Agenda

■ Updated 411-015 rule review on Service Priorities
■ CAPS Assessment Documentation
■ Service Desk email update
■ Transmittal Review
■ Questions about Medicaid Estates Administration
■ Training, Webinars and Conference Calls in 2019
To provide additional guidance and specific examples for case managers when assessing individuals. No changes to frequency, assistance type requirements, there are no CAPS question changes and will not change the SPL calculation.
The goal of this language is to address concerns raised by the legal advocates that in some cases, the assessment criteria was being interpreted too strictly thereby assessing consumers as independent when the way the consumer was having to perform the ADL was unsafe, undignified or inhumane.
OLD rule

(a) Bathing means the tasks of washing the body, washing hair, using assistive devices if needed, or getting in and out of the bathtub or shower. This includes, but is not limited to, sponge baths, bed baths, bathing in a tub, or showering. For individuals who are confined to a bed, bathing is assessed without considering the need to get in or out of the bathtub or shower.

(A) Assist: Even with assistive devices, the individual requires assistance of another person for a task of bathing at least one day each week totaling four days per month. This means hands-on assistance, cueing, or stand-by presence during the activity.

(B) Full Assist: Even with assistive devices, the individual is unable to accomplish any task of bathing without the assistance of another person. This means the individual needs hands-on assistance of another person through all tasks of the activity, every time the activity is attempted.

NEW rule

(a) Bathing means the tasks of getting in and out of a bathtub or shower, washing hair, and washing the body, while using assistive devices. This includes, but is not limited to, sponge baths, bed baths, bathing in a tub, or showering, as chosen by an individual. For individuals who are confined to a bed, bathing is assessed without considering the need to get in or out of the bathtub or shower.

(A) Assist: Even with assistive devices, the individual requires assistance of another person for a task of bathing at least one day each week totaling four days per month. This means hands-on assistance, cueing, or stand-by presence during the activity.

(B) Full Assist: Even with assistive devices, the individual is unable to accomplish any task of bathing without the assistance of another person. This means the individual needs hands-on assistance of another person through all tasks of the activity, every time the activity is attempted.
OLD rule

(b) Personal hygiene means the tasks of shaving, caring for the mouth, or assistance with the tasks of menstruation care. This includes, shaving the face, legs, or other desired areas, brushing teeth or maintaining dentures, and using tampons or pads to address menstrual needs.

(A) Assist: Even with assistive devices, the individual requires assistance of another person for a task of personal hygiene at least one day each week totaling four days per month. This means hands-on assistance, cueing, or stand-by presence during the activity.

(B) Full Assist: Even with assistive devices, the individual is unable to accomplish at least two personal hygiene tasks, without the assistance of another person. This means the individual needs hands-on assistance of another person through all tasks, every time the activity is attempted.

NEW rule

(b) Personal hygiene means the tasks of shaving, caring for the mouth, or assistance with the tasks of menstruation care. This includes, but is not limited to, shaving the face, legs, or other desired areas, brushing teeth, maintaining dentures, caring for gums, and using feminine hygiene products to address menstrual needs.

(A) Assist: Even with assistive devices, the individual requires assistance of another person for a task of personal hygiene at least one day each week totaling four days per month. This means hands-on assistance, cueing, or stand-by presence during the activity.

(B) Full Assist: Even with assistive devices, the individual is unable to complete at least two personal hygiene tasks, without the assistance of another person. This means the individual needs hands-on assistance of another person through all tasks, every time the activity is attempted.
Cognition Changes

The requirement that we assess based upon how the individual functions on prescribed medications has been removed.

- This means that individuals are now assessed on how they present at the time of their assessment (with appropriate assessment time periods).
Documenting Cognition

■ Provide an example of the need that ties to health and safety.

■ Explain how the provider is assisting the individual with the above example, how do they.

■ Describe how often the need(s occur.
OLD rule

(a) Dressing means the tasks of putting on and taking off clothing or shoes and socks. This includes, but is not limited to, the consideration of a consumer’s ability to use clothing with buttons, zippers, and snaps, and reflects the consumer’s choice and reasonable preferences.

