combination of job coaching, small group employment support, and employment path services;

(b) 40 hours in any one week for job coaching if job coaching is the only service utilized; and

(c) If an individual is utilizing less than 25 hours of job coaching in any one week, employment services may be combined withto include job coaching, small group employment support, and employment path services so long as the combination of services does not exceed 25 hours per week.

(4) Exceptions to the service and payment limitations may be considered by the Department based upon applicable Department policy.

~~(1) Effective July 1, 2011, monthly service rates as authorized in Department payment and reporting systems for individuals enrolled in employment and alternatives to employment services and paid to certified service providers for delivering employment or alternatives to employment services as described in these rules, shall be limited to a maximum of \$1,728 per month.~~

~~(2) An exception to the provider service payment limitation may be granted by the Department for costs of directly supporting the individual if documentation supports the following criteria are met:~~

~~(a) The individual has a current behavior or health condition, as well as a documented history of such, posing a risk to the individual's health and welfare or that of others;~~

~~(b) The individual has a current service rate and ISP requiring at least 1:1 staffing for purposes of meeting behavioral or medical support needs; and~~

~~(c) Steps have been taken to address the existing behavior or condition within the rate cap and there is continued risk to health and safety of self or others, regardless of setting.~~

~~(3) Special conditions shall be required in the service provider's contract. The Department or the Department's designee shall monitor services to assure the delivery and the continued need for additional funds.~~

Stat. Auth.: ORS 409.050, ~~and~~ 430.662

Stats. Implemented: ORS 430.610, 430.662, ~~and~~ 430.670

REPEAL 411-345-0100 Staffing Requirements

~~(1) Each service provider must provide direct service staff appropriate to the number and level of individuals served as follows:~~

~~(a) Supported employment and community based service providers must provide adequate direct services staff to ensure initial service and site development, training, and ongoing support to ensure that individual's rights, basic health, and safety are met. A staff member must contact individual's receiving services through supported employment or community based sites two times per month at minimum.~~

~~(b) Facility based service providers must provide adequate direct services staff to ensure that individual's rights, basic health, and safety are met. When individuals are present, the service provider must provide and document that there are staff trained in the following areas:~~

~~(A) At least one staff member on duty with CPR certification at all times;~~

~~(B) At least one staff member on duty with current First Aid certification at all times;~~

~~(C) At least one staff member on duty with training to meet other specific medical needs as determined through ISP processes; and~~

~~(D) At least one staff member on duty with training to meet other specific behavior intervention needs as determined through ISP processes.~~

~~(2) Each service provider must meet all additional requirements for direct service staff ratios and specialized training as specified by contract requirements.~~

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0110 Individuals' Rights

(1) An agency service provider must have and implement written policies and procedures that protect the rights of individuals described in subsection (3) of this section and encourage and assist individuals to understand and exercise these rights.

(2) Upon entry, request, and annually thereafter, the individual rights described in subsection (3) of this section must be provided to an individual and the legal or designated representative of the individual.

(3) While receiving developmental disability services, an individual has the right to:

(a) Be free and protected from abuse or neglect and to report any incident of abuse or neglect without being subject to retaliation;

(b) Be free from seclusion, unauthorized training or treatment, protective physical intervention, chemical restraint, or mechanical restraint and assured that medication is administered only for the clinical needs of the individual as prescribed by a health care provider unless an imminent risk of physical harm to the individual or others exists and only for as long as the imminent risk continues;

(c) Individual choice to consent to or refuse treatment unless incapable and then an alternative decision maker must be allowed to consent to or refuse treatment for the individual;

(d) Informed, voluntary, written consent prior to receiving services, except in a medical emergency or as otherwise permitted by law;

(e) Informed, voluntary, written consent prior to participating in any experimental programs;

(f) A humane service environment that affords reasonable protection from harm, reasonable privacy in all matters that do not constitute a documented health and safety risk to the individual, and access and the ability to engage in private communications with any public or private rights protection program, services coordinator, and others chosen by the individual through personal visits, mail, telephone, or electronic means;

(g) Contact and visits with legal and medical professionals, legal and designated representatives, family members, friends, advocates, and others chosen by the individual, except where prohibited by court order;

(h) Participate regularly in the community and use community resources, including recreation, developmental disability services, employment services, school, educational opportunities, and health care resources;

(i) For individuals less than 21 years of age, access to a free and appropriate public education, including a procedure for school attendance or refusal to attend;

(j) Reasonable and lawful compensation for performance of labor, except personal housekeeping duties;

(k) Manage his or her own money and financial affairs unless the right has been taken away by court order or other legal procedure;

(l) Keep and use personal property, personal control and freedom regarding personal property, and a reasonable amount of personal storage space;

(m) Adequate food, housing, clothing, medical and health care, supportive services, and training;

(n) Seek a meaningful life by choosing from available services, service settings, and providers consistent with the support needs of the individual identified through a functional needs assessment and enjoying the benefits of community involvement and community integration;

(A) Services must promote independence and dignity and reflect the age and preferences of the individual; and

(B) The services must be provided in a setting and under conditions that are most cost effective and least restrictive to the liberty of the individual, least intrusive to the individual, and that provide for self-directed decision-making and control of personal affairs appropriate to the preferences, age, and identified support needs of the individual;

(o) An individualized written plan for services created through a person-centered planning process, services based upon the plan, and periodic review and reassessment of service needs;

(p) Ongoing opportunity to participate in the planning of services in a manner appropriate to the capabilities of the individual, including the right to participate in the development and periodic revision of the plan for services, the right to be provided with a reasonable explanation of all service considerations through choice advising, and the right to invite others chosen by the individual to participate in the plan for services;

(q) Request a change in the plan for services and a reassessment of service needs;

(r) A timely decision upon request for a change in the plan for services;

(s) Advance written notice of any action that terminates, suspends, reduces, or denies a service or request for service and notification of other available sources for necessary continued services;

(t) A hearing to challenge an action that terminates, suspends, reduces, or denies a service or request for service;

(u) Exercise all rights set forth in ORS 426.385 and 427.031 if the individual is committed to the Department;

(v) Be informed at the start of services and annually thereafter of the rights guaranteed by this rule, the contact information for the protection and advocacy system described in ORS 192.517(1), the procedures for reporting abuse, and the procedures for filing complaints, reviews, or requests for hearings if services have been or are proposed to be terminated, suspended, reduced, or denied;

(w) Have these rights and procedures prominently posted in a location readily accessible to individuals and made available to representatives of the individual;

(x) Be encouraged and assisted in exercising all legal, civil, and human rights accorded to other citizens of the same age, except when limited by a court order;

(y) Be informed of and have the opportunity to assert complaints as described in OAR 411-318-0015 with respect to infringement of the rights described in this rule, including the right to have such complaints considered in a fair, timely, and impartial complaint procedure without any form of retaliation or punishment; and

(z) Freedom to exercise all rights described in this rule without any form of reprisal or punishment.

(4) The rights described in this rule are in addition to, and do not limit, all other statutory and constitutional rights that are afforded all citizens including, but not limited to, the right to exercise religious freedom, vote, marry, have or not have children, own and dispose of property, and enter into contracts and execute documents unless specifically prohibited by law.

