EXITS IN RESIDENTIAL SETTINGS

Process

Notices

Roles and Responsibilities
What is an exit?

When a person lives in a residential setting, an exit means the person is either:

- choosing to move
- being asked to move out of a home

“Exit” means termination or discontinuation of a Department-funded developmental disabilities service.

OAR 411-317-000(77)
A residential setting “exit” includes any time an individual moves from a residential setting, including:

- An individual moving from one home to another operated by the same provider (sometimes called a transfer)
- A provider operated home moving to a new physical location
- Leaving the home for a long-term or permanent basis due to hospitalization or incarceration
- An individual choosing to live in another residence
What is a residential setting?

Residential Settings include:

- Foster Homes
- 24-Hour Group Homes
- Host Homes
- Assisted Living Facilities
Supported Living provides supports 24 hours per day to individuals in their own privately arranged homes.

The Supported Living model has housing arranged separately from services, therefore, residential exit policy does not apply.

Individuals using Supported Living should have a rental or lease agreement for a residence that the individual does not own. State and local landlord tenant law applies for evictions and tenant rights.
There are rules for each setting that must be followed when there is an exit:

- **24-Hour Residential Settings**
  - OAR 411-325-0390

- **Foster Homes for Adults**
  - OAR 411-360-0170

- **Foster Homes for Children**
  - OAR 411-346-0240

- **Host Homes**
  - OAR 411-348-0390
Voluntary Exits

An exit is “voluntary” when it is the individual (or their guardian) that chooses for the individual to move out of a home.

An individual is not required to give an advanced notice if they choose to move out.

Letting a provider know about plans to move out, when possible, is a highly encouraged courtesy.
Involuntary Exits

An involuntary exit is when a provider is telling the individual that the individual must move out of the home.
A provider may only ask an individual to move out for certain reasons

- The behavior of the individual poses a risk of imminent danger to themselves or others
- The individual experiences a medical emergency that results in substantially increased ongoing support that the provider is unable to meet
- The service needs of the individual exceed the ability of the provider
- The individual fails to pay for room and board or services, and payment is not available from another resource
- The provider’s certification, endorsement, or home license is suspended, revoked, not renewed, or voluntarily surrendered
- The provider’s Medicaid contract has been terminated
A provider must give at least 30 days notice in most situations to an individual when the individual is being asked to move out.
A provider can only give an individual less than 30 days notice for the following reasons:

- There is a medical emergency
- The individual is engaging in behavior that poses an imminent risk of danger to themselves or others
Mandatory Written Notice of Involuntary Reduction of Service, Transfer, or Exit

A 30-day written notice of involuntary reduction, transfer or exit from services is required from a Medicaid agency provider when a provider requests that an individual change service location, or reduces or terminates services. In a case of imminent danger to the individual or others due to a medical emergency or behavior, notice may be less than 30 days. Written notice must be provided as soon as possible and the services kept available to the individual until a final order should the individual request an administrative hearing to appeal the exit notification.

Notice issued to (name of individual): ___________________________ Date: ___________________________

From (name of provider): ___________________________

Residence/service address: ___________________________

City, state, ZIP: ___________________________ Email: ___________________________

The provider must give the notice in writing on the Department-approved form

“Mandatory Written Notice of Involuntary Reduction of Service, Transfer, or Exit”
Form SDS 0719DD
The provider must save a person’s room and provide services until the effective date of the notice.

INDIVIDUALS HAVE A RIGHT TO RECEIVE SERVICES

IF AN INDIVIDUAL CHOoses TO REQUEST A HEARING, THE INDIVIDUAL HAS A RIGHT TO SERVICES UNTIL THE FINAL ORDER FROM THE HEARING IS ISSUED.

Continue
If an individual doesn’t agree with the exit notice, they have the right to ask for a hearing:

With the exit notice, there is a hearing request form that the individual can use to ask for a hearing.

The individual may have help from their Services Coordinator or others to complete the form.
A hearing may not be needed if the exit notice is due to the home closing

A home might close if the provider:

| Sells the home or moves location | Has the license for the home suspended, revoked, not renewed, or surrendered | Agency has their certification or endorsement suspended, revoked, not renewed, or surrendered | Has their Medicaid provider number terminated |
If the individual is requesting a hearing, timelines are important!

