COMPREHENSIVE IN–HOME SUPPORT FOR ADULTS WITH INTELLECTUAL OR DEVELOPMENTAL DISABILITIES

CHAPTER 411
DIVISION 330
Disclaimer

- OAR references to the 411–330 Comprehensive In-Home Supports rule are based on proposed language and are subject to change following the public comment period and finalization of Oregon Administrative Rules on December 29th, 2014.

- It is important that you read these rules in their entirety.
Definitions

- A number of definitions that are commonly used across all Individuals with Intellectual and Developmental Disability Services Rules were moved to a new Definitions Rule 411–317. If you are looking for a definition that you cannot find, try looking in 411–317.
New and Significantly Changed Definitions

- New Waiver and all K plan services get definitions; discontinued services had their definitions removed.
- Administrator Review” See OAR 411-318 for the significance of this term
- “Alternative Resources” Relates to the ISP’s requirement to identify all resources utilized to meet an individual’s needs, including those from outside the DD system
- “Community Transportation” adds that it “is provided in the area surrounding the home of the individual that is commonly used by people in the same area to obtain ordinary goods and services. “
- "Designated Representative" gets modified by adding that the DR is chosen by the individual
New and Significantly Changed Definitions

- “Functional Needs Assessment” gets updated to specify the Adults Needs Assessment is the FNA for this program.
- “In-Home Expenditure Guidelines” are defined so they may be incorporated into rule. The definition includes where they may be found.
- "Individual" has added “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 to exercise the rights of the individual.”
- “Nursing Service Plan” is defined to make clear that it is not part of the ISP.
- "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
411–330–0030 Eligibility for In-Home Support

- (2) updated to reflect the need for eligibility for K plan services to be enrolled in this service. The requirement had been identified as OSIPM, which is inaccurate.
- Requires individuals with excess income to contribute to the cost of service pursuant to OAR 461–160–0610 and OAR 461–160–0620.
411–330–0040 In–Home Support Entry and Exit

(5) reasons an individual must exit this service now include:

◦ entry into support services case management services;
◦ entry into another comprehensive service;
◦ When the individual either cannot be located or has not responded after 30 days of repeated attempts by CDDP staff to complete ISP development or monitoring activities, including participation in a functional needs assessment

Notice requirements (here and throughout these rules) have been deferred to OAR 411–318.
411–330–0050 Required In–Home Support

- (4) Requires an adult in this service to have a Career Development Plan
- (8) Allows, for an individual transferring from a Brokerage to in–home support, the Brokerage ISP to be used as authorization for available in–home support for up to 90 days.
411–330–0060 Assistance with Purchasing In–Home Supports

- (1)(b) requires K plan services to address a need identified on the FNA.
- (1)(f) requires supports be consistent with the In–Home Expenditure Guidelines.
- (6) Service available limited to:
  - the amount determined necessary by the ANA for attendant care, hourly relief care, skills training, and SPPC.
  - other support needs identified through the person centered planning process consistent with the expenditure guidelines
  - an average of 25 hours per week of employment services, unless it’s job coaching, then 40 hours.
- (7)(c) prohibits funds being used for:
  - Any purchase that is not generally accepted by the relevant mainstream professional or academic community as an effective means to address an identified support need; or
  - Services, supplies, or supports that are illegal, experimental, or determined unsafe for the general public by recognized child or consumer safety agencies.
411-330-0065 Standards for Employers

- (1) Requires that there be an employer of record.
- (2) requires a service agreement be created by the employer that aligns with the ISP.
- (4) Describes “interventions,” or what to do when an employer isn’t fulfilling their duties as an employer.

- Review of the employer responsibilities with the employer
- Provide training related to being an employer
- Implement corrective actions resulting from a PSW complaint
- Identify an employer representative when the individual is unable to fulfill the duties of being an employer
- Identify another employer when the current employer is unable to fulfill the duties of being an employer.
411–330–0070 Standards for Independent Providers Paid with In–Home Support Funds

- All PSW qualification standards removed from this rule and incorporated in OAR 411–375.
- Background check changes for non–PSW independent providers:
  - (2)(b)(A) clarifies that a background check done so the provider could be a different provider type is not adequate to meet this rule. (B) establishes a two–year limit to the background check’s validity.
- (2)(k) requires an independent provider to sign a PEAA.
- Nurses are required to be enrolled in the Long Term Care Community Nursing Program.
- Family Training Providers removed as provider types
411–330–0100 Provider Termination

- Provider Terminations. Actions and requirements related to Personal Support Workers is removed and now encompassed in 411–375. There is no more “sanctioning.”

- Language for terminating non-PSW Independent providers remains. Causes for termination now include:
  - Violation of the requirement to maintain a drug-free work place;
  - Failure to provide services as required;
  - Failure to provide a tax identification number or social security number that matches the legal name of the independent provider, as verified by the Internal Revenue Service or Social Security Administration; or
  - Exclusion or debarment by the Office of the Inspector General.
411–330–0100 Provider Termination

- When a CDDP terminates a non-PSW independent provider notice must be given to the provider and must include:
  - An explanation of the reason for termination of the provider enrollment;
  - The alleged violation as listed in section (a) of this rule;
  - The appeal rights of the independent provider, including where to file the appeal; and
  - For terminations based on substantiated protective services allegations, only the limited information allowed by law.
Identifies types of support that may be available to an individual.

K plan services are available when an individual meets LOC, has an assessed need, and has OHP Plus. Individual cannot access them if, in order to gain OHP plus, the individual engaged in a transfer of assets.

Waiver services are available when an individual meets LOC and has OSIPM.

State Plan Personal Care is available to eligible individuals according to OAR 411–034.

See the In–Home Expenditure Guidelines for more information about specific services.
411–330–0130 Complaints, Notification of Planned Action, and Hearings

- This rule and elsewhere in these OARS, matters of individual complaints and hearings defer to 411–318.

- The Department adopted OAR 411–318–0000 that provides a uniform complaints process. It is important for you to review and become knowledgeable of the requirements contained in the OAR 411–318–0000 rule.

- A training has been provided on Notices, Complaints and Hearings. Look for the power point on our website.
(3) Under record requirements related to expenditures, there is now a requirement for documentation that services provided were consistent with an individual's the authorized ISP.