(5) An individual who is receiving developmental disability services has the right under ORS 430.212 and OAR 411-320-0090 to be informed that a family member has contacted the Department to determine the location of the individual and to be informed of the name and contact information of the family member, if known.

(6) The rights described in this rule may be asserted and exercised by an individual, the legal representative of an individual, and any representative designated by an individual.

(7) A guardian is appointed for an adult only as is necessary to promote and protect the well-being of the adult. A guardianship for an adult must be designed to encourage the development of maximum self-reliance and independence of the adult, and may be ordered only to the extent necessitated by the actual mental and physical limitations of the adult. An adult for whom a guardian has been appointed is not presumed to be incompetent. An adult with a guardian retains all legal and civil rights provided by law, except those that have been expressly limited by court order or specifically granted to the guardian by the court. Rights retained by an adult include, but are not limited to, the right to contact and retain counsel and to have access to personal records. (ORS 125.300).

~~(1) ABUSE. Any individual as defined in OAR 411-345-0020 must not be abused nor shall abuse be tolerated by any employee, staff, or volunteer of the service provider.~~

~~(2) PROTECTION AND WELLBEING.~~

~~(a) The service provider must have and implement written policies and procedures that protect individuals' rights during the hours individuals are receiving services. The service provider must encourage and assist individuals to understand and exercise their rights. The policies and procedures must at a minimum provide for:~~

~~(A) Assurance that each individual has the same civil and human rights accorded to other citizens;~~

~~(B) Adherence to all applicable state and federal labor rules and regulations;~~

~~(C) Opportunities for individuals to be productive;~~

~~(D) Services that promote independence and that are appropriate to the age and preferences of the individual;~~

~~(E) Confidentiality of personal information regarding the individual;~~

~~(F) Adequate medical and health care, supportive services, and training;~~

~~(G) Opportunities for visits to legal and medical professionals when necessary;~~

~~(H) Private communication, including personal mail and access to a telephone, consistent with the service provider's policies for all employees;~~

~~(I) Fostering of personal control and freedom regarding personal property;~~

~~(J) Protection from abuse and neglect, including freedom from unauthorized training, treatment, and chemical or mechanical restraints;~~

~~(K) Freedom from unauthorized protective physical intervention; and~~

~~(L) Transfer within a service as described in OAR 411-345-0140.~~

~~(b) At entry to service and in a timely manner as changes occur, the service provider must inform each individual, and as applicable the individual's legal or designated representative, orally and in writing of the service provider's policy and procedures and a description of how the individual may exercise their rights.~~

Stat. Auth.: ORS 409.050, and 430.662

Stats. Implemented: ORS 430.610, 430.662, and 430.670

411-345-0130 Complaints, Notification of Planned Action, and Hearings
Grievances

(1) INDIVIDUAL COMPLAINTS.

(a) Complaints by or on behalf of individuals must be addressed in accordance with OAR 411-318-0015.

(b) An agency service provider must have and implement written policies and procedures for individual complaints in accordance with OAR 411-318-0015.

(c) Upon entry, request, and annually thereafter, the policy and procedures for complaints must be explained and provided to an individual and the legal or designated representative of the individual (as applicable).

(2) NOTIFICATION OF PLANNED ACTION. In the event that a developmental disability service is denied, reduced, suspended, or terminated or voluntarily reduced, suspended, or terminated, a written advance Notification of Planned Action (form SDS 0947) must be provided as described in OAR 411-318-0020.

(3) 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 for a denial, reduction, suspension, or termination of a developmental disability service or OAR 411-318-0030 for an involuntary reduction, transfer, or exit.

(c) Upon entry, request, and annually thereafter, a notice of hearing rights and the policy and procedures for hearings must be explained and provided to an individual and the legal or designated representative of the individual (as applicable).

~~(1) The service provider must implement written policies and procedures for individuals' grievances as required by OAR 411-323-0060.~~

~~(2) The service provider must send a copy of the grievance to the services coordinator within 15 working days of initial receipt of the grievance.~~

~~(3) At entry to service and as changes occur, the service provider must inform each individual, and as applicable the individual's legal or designated representative, orally and in writing of the service provider's grievance policy and procedures and a description of how the individual may utilize them.~~

Stat. Auth.: ORS 409.050, ~~and~~ 430.662

Stats. Implemented: ORS 430.610, 430.662, ~~and~~ 430.670

411-345-0140 Entry, Exit, and Transfer Requirements for Agency Service Providers

(1) NON-DISCRIMINATION. An individual considered for Department-funded services may not be discriminated against because of race, color, creed, age, disability, national origin, gender, religion, duration of Oregon residence, method of payment, or other forms of discrimination under applicable state or federal law.

(2) ENTRY. For individuals who receive case management from a CDDP an entry ISP team meeting must be conducted prior to the initiation of employment services, attendant care, or skill training for an individual. This meeting shall be conducted as follows:

(a) Prior to or upon an entry ISP team meeting, an agency service provider must acquire the following individual information:

(A) A copy of the eligibility determination document;

(B) A statement indicating safety skills, including the ability of the individual to evacuate from a building when warned by a signal device;

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

(D) Documentation of any relevant physical limitations that may affect services;

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

(F) A copy of the most recent ISP (if applicable) and Career Development Plan (if applicable).

(b) The findings of the entry meeting must be recorded in the file for the individual and include at a minimum:

(A) The name of the individual;

(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 as required by OAR 411-345-0190 and 411-345-0200;

(F) Documentation of the pre-entry information required by subsection (a) of this section;

(G) The written Transition Plan for no longer than 60 days that includes all medical, behavior, and safety supports needed by the individual;

(H) Documentation of the type of services the individual is to receive; and

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

(3) VOLUNTARY TRANSFERS AND EXITS.

(a) An agency service provider must promptly notify a services coordinator or personal agent if an individual gives notice of the intent to exit services or abruptly exits services.

(b) An agency service provider must notify a services coordinator or personal agent prior to the voluntary transfer or exit of an individual from services.

(c) Notification and authorization of the voluntary transfer or exit of the individual must be documented in the record for the individual.

(4) INVOLUNTARY REDUCTIONS, TRANSFERS, AND EXITS.

(a) An agency service provider must only reduce, transfer, or exit an individual involuntarily for one or more of the following reasons:

(A) The behavior of the individual poses an imminent risk of danger to self or others;

(B) The individual experiences a medical emergency;

(C) The service needs of the individual exceed the ability of the agency service provider;

(D) The individual fails to pay for services; or

(E) The certification or endorsement for the agency service provider described in OAR chapter 411, division 323 is suspended, revoked, not renewed, or voluntarily surrendered.

(b) NOTICE OF INVOLUNTARY REDUCTION, TRANSFER, OR EXIT. An agency service provider must not reduce services, transfer, or exit an individual involuntarily without 30 days advance written notice to the individual, the legal or designated representative of the individual (as applicable), and the services coordinator or personal agent, except in the case of a medical emergency or when an individual is engaging in behavior that poses an imminent danger to self or others as described in subsection (c) of this section.

(A) The written notice must be provided on the Notice of Involuntary Reduction, Transfer, or Exit form approved by the Department and include:

(i) The reason for the reduction, transfer, or exit; and

(ii) The right of the individual to a hearing as described in subsection (d) of this section.