An individual who receives a 30-day notice must request the hearing and indicate they would like services to continue within 15 days of the notice.

An individual has a maximum of 90 days to request a hearing.
New Timelines in Oregon Administrative Rule (OAR)

Effective 11/1/2019:
“If an individual requests a hearing within 15 calendar days after the date of the notice and request continuation of services, the individual must receive the same services until the hearing is resolved”

OAR 411-325-0390(6)(b); OAR 411-346-0240(6)(b); OAR 411-348-0390(6)(b); OAR 411-360-0190(6)(b)
If the individual would like to continue services and they are making the hearing request more than 15 days after the date of notice...

The individual may request an expedited hearing.

An expedited hearing is a hearing that is held within 5 business days of the Office of Administrative Hearings receiving a request.
The Services Coordinator should be meeting with the individual as soon as they are aware of the notice of exit to:

- Help the individual understand the reason the notice of exit was given
- Pull together the individual’s ISP team to discuss the situation
- Explore options with individual, their team, and the provider to eliminate the reason for the exit, if possible
- Help the individual understand the next steps involved
Next steps include...

The Services Coordinator providing the individual with choice advising to help the individual understand options for where to live next.

The Services Coordinator will be:

• Finding available placement options
• Putting together referrals
• Getting releases from the individual
• Supporting the individual to arrange tours
• Helping the individual sign up for resources, such as housing waiting lists (if applicable)
An individual may not agree with the notice to move, but...

Even if an individual chooses to have a hearing to fight the notice of exit, the individual needs to plan for a new place to live in case the hearing upholds the notice of exit.

There is not a lot of time

The individual may not be able to find their ideal living situation

But it is important that the individual has somewhere to go once the notice time is up
Once the notice of exit date has arrived...

(and there has not been a request for a hearing)

The individual is expected to leave the home

Sometimes a provider may be willing to amend the notice to allow a few more days in the home if there is another placement lined up

If an individual does not have a designated placement to go to, the Services Coordinator may need to help the individual plan on places to stay such as with family or friends, temporary housing, or a shelter until a placement or housing can be located
When the decision to let the individual stay in the home longer is made...

**After** the effective date of the notice

- The provider must issue a new notice and the timelines are re-started, including the 30-day notice period

**Before** the effective date of the notice

- The provider may amend the notice to allow the effective date to be later- a new notice is not required if the notice is amended
If the situation changes...

And a notice of exit is no longer needed

The provider may rescind the notice of exit
Case Management Responsibilities

- Verify the individual received a notice
- Help the individual to understand the notice
- Assist the individual and the provider in exploring remediation
- Provide choice advising to identify other service and placement options
- Contact the local DRC (Designated Referral Contact) to start the referral process
- Put together referral information
- Obtain ROIs (Release of Information) as needed
- Service planning for new placement
- Facilitate the exit meeting from the current placement
Provider Responsibilities

- Communicate intent to exit as early as possible
- Provide a Notice of Exit on the department designated form
- Good faith effort to remediate the situation contributing to the exit
- Continue to provide services to the individual until the date of notice (or Final Order if there is a hearing requested)

- Maintain the individual’s room
- Ongoing open communication with the Services Coordinator
- Share information needed for referral and support planning for a new placement
- Support the individual in identifying and understanding their options
- Participate in the exit meeting
Individual Responsibilities

- Communication with the Services Coordinator
- Be willing to work on remediation if there is a desire to stay in the home
- Submit a hearing request (on time) if the individual does not agree that the provider has reason to exit them
- Sign ROIs (Release of Information) as needed to identify new placements
- Meet with Services Coordinator to discuss service and placement options
- Plan for a new place to live, including a plan to take personal property
- Move by or on the date of exit in the notice (or the effective date of the Final Order if there is a hearing)
When there is a hearing to appeal the exit notice and...

The Judge agrees with the provider’s notice of exit
- The individual must move out effective the date in the Final Order

The Judge agrees with the individual and overturns the notice of exit
- The notice of exit is voided and the individual has the right to remain in the home
Individual Personal Property

- Personal property of the individual must be released to the individual.