   (A) Assist: Even with assistive devices, the individual is unable to accomplish some tasks of dressing without the assistance of another person at least one time each week totaling four days per month. This means hands-on assistance, cueing, or stand-by presence during the activity.

   (B) Full Assist: Even with assistive devices, the individual is unable to accomplish any tasks of dressing without the assistance of another person. This means the individual needs hands-on assistance through all tasks of the activity, every time the activity is attempted.

NEW rule

(a) Dressing is comprised of three tasks putting on clothing, taking off clothing, and putting on or taking off shoes and socks. This includes, but is not limited to, the consideration of an individual’s ability to use clothing with buttons, zippers, and snaps, and reflects the individual’s choice and reasonable preferences.

   (A) Assist: Even with assistive devices, the individual is unable to accomplish some tasks of dressing without the assistance of another person at least one time each week totaling four days per month. This means hands-on assistance, cueing, or stand-by presence during the activity.

   (B) Full Assist: Even with assistive devices, the individual is unable to accomplish any tasks of dressing without the assistance of another person. This means the individual needs hands-on assistance through all tasks of the activity, every time the activity is attempted.
OLD rule

(b) Grooming means components of nail and hair care. This includes, clipping and filing both toe nails and finger nails, and includes brushing, combing, braiding, or otherwise maintaining one’s hair.

(A) Assist: Even with assistive devices, the individual is unable to accomplish tasks of grooming, without the assistance of another person at least one time each week totaling four days per month. This means hands-on assistance, cueing, or stand-by presence during the activity.

(B) Full Assist: Even with assistive devices, the individual is unable to perform any tasks of grooming without the assistance of another person. This means the individual needs hands-on assistance of another person through all tasks of the activity, every time the activity is attempted.

NEW rule

(b) Grooming means the tasks of nail and hair care based on the individual’s reasonable personal preferences. This includes, but is not limited to, tasks of clipping and filing both toe nails and finger nails, and brushing, combing, braiding, or otherwise maintaining one’s hair or scalp.

(A) Assist: Even with assistive devices, the individual is unable to accomplish tasks of grooming, without the assistance of another person at least one time each week totaling four days per month. This means hands-on assistance, cueing, or stand-by presence during the activity.

(B) Full Assist: Even with assistive devices, the individual is unable to perform any tasks of grooming without the assistance of another person. This means the individual needs hands-on assistance of another person through all tasks of the activity, every time the activity is attempted.
OLD rule
(c) Toileting means tasks requiring the hands-on assistance of another person to cleanse after elimination, change soiled incontinence supplies or soiled clothing, adjust clothing to enable elimination, or cue to prevent incontinence.

(A) Assist: Even with assistive devices, the individual requires hands-on assistance from another person with a task of toileting or cueing to prevent incontinence at least one day each week totaling four days per month during the assessment timeframe.

(B) Full Assist: The individual is unable to accomplish all tasks of toileting without the assistance of another person. This means the individual needs assistance of another person through all tasks of the activity, every time the activity is attempted.

NEW rule
(c) Toileting means the assessed tasks of cleansing after elimination, changing soiled incontinence supplies or soiled clothing, adjusting clothing to enable elimination, or cueing to prevent incontinence.

(A) Assist: Even with assistive devices, the individual requires hands-on assistance from another person with a task of toileting or cueing to prevent incontinence at least one day each week totaling four days per month during the assessment timeframe.