(B) A Notice of Involuntary Reduction, Transfer, or Exit is not required when an individual requests the reduction, transfer, or exit.

(c) An agency service provider may give less than 30 days advance written notice only in a medical emergency or when an individual is engaging in behavior that poses an imminent danger to self or others. The notice must be provided to the individual, the legal or designated representative of the individual (as applicable), and the services coordinator or personal agent immediately upon determination of the need for a reduction, transfer, or exit.

(d) HEARING RIGHTS. An individual must be given the opportunity for a hearing under ORS chapter 183 and OAR 411-318-0030 to dispute an involuntary reduction, transfer, or exit. If an individual requests a hearing, the individual must receive the same services until the hearing is resolved. When an individual has been given less than 30 days advance written notice of a reduction, transfer, or exit as described in subsection (c) of this section and the individual has requested a hearing, the agency service provider must reserve service availability for the individual until receipt of the final order.

(5) EXIT MEETING.

(a) The ISP team for an individual must meet before any decision is made to exit services. Findings of the exit meeting must be recorded in the file 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 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; and

(G) Documentation of the proposed plan for services after the exit.

(b) Requirements for an exit meeting may be waived if an individual is immediately removed from services under the following conditions:

(A) The individual requests an immediate removal from services; or

(B) The individual is removed by legal authority acting pursuant to civil or criminal proceedings.

(6) TRANSFER MEETING. An ISP team must meet to discuss any proposed transfer of an individual from one site to another site before any decision to transfer is made. Findings of the transfer meeting must be recorded in the file 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 individual's legal or designated representative or family members, may not be honored;

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

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

~~(2) QUALIFICATIONS FOR DEPARTMENT-FUNDED SERVICES. An individual who enters employment or alternatives to employment services is subject to eligibility as described in this section.~~

~~(a) To be eligible for home and community-based waiver services or Community First Choice state plan services, an individual must:~~

~~(A) Be an Oregon resident;~~

~~(B) Be eligible for OSIP-M;~~

~~(C) Be determined eligible for developmental disability services by the CDDP of the individual's county of residence as described in OAR 411-320-0080; and~~

~~(D) After completion of an assessment, meet the level of care defined in OAR 411-320-0020.~~

~~(b) To be eligible for employment and alternatives to employment services, an individual must:~~

~~(A) Be an Oregon resident;~~

~~(B) Be referred by the CDDP;~~

~~(C) Be determined eligible for developmental disability services by the CDDP of the individual's county of residence as described in OAR 411-320-0080;~~

~~(D) Be 18 years of age or older; and~~

~~(E) Be eligible for home and community-based waiver services or Community First Choice state plan services as described in subsection (a) of this section; or~~

~~(F) Be receiving residential services that are paid for or regulated by the Department, including but not limited to:~~

~~(i) Comprehensive residential services regulated by OAR chapter 411, division 325;~~

~~(ii) An adult foster home regulated by OAR chapter 411, division 360;~~

~~(iii) A supported living program regulated by OAR chapter 411, division 328; or~~

~~(iv) An individual's own home or family home when the individual receives comprehensive in-home support services regulated by OAR chapter 411, division 330.~~

~~(3) ENTRY. An entry ISP team meeting must be conducted prior to the initiation of services to an individual.~~

~~(a) A service provider must acquire the following information prior to or upon an individual's entry ISP team meeting:~~

~~(A) A copy of the individual's eligibility determination document;~~

~~(B) A statement indicating the individual's safety skills, including the individual's ability to evacuate from a building when warned by a signal device;~~

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

~~(D) Documentation of the individual's current physical condition, including any physical limitations that may affect employment;~~

~~(E) Documentation of any guardianship, conservatorship, health care representation, or any other legal restriction on the rights of the individual (if applicable); and~~

~~(F) A copy of the individual's most recent ISP (if applicable).~~

~~(b) The findings of the entry meeting must be recorded in the individual's file and include at a minimum:~~

~~(A) The name of the individual proposed for services;~~

~~(B) The date of the meeting;~~

~~(C) The date determined to be the individual's date of entry;~~

~~(D) Documentation of the participants included in the meeting;~~

~~(E) Documentation as required by OAR 411-345-0190 and 411-345-0200;~~

~~(F) Documentation of the pre-entry information required by subsection (a) of this section;~~

~~(G) Documentation of the proposed Transition Plan for services to be provided;~~

~~(H) Documentation of any deviation from the unit of service;~~

~~(I) Documentation of the type of employment or alternatives to employment service the individual is to receive; and~~

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

~~(4) VOLUNTARY TRANSFERS AND EXITS.~~

~~(a) A service provider must promptly notify an individual's services coordinator if an individual, or as applicable the individual's legal or~~

~~designated representative, gives notice of the individual's intent to exit or the individual abruptly exits services.~~

~~(b) A service provider must notify an individual's services coordinator prior to an individual's voluntary transfer or exit from services.~~

~~(c) Notification and authorization of an individual's voluntary transfer or exit must be documented in the individual's record.~~

~~(5) INVOLUNTARY TRANSFERS AND EXITS.~~

~~(a) A service provider must only transfer or exit an individual involuntarily for one or more of the following reasons:~~

~~(A) The individual's behavior poses an imminent risk of danger to self or others;~~

~~(B) The individual experiences a medical emergency;~~

~~(C) The individual's service needs exceed the ability of the service provider;~~

~~(D) The individual fails to pay for services; or~~

~~(E) The service provider's certification or endorsement described in OAR chapter 411, division 323 is suspended, revoked, not renewed, or voluntarily surrendered.~~

~~(b) NOTICE OF INVOLUNTARY TRANSFER OR EXIT. A service provider must not transfer or exit an individual involuntarily without 30 days advance written notice to the individual, the individual's legal or designated representative (as applicable), and the services coordinator, except in the case of a medical emergency or when an individual is engaging in behavior that poses an imminent danger to self or others as described in subsection (c) of this section.~~

~~(A) The written notice must be provided on the Notice of Involuntary Transfer or Exit form approved by the Department and include:~~

~~(i) The reason for the transfer or exit; and~~

~~(ii) The individual's right to a hearing as described in subsection (d) of this section.~~

~~(B) A notice is not required when an individual, or as applicable the individual's legal or designated representative, requests a transfer or exit.~~

~~(c) A service provider may give less than 30 days advanced written notice only in a medical emergency or when an individual is engaging in behavior that poses an imminent danger to self or others. The notice must be provided to the individual, the individual's legal or designated representative (as applicable), and the services coordinator immediately upon determination of the need for a transfer or exit.~~

~~(d) HEARING RIGHTS. An individual must be given the opportunity for a contested case hearing under ORS chapter 183 to dispute an involuntary transfer or exit. If an individual or the individual's legal or designated representative (as applicable) requests a hearing, the individual must receive the same services until the hearing is resolved. When an individual has been given less than 30 days advanced written notice of a transfer or exit as described in subsection (c) of this section and the individual or the individual's legal or designated representative (as applicable) has requested a hearing, the service provider must reserve service availability for the individual until receipt of the final order.~~

~~(6) EXIT.~~

~~(a) An individual's ISP team must meet before any decision to exit is made. Findings of such a meeting must be recorded in the individual's file and include at a minimum:~~