- Including equipment or assistive devices or technology that were purchased using resources directly designated for the individual (such as waiver, state plan, grant, or health plan).

- A provider is not required to store property of the individual following the date of exit in the notice or the effective date of the Final Order (whichever is later).
If an individual leaves property behind...

The provider needs to make reasonable efforts to reach the individual (and their Services Coordinator or Personal Agent) to inform them of the property left behind.

The provider shall give written notice to the individual, specifying that the property shall be considered abandoned if the individual does not make arrangements to collect the personal property.

The individual must be given at least 15 days to collect their property.

If the individual fails to respond to the notice or does not collect their property by the date specified in the notice, the provider shall dispose of the property.

In accordance with ORS 90.425.
Disposal of Property

A provider may not profit from the disposal of individual property left behind.

The property may be donated to a non-profit or a person not related to the provider.

The property may be thrown away, if appropriate.

The provider may not retain the property for personal use or benefit.

In accordance with ORS 90.425
Room and Board

The provider may charge for room and board while the room is being held for the individual.

Room and Board is to be pro-rated based on actual move out date, with left over funds refunded to the individual.
More about money...

Provider cannot charge for damage or fees related to moving

Provider is not responsible for relocation costs of the individual
When an individual is away from the home due to:

- Hospitalization
  - Hospital
  - State Hospital
- Nursing Care
- Incarceration
  - Jail
  - Prison

And the provider wants to give the individual a notice of exit, the criteria for notice of exit still applies.
A provider may only ask an individual to move out for certain reasons

- The behavior of the individual poses a risk of imminent danger to themselves or others
- The individual experiences a medical emergency that results in substantially increased ongoing support that the provider is unable to meet
- The service needs of the individual exceed the ability of the provider
- The individual fails to pay for room and board or services, and payment is not available from another resource
- The provider’s certification, endorsement, or home license is suspended, revoked, not renewed, or voluntarily surrendered
- The provider’s Medicaid contract has been terminated
If a provider is giving a notice of exit to an individual who is hospitalized or incarcerated...

The provider must be able to present that the individual’s support needs:

| Have significantly increased (due to a medical issue or a challenging behavior); | Are reasonably expected to be increased for a long term or permanent basis; and | Cannot be safely supported by the provider |
Long-Term versus Short-Term Absence from the Home

An individual’s absence from the home may not be enough of a reason for a provider to issue a notice of exit.

The provider needs to consider whether the individual’s absence is short-term or if the individual is expected to be out of the home for a long period of time.

Think about the reason the individual is away from the home and where they may be staying while away:

- A medical hospital? - likely short term
- An arrest? - usually short term (unless a serious crime)
- Serving a prison sentence? - long term
- State Hospital? - It depends (Type of hold & whether related to a serious crime)
- Jail? - Depends on the nature of the crime and the length of sentence
When an individual is anticipated to be away from the home for an extended period of time

A provider may choose to issue a notice of exit

The provider must determine if they have the resources and desire to hold the individual’s placement or if the provider would like to issue a notice of exit
Providers may not issue a notice of exit due to an individual choosing to spend time away from the home.

Individuals have the right to full access to community living opportunities and self-direction in their daily lives. This includes visiting friends and family and going on vacations.

Providers may work with an individual and ISP team to anticipate the individual’s support needs and routine around the choice to be away from the home.

- Providers can adjust staffing patterns when the time away is routine or predictable.
- Providers may bill for a day of service when the individual receives support from the provider while away from the home.*
- The individual is responsible for paying room and board, even if they are away from the home.

*see OAR criteria for details
Relief Care

A notice of exit is not required for Relief Care

Relief Care is a time-limited service
ODDS has a resource for finding residential placement options.

Case managers can help individuals and teams to access information such as the ODDS webpage which includes a listing of provider profiles and vacancy information about settings.


This webpage is called the “Residential Services Provider Profiles and Vacancy Listing”
Additional Resources for Individuals Related to Notice of Exit

Residential Facilities Ombudsman
- https://www.oltco.org/
- rfo.info@oregon.gov
- 1-844-674-4567

Disability Rights Oregon
- https://droregon.org/
- 1-800-452-1694