(B) Full Assist: The individual is unable to accomplish all tasks of toileting without the assistance of another person. This means the individual needs assistance of another person through all tasks of the activity, every time the activity is attempted.
(7) Mobility is comprised of two components, which are ambulation and transfer. In the mobility cluster only, assistance is categorized into three levels. To be considered Minimal Assist, the individual must require minimal assistance in ambulation. To be considered Substantial Assist, the individual must require substantial assistance with ambulation or an assist with transfer. To be considered Full Assist, the individual must require full assistance with ambulation or transfer.
OLD rule

(e) Transfer means the tasks of moving to or from a chair, bed, toileting area, or wheelchair using assistive devices, if needed. This includes assessing one’s ability to transfer from areas used on a daily or regular basis, such as, sofas, chairs, recliners, bed, and other areas based on their reasonable personal preferences. When individuals are confined to their bed or a wheelchair repositioning is also a task included in transfers. This assistance must be required because of the individual's physical limitations, not their physical location or personal preference.

NEW rule

(e) Transfer means the tasks of moving to or from a chair, bed, toileting area, or wheelchair using assistive devices, if needed. This includes assessing one's ability to transfer from areas used on a daily or regular basis, such as sofas, chairs, recliners, beds, and other areas inside the home or care setting based on their reasonable personal preferences. When individuals are confined to their bed or a wheelchair, repositioning is also considered as a transfer task. This assistance must be required because of the individual's physical limitations, not their physical location or personal preference.
Three Core Questions that should be answered each time in the CAPS comments in order to clearly explain the need being assessed.

First, be clear in the comments why the consumer requires assistance.

Second, how frequently the consumer requires assistance.

Third, how the provider is meeting the consumer’s need and how is the assistance being received.
OIS Service Desk has new email address

OIS.ServiceDesk@dhsoha.state.or.us

call – 503-945-5623

The Service Desk is available Monday through Friday from 6:00 am to 6:00 pm
Clear Instructions for how to create and use iLearn
SPAN (Service Plan and Notice) form and the Assessment Summary (SDS 002N) are not used by OPI.

HCW Rule Changes
Remove the underage waiver option. Now HCWs must be 18 years old.

Prohibits the use of Tax ID Numbers in lieu of Social Security numbers.

Reviews the HCW Standards.
IM 18-088

Updated guidelines and directions regarding HCWs working above the Weekly Cap and the Central Office process for those violations are spelled out.
Referral to Medicaid and Estate Recovery

Why refer

- Care needs exceed scope of OPI
- SPL is 1-13 and the individual needs assistance to pay for health care
- When SPL is 1-13, we should give the person the opportunity to know their options

What our response should include when asked:

- Information about the estate recovery.
- Encourage the individual speak to your partners at the APD office
- The individual may want to speak to an elder law attorney to help plan for their future needs and possibly a division of assets
# Estates Recovery Program

**MSC 9093**

## Changes to estate recovery of medical assistance

This brochure includes changes made on Oct. 1, 2013, to the estate recovery program for medical assistance (sometimes called Medicaid).

### Medical assistance paid to you BEFORE October 1, 2013

The following applies to medical assistance you received before Oct. 1, 2013.

<table>
<thead>
<tr>
<th>The benefits were paid before October 1, 2013, and:</th>
<th>Estate recovery will seek reimbursement from your estate (as defined in ORS 416.350) of:</th>
</tr>
</thead>
<tbody>
<tr>
<td>• You were 55 years or older.</td>
<td>All medical assistance benefits, after you turned 55 years of age, including OHP. OHP benefits may include monthly fees paid to a coordinated care organization or managed care organization. Excluding, on or after January 1, 2010, Medicare cost sharing, such as Medicare co-pays, coinsurance, premiums and deductibles. QMB only benefits on or after January 1, 2010 are not included.</td>
</tr>
</tbody>
</table>

### Medical assistance for benefits paid to you ON or AFTER October 1, 2013

The following applies to medical assistance you received on or after Oct. 1, 2013.