~~(A) The name of the individual considered for exit;~~

~~(B) The date of the meeting;~~

~~(C) Documentation of the participants included in the meeting;~~

~~(D) Documentation of the circumstances leading to the proposed exit;~~

~~(E) Documentation of the discussion of the strategies to prevent the individual's exit from services (unless the individual, or as applicable the individual's legal or designated representative, is requesting the exit);~~

~~(F) Documentation of the decision regarding the individual's exit, including verification of the voluntary decision to transfer or exit or a copy of the Notice of Involuntary Transfer or Exit; and~~

~~(G) Documentation of the proposed plan for services for the individual after the exit.~~

~~(b) Requirements for an exit meeting may be waived if an individual is immediately removed from services under the following conditions:~~

~~(A) The individual, or as applicable the individual's legal or designated representative, requests an immediate removal from services; or~~

~~(B) The individual is removed by legal authority acting pursuant to civil or criminal proceedings.~~

~~(7) TRANSFER. An individual's ISP team must meet to discuss any proposed transfer of an individual before any decision to transfer is made. Findings of such a meeting must be recorded in the individual's file and include at a minimum:~~

~~(a) The name of the individual considered for transfer;~~

~~(b) The date of the meeting or telephone call;~~

~~(c) Documentation of the participants included in the meeting or telephone call;~~

~~(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 individual's legal or designated representative or family members, cannot be honored;~~

~~(g) Documentation of the voluntary decision to transfer or exit or a copy of the Notice of Involuntary Transfer or Exit; and~~

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

~~(8) APPEAL. Any member of the ISP team may file an appeal in cases where an individual, or as applicable the individual's legal or designated representative, objects to an entry refusal, a request to exit the service, or a transfer within a service. In the case of a request to exit or transfer, the individual may continue to receive the same services received prior to the appeal until the appeal is resolved.~~

~~(a) All appeals must be made in writing to the CDDP director or the CDDP director's designee for decision using the CDDP's appeal process. The CDDP director or the CDDP director's designee must make a decision within 30 working days of receipt of the appeal and notify the appellant of the decision in writing.~~

~~(b) The decision of the CDDP director may be appealed by the individual, the individual's legal or designated representative (as applicable), or the service provider by notifying the Department in writing within 10 working days of receipt of the CDDP's decision.~~

~~(A) The Department's director shall appoint a committee composed of a Department representative, a service representative, and a services coordinator.~~

~~(B) In case of a conflict of interest, as determined by the Department's director, alternative representatives may be temporarily appointed to the committee by the director.~~

~~(C) The committee must review the appealed decision and make a written recommendation to the Department's director within 45 working days of receipt of the notice of appeal.~~

~~(D) The Department's director shall make a decision on the appeal within 10 working days after receipt of the recommendation from the committee.~~

~~(E) If the decision is for admission or continued placement and the service provider refuses admission or continued placement, the funding for that unit of service may be withdrawn by the contractor.~~

Stat. Auth.: ORS 409.050, ~~and~~ 430.662

Stats. Implemented: ORS 430.610, 430.662, ~~and~~ 430.670

411-345-0160 Individual Support Plan

(1) An individual has the right to participate in his or her ISP meeting and must be afforded every opportunity to develop and direct his or her ISP and Career Development Plan.

(2) In order to receive employment services, an individual must have an employment related goal in his or her ISP and Career Development Plan.

(3) All individuals utilizing services under these rules must participate in career development planning as a part of the annual ISP.

(4) A Career Development Plan and informal vocational assessment must be developed and implemented with the ISP as follows. The Career Development Plan must:

(a) Focus on the strengths of the individual;

(b) Prioritize employment in integrated settings;

(c) Be based on person-centered planning principles;

(d) Include a current and accurate vocational assessment; and

(e) Be completed with the goal of maximizing the number of hours spent working consistent with the interests, abilities, and choices of the individual.

(5) For services provided by an agency service provider, the ISP and Career Development Plan must be implemented, and a copy of the sections of the ISP and Career Development Plan for each individual that are necessary to deliver the employment services must be available for the

employment service provider prior to the start of services and at least annually or as changes occur.

(6) Agency service providers must:

(a) Assign a staff member to participate as a team member in the development of the ISP and Career Development Plan when invited by the individual;

(b) Follow any required process and format as described in this rule;

(c) Train staff to understand the ISP, Career Development Plan, and supporting documents for each individual and to provide individual services; and

(d) Comply with Department rules and policies regarding the ISP and Career Development Plan.

(7) Agency service providers must participate in a face-to-face meeting annually with the ISP team of an individual. An exception is made when:

(a) The individual chooses not to participate in the meeting or the legal representative of the individual objects to the participation of the individual in the face-to face meeting. The individual must receive a copy of the ISP and Career Development Plan related to the necessary delivery of services; or

(b) The individual objects to the participation of an agency service provider during the face-to-face meeting.

(8) In preparation for the ISP meeting, the agency service provider must:

(a) Gather person-centered information regarding preferences, interests, and desires of the individual supported;

(b) Review the current ISP and Career Development Plan of the individual to determine the ongoing appropriateness and adequacy of the services and supports identified in the ISP and Career Development Plan; and

(c) Share all materials drafted in preparation for the ISP meeting with the ISP team one week in advance of the ISP meeting.

(9) The agency service provider must receive a copy of the ISP and Career Development Plan, or at least portions thereof, related to the necessary delivery of services.

~~(2) The ISP must be implemented and a copy of each individual's ISP must be available at the service site within 60 days of entry and updated at least annually or as changes occur.~~

~~(3) The service provider must:~~

~~(a) Assign a staff member to participate as a team member in the development of an individual's ISP when invited by the individual or the individual's legal or designated representative (as applicable);~~

~~(b) Follow any required process and format as described in this rule;~~

~~(c) Train staff to understand each individual's ISP and supporting documents and to provide individual services; and~~

~~(d) Comply with Department rules and policies regarding the ISP.~~

~~(4) A face-to-face meeting must be conducted annually with an individual's ISP team. An exception is made when:~~

~~(a) The individual chooses not to participate in the meeting or the individual's legal representative objects to the individual's participation in the face-to-face meeting. The individual must receive a copy of the ISP related to the necessary delivery of services; or~~

~~(b) The individual, or as applicable the individual's legal or designated representative, objects to the participation of a service provider during the face-to-face meeting. The service provider must receive a copy of the ISP related to the necessary delivery of services.~~

~~(5) In preparation for the ISP meeting, the service provider must:~~

~~(a) Gather person-centered information regarding preferences, interests, and desires of the individual supported;~~

~~(b) Review the individual's current ISP to determine the ongoing appropriateness and adequacy of the services and supports identified in the ISP; and~~

~~(c) Share all materials drafted in preparation for the ISP meeting with the ISP team one week in advance of the ISP meeting.~~

~~(6) The format and content for the ISP is based on the residential service being provided.~~

~~(a) For adults residing in 24-hour residential services, the ISP must be in accordance with OAR 411-325-0430, 411-320-0120, and this rule.~~

~~(b) For adults residing in foster care, the ISP must be in accordance with OAR 411-360-0170, 411-320-0120, and this rule.~~

~~(c) For adults residing in supported living services, the ISP must be in accordance with OAR 411-328-0750, 411-320-0120, and this rule.~~

~~(d) For adults residing in comprehensive in-home services, the ISP must be in accordance with OAR 411-330-0050, 411-320-0120, and this rule.~~

~~(7) The ISP must include the content required in the rules identified in section (6) of this rule for the residential service being provided. In addition, the ISP must:~~

~~(a) Address the individual's interest in pursuing a path to employment;~~

~~(b) Include action plans that further the individual's achievement of employment or the individual's goals for other types of day activities;~~

~~(c) Reflect decisions and agreements made by the ISP team during planning;~~

~~(d) Include documentation of the commitments made by the ISP team to support the individual's accomplishment of personal goals;~~

~~(e) Identify the type of services needed, how services are delivered, and the frequency of provided services;~~

~~(f) Identify timeframes for completion of goals or activities; and~~

~~(g) Contain signature of all ISP team members.~~

~~(8) Any deviation from the unit of service must be agreed to and documented by the ISP team.~~

~~(9) To meet the changing needs of the individual throughout the authorized ISP period:~~

~~(a) The ISP and supporting documents must be amended with ISP team approval; and~~

~~(b) The documentation must be kept current and be available for review by the individual, the individual's legal or designated representative (as applicable), the CDDP, and the Department.~~

Stat. Auth.: ORS 409.050, ~~and~~ 430.662

Stats. Implemented: ORS 430.610, 430.662, ~~and~~ 430.670

411-345-0170 Behavior Support for Agency Service Providers

For an agency service provider certified by the Department to provide services under these rules and endorsed under the rules in OAR chapter 411, division 323:

(1) The agency service provider must have and implement a written policy for behavior support utilizing individualized positive support techniques and prohibiting abusive practices.

(2) The agency service provider must inform the individual, and as applicable the ~~individual's~~ legal or designated representative of the individual, of the behavior support policy and any applicable procedures at the time of entry to services and as changes to the behavior policy occur.

(3) Prior to the development of a Behavior Support Plan, the agency service provider must conduct a functional behavioral assessment of the

behavior, which must be based upon information provided by one or more people who know the individual. The functional behavioral assessment must include:

(a) A clear, measurable description of the behavior that includes (as applicable) frequency, duration, and intensity of the behavior;

(b) A clear description and justification of the need to alter the behavior;

(c) An assessment of the meaning of the behavior that includes the possibility that the behavior is one or more of the following:

(A) An effort to communicate;

(B) The result of a medical condition;

(C) The result of a psychiatric condition; or

(D) The result of environmental causes or other factors.

(d) A description of the context in which the behavior occurs; and

(e) A description of what currently maintains the behavior.

(4) The A Behavior Support Plan must include:

(a) An individualized summary of the ~~individual's~~ needs, preferences, and relationships of an individual;

(b) A summary of the functions of the behavior as derived from the functional behavioral assessment;

(c) Strategies that are related to the functions of the behavior and are expected to be effective in reducing problem behaviors;

(d) Prevention strategies, including environmental modifications and arrangements;

- (e) Early warning signals or predictors that may indicate a potential behavioral episode and a clearly defined plan of response;
- (f) A general crisis response plan that is consistent with OIS;
- (g) A plan to address post crisis issues;
- (h) A procedure for evaluating the effectiveness of the Behavior Support Plan that includes a method of collecting and reviewing data on frequency, duration, and intensity of the behavior;
- (i) Specific instructions for staff who provide support to follow regarding the implementation of the Behavior Support Plan; and
- (j) Positive behavior supports that includes the least intrusive intervention possible.

(5) [The agency](#) service providers must maintain the following additional documentation for implementation of Behavior Support Plans:

- (a) Written evidence that the individual, the ~~individual's~~ legal or designated representative [of the individual](#) (as applicable), and the ISP team are aware of the development of the Behavior Support Plan and any objections or concerns;
- (b) Written evidence of the ISP team decision for approval of the implementation of the Behavior Support Plan; and
- (c) Written evidence of all informal and positive strategies used to develop an alternative behavior.

Stat. Auth.: ORS 409.050, ~~and~~ 430.662

Stats. Implemented: ORS 430.610, 430.662, ~~and~~ 430.670

411-345-0180 Protective Physical Intervention [for Agency Service Providers](#)

[For an agency service provider certified by the Department to provide services under these rules and endorsed under the rules in OAR chapter 411, division 323:](#)

(1) The [agency](#) service provider must only employ protective physical intervention techniques that are included in the approved OIS curriculum or as approved by the OIS Steering Committee. Protective physical intervention techniques must only be applied:

(a) When the health and safety of the individual and others are at risk and the ISP team has authorized the procedures in a documented ISP team decision that is included in the ISP and uses procedures that are intended to lead to less restrictive intervention strategies;

(b) As an emergency measure if absolutely necessary to protect the individual or others from immediate injury; or

(c) As a health related protection ordered by a physician if absolutely necessary during the conduct of a specific medical or surgical procedure, or for the ~~individual's~~ protection [of the individual](#) during the time that a medical condition exists.

(2) Staff supporting an individual must be trained ~~by an~~ [instructor](#)-certified in OIS when the individual has a history of behavior requiring protective physical intervention and the ISP team has determined there is probable cause for future application of protective physical intervention.

Documentation verifying [current](#) OIS [certification of training for](#) staff must be maintained in the ~~staff person's~~ personnel file [for the staff person and be available for review by the Department or the designee of the Department.](#)

(3) The service provider must obtain the approval of the OIS Steering Committee for any modification of standard OIS protective physical intervention techniques. The request for modification of protective physical intervention techniques must be submitted to the OIS Steering Committee and must be approved in writing by the OIS Steering Committee prior to the implementation of the modification. Documentation of the approval must be maintained in the ~~individual's~~ record [for the individual](#).

(4) Use of protective physical intervention techniques in emergency situations that are not part of an approved Behavior Support Plan must:

(a) Be reviewed by the ~~service provider's~~ executive director of the agency service provider or the ~~executive director's~~ designee of the executive director within one hour of application;

(b) Be used only until the individual is no longer an immediate threat to self or others;

(c) Be documented as an incident report and submitted to the services coordinator, personal agent, or other Department designee (if applicable) and the ~~individual's~~ legal representative of the individual (if applicable), no later than one working business day after the incident has occurred; and

(d) Prompt an ISP team meeting if an emergency intervention is used more than three times in a six-month period.

(5) Any use of protective physical intervention must be documented in an incident report, excluding circumstances as described in section (8) of this rule. The incident report must include:

(a) The name of the individual to whom the protective physical intervention was applied;

(b) The date, type, and length of time the protective physical intervention was applied;

(c) A description of the incident precipitating the need for the use of the protective physical intervention;

(d) Documentation of any injury;

(e) The name and position of the staff member applying the protective physical intervention;

(f) The name and position of the staff witnessing the protective physical intervention;

(g) The name and position of the person providing the initial review of the use of the protective physical intervention; and

(h) Documentation of an administrative review by the service provider's executive director of the agency service provider or the executive director's designee of the executive director who is knowledgeable in OIS as evident by a job description that reflects this responsibility, that-which includes the follow-up to be taken to prevent a recurrence of the incident.

(6) The agency service provider must forward a copy of the incident report within five working-business days of the incident to the services coordinator or personal agent and the individual's legal representative of the individual (if applicable).