<table>
<thead>
<tr>
<th>The benefits were paid on or after October 1, 2013, and:</th>
<th>Estate recovery will seek reimbursement from your estate (as defined in ORS 416.350) of:</th>
</tr>
</thead>
<tbody>
<tr>
<td>• You were 55 years or older; and</td>
<td>All medical assistance benefits, including OHP you received since age 55 while getting long-term care benefits. OHP benefits may include monthly fees paid to a coordinated care organization. Excluding, on or after January 1, 2010, Medicare cost sharing, such as Medicare co-pays, coinsurance, premiums and deductibles. QMB only benefits on or after January 1, 2010 are not included.</td>
</tr>
<tr>
<td>• You received medical assistance to pay some or all of the cost of long-term care in:</td>
<td>• A nursing facility;</td>
</tr>
<tr>
<td>• An assisted living facility;</td>
<td>• An intermediate care facility for individuals with intellectual or developmental disabilities or other similar long-term care.</td>
</tr>
<tr>
<td>• A residential care facility;</td>
<td></td>
</tr>
<tr>
<td>• An adult foster home;</td>
<td></td>
</tr>
<tr>
<td>• In-home care, including the State Plan Personal Care program;</td>
<td></td>
</tr>
</tbody>
</table>

EAU will recover the monthly fee charged to the estate for Medicare Part D. See box on the other side about Part D.

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**Please share this brochure with your family or the individual who will handle your estate.**

**NOTE:** Information contained in this brochure is based on federal and state laws and rules as of its publication date. These laws and rules may change without notice. This brochure is intended to inform and not to advise. Discuss any questions about estate recovery with EAU staff at 1-800-826-5675 or 503-378-2884. EAU staff cannot provide legal advice. If you have legal questions or need legal advice, speak to a lawyer. Your local legal aid office may be able to help.

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**DHS Estate Administration Unit**

P.O. Box 14021
Salem, OR 97309-5024

503-378-2884
1-800-826-5675
TTY: 1-800-735-2900 or 711
Fax: 503-378-3137

estate.admin@state.or.us

This document can be provided upon request in an alternate format for individuals with disabilities or in a language other than English for people with limited English skills. To request this brochure in another format or language, call the Estate Administration Unit at 503-378-2884 or 1-800-826-5675 or email estate.admin@state.or.us.
Estate recovery
When you pass away, the state may require your estate to repay certain assistance benefits you received. This is called “estate recovery.” The state may not seek reimbursement for more than it paid in benefits. The program is very complicated. This is a general summary, and does not replace statutes and rules. Direct any questions to the Estate Administration Unit or a lawyer. Please note that estate recovery laws and rules may change without notice.

Federal and state law
Federal and state laws require the Department of Human Services (DHS) and the Oregon Health Authority (OHA) to have an estate recovery program. The Estate Administration Unit (EAU) administers the program for both agencies.

Approximately 60 percent of the money recovered pays for services and benefits for Oregonians. The state returns the remaining amount to the federal government for the share of the benefits it paid.

General assistance program and Oregon Supplemental Income Program
EAU will recover from your estate any benefits the Oregon Supplemental Income Program or general assistance program provided.

Surviving spouse and children
EAU will not make a claim until your spouse’s death. EAU may submit the claim to your spouse’s estate at that time. Also, EAU will not seek payment from your estate if you are survived by a minor child under 21 years of age or a child of any age who is visually impaired or permanently and totally disabled. The disability must meet Social Security Administration criteria for visual impairment or for permanent and total disability. The individual must be your natural or legally adopted child.

Waiving estate recovery
Any individual receiving assets from your estate may ask EAU to waive estate recovery. However, the individual must meet the requirements for a hardship waiver. Instructions on how to request a hardship waiver are included in the information EAU will send with its claim. A request for a hardship waiver must be made within specific deadlines. Individuals that are going to ask for a hardship waiver should promptly contact EAU.

After you pass away
Friends or family should notify your caseworker as soon as possible. If you don’t have a caseworker they should contact EAU. Oregon law requires an estate recovery claim be paid before most of your other debts. An individual who uses your estate assets to pay lower priority debts could be liable for some of, or the entire, estate recovery claim. The individual handling your affairs after you pass away should contact EAU before paying any of your debts.

Real property
If you own an interest in real property at your passing, the estate may have to sell it to get money to pay creditors’ claims, including EAU’s. Individuals who inherit the property are usually allowed to pay the claim instead of selling the real property. In some circumstances EAU may accept payments. EAU usually charges 9 percent interest on any unpaid balance.