(a) The services coordinator, personal agent, or the Department designee (if applicable) must receive a complete copy of the incident report.

(b) A copy of an incident report may not be provided to an individual's the legal representative or other agency service provider of an individual when the report is part of an abuse or neglect investigation.

(c) A copy of an incident report provided to an individual's the legal representative or other service provider of an individual must have confidential information about other individuals removed or redacted as required by federal and state privacy laws.

(7) All protective physical interventions resulting in injuries must be documented in an incident report and forwarded to the services coordinator, personal agent, or other Department designee (if applicable), within one working-business day of the incident.

(8) The agency service provider may substitute a behavior data summary in lieu of individual incident reports when:

(a) There is no injury to the individual or others;

(b) The intervention utilized is not a protective physical intervention;

(c) There is a formal written functional behavioral assessment and a written Behavior Support Plan;

(d) The ~~individual's~~ Behavior Support Plan defines and documents the parameters of the baseline level of behavior;

(e) The protective physical intervention techniques and the behaviors for which the protective physical intervention techniques are applied remain within the parameters outlined in the ~~individual's~~ Behavior Support Plan for the individual and the OIS curriculum;

(f) The behavior data collection system for recording observation, intervention, and other support information critical to the analysis of the efficacy of the Behavior Support Plan is also designed to record items as required in section (5) of this rule; and

(g) There is written documentation of an ISP team decision that a behavior data summary had been authorized for substitution in lieu of incident reports.

(9) A copy of the behavior data summary must be forwarded every 30 days to the services coordinator, personal agent, or other Department designee (if applicable) and the ~~individual's~~ legal representative of an individual (if applicable).

Stat. Auth.: ORS 409.050, ~~and~~ 430.662

Stats. Implemented: ORS 430.610, 430.662, ~~and~~ 430.670

411-345-0190 Medical Services for Agency Service Providers

For an agency service provider certified by the Department to provide services under these rules and endorsed under the rules in OAR chapter 411, division 323:

(1) All ~~individuals'~~ medical records for the individuals must be kept confidential as described in OAR 411-323-0060.

(2) The agency service provider must have and implement written policies and procedures that describe the medical management system, including medication administration, early detection and prevention of infectious disease, self-administration of medication, drug disposal, emergency medical procedures including the handling of bodily fluids, and confidentiality of medical records.

(3) Individuals must receive care that promotes their health and well-being as follows:

(a) The agency service provider must observe the health and physical condition of an individual and take action in a timely manner in response to identified changes in condition that may lead to deterioration or harm;

(b) The agency service provider must assist an individual with the use and maintenance of prosthetic devices as necessary for the activities of the service;

(c) The agency service provider, with the ~~individual's~~ knowledge of the individual, must share information regarding medical conditions with the ~~individual's~~ residential contact (if applicable) and the services coordinator or personal agent of the individual; and

(d) The agency service provider must provide rest and lunch periods at least as required by applicable law unless the ~~individual's~~ needs of the individual dictate additional time.

(4) The agency service provider must maintain records on each individual to aid physicians, medical professionals, and the agency service provider in understanding the ~~individual's~~ medical history and current treatment program for the individual. These records must be kept current and organized in a manner that permits a staff and medical person to easily follow the ~~individual's~~ course of treatment for the individual. Such documentation must include:

(a) A medical history obtained prior to entry to services including where available:

(A) A copy of a record of immunizations; and

(B) A list of known communicable diseases and allergies.

(b) A record of the ~~individual's~~ current medical condition of the individual, including:

(A) A copy of all current orders for medication administered and maintained at the ~~service provider's~~ site of the agency service provider;

(B) A list of all current medications; and

(C) A record of visits to medical professionals, consultants, or therapists if facilitated or provided by the agency service provider.

(5) The administration of medication at the service site must be avoided whenever possible. When medications, treatments, equipment, or special diets must be administered or monitored for self-administration, the agency service provider must:

(a) Obtain a copy of a written order signed by a physician, physician's designee of a physician, or medical practitioner prescribing the medication, treatment, special diet, equipment, or other medical service; and

(b) Follow written orders.

(6) PRN orders are not accepted for psychotropic medication.

(7) All medications administered or monitored in the case of self-administration must be:

(a) Kept in their original containers;

(b) Labeled by the dispensing pharmacy, product manufacturer, or physician, as specified per the written order of a physician's or licensed health care practitioner's ~~written order~~;

(c) Kept in a secured locked container and stored as indicated by the product manufacturer; and

(d) Recorded on an individualized Medication Administration Record (MAR), including treatments and PRN orders.

(8) The MAR must include:

- (a) The name of the individual;
- (b) The brand or generic name of the medication, including the prescribed dosage and frequency of administration as contained on the ~~physician's~~ order of the physician and medication;
- (c) For topical medications and basic first aid treatments utilized without ~~a physician's~~ the order of a physician, a transcription of the printed instructions from the package or the description of the basic first aid treatment provided;
- (d) Times and dates of administration or self-administration of the medication;
- (e) The signature of the staff administering the medication or monitoring the self-administration of the medication;
- (f) Method of administration;
- (g) Documentation of any known allergies or adverse reactions to a medication;
- (h) Documentation and an explanation of why a PRN medication was administered and the results of such administration; and
- (i) An explanation of any medication administration irregularity with documentation of administrative review by the ~~service provider's~~ executive director of the agency service provider or the designee of the executive director's ~~designee~~.

(9) Safeguards to prevent adverse medication reactions must be utilized to include:

- (a) Maintaining information about the effects and side-effects of each prescribed medication's ~~effects and side-effects~~;
- (b) Communicating any concerns regarding any medication usage, effectiveness, or effects to the residential contact (if applicable) and the services coordinator or personal agent; and

(c) Prohibiting the use of ~~one individual's~~ the medications of one individual by another individual.

(10) The service site or agency service provider may not keep unused, discontinued, outdated, or recalled medication, or medication containers with worn, illegible, or missing labels. All unused, discontinued, outdated, or recalled medication or medication containers with worn, illegible, or missing labels must be promptly disposed of in a manner consistent with federal statutes and designed to prevent illegal diversion of the substances into the possession of people other than for whom the medication was prescribed. The agency service provider must maintain a written record of all disposed medications that includes:

(a) Date of disposal;

(b) A description of the medication, including amount;

(c) The name of the individual for whom the medication was prescribed;

(d) The reason for disposal;

(e) The method of disposal;

(f) Signature of staff disposing; and

(g) For controlled medications, the signature of a witness to the disposal.

(11) For any individual who is self-administering medication while receiving services from an agency service provider, the agency service provider must:

(a) Have documentation that a training program was initiated with approval of the ~~individual's~~ ISP team for the individual or that training for the individual is unnecessary;

(b) If necessary, have a training program that is consistent with the self-administration training program in place at the [individual's residence of the individual](#);

(c) If necessary, have a training program that provides for retraining when there is a change in dosage, medication, or time of delivery;

(d) Have specific supports identified and documented for the individual when training has been deemed unnecessary; and

(e) Provide for an annual review, at a minimum, as part of the ISP process, upon completion of the training program or when training for the individual has been deemed necessary by the [individual's-ISP team](#).

(12) The [agency](#) service provider must ensure that individuals able to self-administer medications keep the medications secured, unavailable to any other person, and stored as recommended by the product manufacturer.

(13) The [agency](#) service provider must immediately contact the services coordinator [or personal agent](#) when [an individual's-the](#) medical, behavioral, or physical needs [of an individual](#) change to a point that the [individual's needs of the individual](#) may not be met by the [agency](#) service provider. The ISP team may determine alternative [service providers placement](#)-or [may arrangement other services](#) if necessary.

Stat. Auth.: ORS 409.050, ~~and~~ 430.662

Stats. Implemented: ORS 430.610, 430.662, ~~and~~ 430.670

411-345-0200 Individual Summary Sheets and Emergency Information for Agency Service Providers

[For an agency service provider certified by the Department to provide services under these rules and endorsed under the rules in OAR chapter 411, division 323:](#)

(1) [The agency service provider must maintain Aa](#) current one to two page summary sheet record ~~must be maintained~~ at the [service provider's](#) primary place of business [of the agency service provider](#) for each individual receiving services. The record must include:

(a) The ~~individual's~~ name, of the individual and his or her current address, telephone number, date of entry into services, date of birth, gender, preferred hospital, medical prime and private insurance number (if applicable), and guardianship status; and

(b) The name, address, and telephone number of:

(A) The ~~individual's~~ legal or designated representative, family, and other significant person (as applicable) of the individual;

(B) The ~~individual's preferred~~ physician, secondary physician, and clinic preferred by the individual;

(C) The ~~individual's preferred~~ dentist preferred by the individual;

(D) The ~~individual's~~ services coordinator or personal agent of the individual; and

(E) Other agencies and representatives providing services and supports to the individual.

(2) An agency service provider must maintain emergency information for each individual receiving supports and services from the agency service provider in addition to an individual summary sheet identified in section (1) of this rule. ~~(a)~~ The emergency information must be kept current and must include:

~~(aA)~~ The ~~individual's~~ name of the individual;

~~(bB)~~ The ~~service provider's~~ name, address, and telephone number of the agency service provider;

~~(cC)~~ The address and telephone number of the residence where the individual lives;

~~(dD)~~ The ~~individual's~~ physical description of the individual, which may include a picture and the date the picture was taken, and identification of:

(Ai) The ~~individual's~~ race, gender, height, weight range, hair, and eye color of the individual; and

(Bi) Any other identifying characteristics that may assist in identifying the individual may the need arise, such as marks or scars, tattoos, or body piercing.

(eE) Information on the ~~individual's~~ abilities and characteristics of the individual, including:

(Ai) How the individual communicates;

(Bi) The language the individual uses or understands;

(Ciii) The ability of the individual to know and take care of bodily functions; and

(Div) Any additional information that may assist a person not familiar with the individual to understand what the individual may do for him or herself.

(fF) The ~~individual's~~ health support needs of the individual, including:

(Ai) Diagnosis;

(Bi) Allergies or adverse drug reactions;

(Ciii) Health issues that a person needs to know when taking care of the individual;

(Div) Special dietary or nutritional needs, such as requirements around the textures or consistency of foods and fluids;

(vE) Food or fluid limitations due to allergies, diagnosis, or medications the individual is taking that may be an aspiration risk or other risk for the individual;

(viF) Additional special requirements the individual has related to eating or drinking, such as special positional needs or a specific way foods or fluids are given to the individual;

(~~vii~~G) Physical limitations that may affect the ~~individual's~~ ability of the individual to communicate, respond to instructions, or follow directions; and

(~~viii~~H) Specialized equipment needed for mobility, positioning, or other health related needs.

(~~g~~G) The ~~individual's~~ emotional and behavioral support needs of the individual, including:

(~~A~~i) Mental health or behavioral diagnosis and the behaviors displayed by the individual; and

(~~ii~~B) Approaches to use when dealing with the individual to minimize emotional and physical outbursts.

(~~h~~H) Any court ordered or legal representative authorized contacts or limitations;

(~~i~~I) The ~~individual's~~ supervision requirements of the individual and why; and

(~~j~~J) Any additional pertinent information the agency service provider has that may assist in the care and support of the individual in the event of a natural or man-made disaster.

Stat. Auth.: ORS 409.050, ~~and~~ 430.662

Stats. Implemented: ORS 430.610, 430.662, ~~and~~ 430.670

411-345-0230 Incident Reports and Emergency Notifications by Agency Service Providers

For an agency service provider certified by the Department to provide services under these rules and endorsed under the rules in OAR chapter 411, division 323:

(1) A written incident report describing any injury, accident, act of physical aggression, or unusual incident involving an individual must be placed in the ~~individual's~~ record for the individual. The incident report must include:

- (a) Conditions prior to, or leading to, the incident;
- (b) A description of the incident;
- (c) Staff response at the time; and
- (d) ~~Administrative review and f~~ollow-up to be taken to prevent a recurrence of the injury, accident, physical aggression, or unusual incident.

(2) Copies of incident reports for all unusual incidents (as defined by OAR 411-345-0020) must be sent to the services coordinator or personal agent within five working business days of the unusual incident.

(3) The agency service provider must immediately notify the CDDP or Brokerage of an incident or allegation of abuse falling within the scope of OAR 407-045-0260.

(4) In the case of an unusual incident requiring emergency response, the agency service provider must immediately notify:

- (a) The ~~individual's~~ legal representative, parent, next of kin, designated representative, and other significant person of the individual (as applicable);
- (b) The CDDP or Brokerage;
- (c) The ~~individual's~~ residential contact of the individual; and
- (d) Any other agency responsible for the individual.

(5) In the case of an individual who is missing or absent without supervision beyond the time frames established by the ISP team, the agency service provider must immediately notify:

- (a) The ~~individual's~~ designated representative of the individual (if applicable);

(b) The ~~individual's~~ legal representative of the individual or nearest responsible relative (as applicable);

(c) The ~~individual's~~ residential contact of the individual;

(d) The local police department; and

(e) The CDDP or Brokerage.

Stat. Auth.: ORS 409.050, ~~and~~ 430.662

Stats. Implemented: ORS 430.610, 430.662, ~~and~~ 430.670

411-345-0240 Emergency Plan and Safety Review for Agency Service Providers

For an agency service provider certified by the Department to provide services under these rules and endorsed under the rules in OAR chapter 411, division 323:

(1) An agency Sservice providers must develop, keep current, and implement a written emergency plan for the protection of all individuals in the event of an emergency or disaster. ~~(a)~~ The emergency plan must:

(aA) Be practiced at least annually;

(bB) Consider the needs of the individuals being supported and address all natural and human-caused events identified as a potential significant risk to the individuals, such as a pandemic or an earthquake;

(cC) Coordinate with each residential provider or residential contact to address the possibility of emergency or disaster resulting in the following:

(A*i*) Extended utility outage;

(B*ii*) No running water;

(C*iii*) Inability to provide food or supplies; and

(~~Div~~) Staff unable to report as scheduled.