Property that automatically passes to another on your passing away
There are many kinds of ownership interests in property that automatically pass to another person when you pass away. Some common examples are property owned with rights of survivorship, life estates or transfer on death deeds. Property of this type is not usually part of your estate. However, it may still be subject to an EAU estate recovery claim. EAU will contact the individual who will receive the ownership interest when you pass away. This is a particularly complex area of law. If you have questions, please speak to EAU staff or an elder law attorney.

Bank accounts and accounts with facilities
You may have money in a financial institution, such as a bank account, or funds may be held by your facility. Your family or heirs should contact EAU before spending any of your money after you pass away. Banks and facilities are asked to send your remaining funds to EAU, except when your spouse is still alive.

Personal property and effects
These items may have great personal value to family and friends. Unless the items have significant monetary value, EAU will generally not enforce its claim against these items.

Life insurance
Normally, EAU will not make a claim against your life insurance if you gave written instructions to the insurance company about who gets the proceeds. If the proceeds are paid to your estate, they will be subject to an estate recovery claim.

Medicare Part D prescription drug coverage
The federal government charges the state a monthly fee for Medicare Part D prescription drug coverage when you receive both state medical assistance and Medicare. EAU will recover all payments made to the federal government before Jan. 1, 2014. EAU will recover payments made to the federal government on or after Jan. 1, 2014, only if you were 65 or older when the payments were made. This does not apply to individuals only receiving benefits under the Qualified Medicare Beneficiary (QMB) program.

Giving away assets
Some programs do not allow you to give away assets. You should always check with your caseworker before giving away an asset. Otherwise, you may lose eligibility for benefits. Also, EAU may ask a court to require the person who received the assets to give them back to your estate or pay the full value to your estate so an estate recovery claim can be paid.

Failing to disclose assets
Some programs require you to disclose all your assets to your caseworker. You are also required to report changes in your financial condition. Failing to report this information may result in an overpayment. That is when you receive benefits you are not legally entitled to get. EAU can recover an overpayment from your estate. An overpayment is payable regardless of whether you have a living spouse, a child under 21 years old or a child with a disability or visual impairment.

Funeral expenses
You are encouraged to prepay your funeral expenses. You should discuss this with your caseworker. Generally, EAU will allow much less for funeral expenses after death than is allowed for prepaid funeral expenses. EAU may, under limited circumstances, be able to refund some money for funeral expenses. EAU cannot refund more than it collected.

1 For information about how domestic partnerships or same-sex marriages may affect estate recovery, call the Estate Administration Unit or a lawyer.
Training in 2019

In Person OPI Field Staff training register on iLearn

- Tuesday 1/29 to Thursday 1/31 2019; Salem, Oregon - 8:30a to 4:30p at 3414 Cherry Avenue Training Ctr Salem, OR Wallowa Lake Room

- Tuesday 4/23 to Thursday 4/25 2019; White City OR - 8:30a to 4:30p at 3131 Avenue C, White City, OR 97503

- Tuesday 6/18 to Thursday 6/20 2019; LaGrande OR - 8:30a to 4:30p at 1607 Gekeler Lane, LaGrande, OR 97850

Power Hour Webinars 9-10:30 AM
Last Wednesday of every other month
Please pre-register for the webinars at

1/30 3/27
5/29 7/31
9/25 11/27

Conference Calls 9-10 AM
Last Wednesday of every other month
1-877-402-9753
Participant code - 9985505

2/27 4/24
6/26 8/28
10/30
Resource Links For Your Information

- There is a guide to LGBTQIA+ terminology from Trans Student Educational Resources [http://www.transstudent.org/definitions](http://www.transstudent.org/definitions). Guide of useful LGBTQIA+ terminology. Please take a look!
- **Rules** and **Transmittals**
- **Estates Administration Brochure**
- **OPI Website**
- **OPI Training information and recorded presentations**
- **iLearn**