(~~dD~~) Include provisions for evacuation and relocation that identifies:

(~~AI~~) The duties of staff during evacuation, transport, and housing of individuals;

(~~iiB~~) The requirement for staff to notify the Department and the local CDDP and Brokerage offices of the plan to evacuate or the evacuation of the facility, as soon as the emergency or disaster reasonably allows;

(~~iiiC~~) The method and source of transportation;

(~~ivD~~) Planned relocation sites that are reasonably anticipated to meet the needs of the individuals;

(~~vE~~) A method that provides a person unknown to the individual the ability to identify the individual by ~~the individual's~~ name and to identify the name of the ~~individual's agency~~ service provider for the individual; and

(~~viF~~) A method for tracking and reporting to the Department, local CDDP and Brokerage offices, or designee, the physical location of each individual until a different entity resumes responsibility for the individual.

(~~eE~~) Address the needs of the individual, including medical needs; and

(~~fF~~) Be submitted to the Department as a summary, per Department format, at least annually and upon revision and change of ownership.

(2) An agency ~~S~~service providers must post the following emergency telephone numbers in close proximity to all phones used by staff:

(a) The telephone numbers of the local fire, police department, and ambulance service, if not served by a 911 emergency service; and

(b) The telephone number of the ~~service provider's~~ executive director of the agency service provider and additional people to be contacted in the case of an emergency.

(3) If an individual regularly accesses the community independently, the agency service provider must provide the individual information about appropriate steps to take in an emergency, such as emergency contact telephone numbers, contacting police or fire personnel, or other strategies to obtain assistance.

(4) A documented safety review must be conducted quarterly to ensure the service site is free of hazards. The agency service provider must keep the quarterly safety review reports for five years and must make them available upon request by the CDDP, Brokerage, or the Department.

Stat. Auth.: ORS 409.050, ~~and~~ 430.662

Stats. Implemented: ORS 430.610, 430.662, ~~and~~ 430.670

411-345-0250 Evacuation for Agency Service Providers

For an agency service provider certified by the Department to provide services under these rules and endorsed under the rules in OAR chapter 411, division 323:

(1) The agency service provider must train all individuals immediately upon entry to each service site to leave the site in response to an alarm or other emergency signal ~~to exit~~.

(2) The agency service provider must document the level of assistance needed by each individual to safely evacuate and such documentation must be maintained in the ~~individual's~~ entry records for the individual.

(3) The agency service provider must provide, or assure provision of, necessary adaptations or accommodations to ensure evacuation safety for individuals with sensory and physically impairments.

(4) FacilitySite-based agency service providers must:

(a) Conduct unannounced evacuation drills one per quarter each year when individuals are present, unless required more often by the Oregon Occupational Safety and Health Division.

(Aa) Drills must occur at different times of the day.

(Bb) ~~Exit Routes~~ to leave the site for the drill must vary based on the location of a simulated emergency.

(Cc) Any individual failing to evacuate the service site unassisted within three minutes, or an amount of time set by the local fire authority for the site, must be provided specialized training and support in evacuation procedures.

~~(b4) Facility-based service providers must m~~Make written documentation at the time of each drill and keep the documentation for at least two years following the drill. Documentation must include:

(Aa) The date and time of the drill;

(Bb) The location of the simulated emergency and ~~exit~~ route of evacuation;

(Cc) The last names of all individuals and staff present in the service area at the time of the drill;

(Dd) The type of evacuation assistance provided by staff to individuals² that need more than three minutes to evacuate as specified in ~~an individual's the~~ safety plan for the individuals;

(Ee) The amount of time required by each individual to evacuate if the individual needs more than three minutes to evacuate;

(Ff) The amount of time for all individuals to evacuate exclusive of individuals with specialized support as described in section (3)(c) of this rule; and

(Gg) The signature of the staff conducting the drill.

~~(c5) The service provider must d~~Develop a written safety plan for individuals who are unable to evacuate the site within the required evacuation time or who, with concurrence of the ISP team, request not to participate in evacuation drills. The safety plan must include:

(~~Aa~~) Documentation of the risk to the ~~individual's~~ medical, physical condition, and behavioral status of the individual;

(~~Bb~~) Identification of how the individual must evacuate the site, including level of support needed;

(~~Cc~~) The routes to be used to evacuate the individual to a point of safety;

(~~Dd~~) Identification of assistive devices required for evacuation;

(~~Ee~~) The frequency the plan must be practiced and reviewed by the individual and staff;

(~~Ff~~) The alternative practices;

(~~gG~~) Approval of the plan by the ~~individual's~~ legal representative of the individual, services coordinator or personal agent, and the ~~service provider's~~ executive director of the agency service provider; and

(~~hH~~) A plan to encourage future participation in evacuation drills.

~~(6) The service provider must provide necessary adaptations or accommodations to ensure evacuation safety for individuals with sensory and physically impairments.~~

Stat. Auth.: ORS 409.050, ~~and~~ 430.662

Stats. Implemented: ORS 430.610, 430.662, ~~and~~ 430.670

411-345-0260 Physical Environment for Agency Service Providers

For an agency service provider certified by the Department to provide services under these rules and endorsed under the rules in OAR chapter 411, division 323:

(1) All ~~supported employment and community-based services~~ agency service providers must ensure that the service site has no known health or safety hazards in its immediate environment and that individuals are trained to avoid recognizable hazards.

(2) The agency service provider must:

(a) ~~a~~Assure that at least once every five years a health and safety inspection is conducted of owned, leased, or rented buildings and property.

(Aa) The inspection must cover all areas and buildings where services are delivered to individuals, administrative offices, and storage areas.

(bB) The inspection may be performed by:

(Ai) Oregon Occupational Safety and Health Division;

(Bii) The ~~service provider's~~ workers compensation insurance carrier of the agency service provider;

(Ciii) An appropriate expert, such as a licensed safety engineer or consultant approved by the Department; or

(Div) The Oregon Public Health Division, when necessary.

(Ce) The inspection must cover:

(iA) Hazardous material handling and storage;

(Bii) Machinery and equipment used by the agency service provider;

(Ciii) Safety equipment;

(~~D~~iv) Physical environment; and

(~~E~~v) Food handling, when necessary.

(~~D~~d) The documented results of the inspection, including recommended modifications or changes, and documentation of any resulting action taken must be kept by the agency service provider for five years.

(~~b~~3) ~~The service provider must e~~Ensure buildings and property at each owned, leased, or rented service site has annual fire and life safety inspections performed by the local fire authority or a Deputy State Fire Marshal. The documented results of the inspection, including documentation of recommended modifications or changes, and documentation of any resulting action taken must be kept by the agency service provider for five years.

Stat. Auth.: ORS 409.050, and 430.662

Stats. Implemented: ORS 430.610, 430.662, and 430.670

411-345-0270 Vehicles and Drivers for Agency Service Providers

For an agency service provider certified by the Department to provide services under these rules and endorsed under the rules in OAR 411-323:

(1) An agency Sservice providers that ownss or operatess vehicles that transportss individuals must:

(a) Maintain the vehicles in safe operating condition;

(b) Comply with Oregon the laws of the Driver and Motor Vehicle Services Division-laws;

(c) Maintain insurance coverage; and

(d) Carry a first-aid kit in the vehicles.

(2) ~~A D~~drivers operating vehicles to transport individuals must meet all applicable Oregon requirements of the Driver and Motor Vehicle Services Division ~~requirements~~.

Stat. Auth.: ORS 409.050, ~~and~~ 430.662

Stats. Implemented: ORS 430.610, 430.662, ~~and~~ 430.670s