

DHS Report for ORS 183.403 (HB 4106 2016) – OAR 411 Temporary Rules in 2018 for the Office of Developmental Disabilities Services (ODDS)

| Eff. Date  | OAR  | Action                                    | Statement of Need – Reason for Action  | Findings of Need to Act Promptly and Why A Temporary Rule was Appropriate   |
|------------|--|---|--|---|
| 01/01/2018 | 411-323-0050   | Amend                                     | <p>ODDS needs to immediately amend OAR 411-323-0050 to implement Senate Bill 948 (2017) and OAR 407-007-0445.</p> <p>OAR 411-323-0050 is being amended to update the background check requirements for Department staff working in 24-hour residential settings in accordance with Senate Bill 948 (2017) and OAR 407-007-0445.</p>  | <p>Failure to act promptly and immediately amend OAR 411-323-0050 will result in serious prejudice to the Department and providers and individuals receiving services in 24-hour residential settings.</p> <p>These rules need to be amended promptly to comply with 2017 legislative changes.</p> <p>Failure to immediately amend these rules would result in the Department and providers not being in statutory compliance with Senate Bill 948 (2017).</p>  |
| 01/01/2018 | 411-360-0050<br>411-360-0090<br>411-360-0110<br>411-360-0130<br>411-360-0140 | Amend<br>Amend<br>Amend<br>Amend<br>Amend | <p>ODDS needs to immediately update OARs 411-360-0050, 411-360-0090, 411-360-0110, 411-360-0130, and 411-360-0140 to comply with 2017 legislative changes and labor regulations.</p> <p>OAR 411-360-0090 about renewal of an AFH-DD license is being amended to implement Senate Bill 104 (2017) by aligning the background check requirements to every two years in accordance with ORS 181A.200, 409.027, and 443.735.</p> <p>OAR 411-360-0110 about qualifications for AFH-DD providers, resident managers, and caregivers is being amended to –</p> <ul style="list-style-type: none"> <li>• Minimize potential conflict with labor regulations by removing language mandating a specific number of overnight hours per week for resident managers.</li> <li>• Implement Senate Bill 104 (2017) by aligning the background check requirements to every two years in accordance with the rules for the Long-Term Background Check Registry in OAR 407-007-0600 through 407-007-0640 and ORS 181A.200.</li> </ul> <p>OAR 411-360-0130 about AFH-DD standards is being amended to implement House Bill 3359 by ensuring providers have the ability to evacuate all residents from the AFH-DD within three minutes or a period that meets applicable fire, life, and safety requirements, if the AFH-DD has an interior sprinkler system approved by the appropriate regulatory authorities.</p> | <p>Failure to act promptly and immediately amend OARs 411-360-0050, 411-360-0090, 411-360-0110, 411-360-0130, and 411-360-0140 will result in serious prejudice to ODDS and AFH-DD providers and residents.</p> <p>These rules need to be adopted promptly to comply with 2017 legislative changes and labor regulations.</p> <p>Failure to immediately amend these rules would result in ODDS and AFH-DD providers not being in statutory compliance with House Bill 2684 (2017), House Bill 3359 (2017), and Senate Bill 104 (2017) or labor regulations.</p> |

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|            |  |  | <p>OAR 411-360-0140 about AFH-DD standards and practices for health care is being amended to implement HB 3359 (2017) by ensuring prescription drugs dispensed to residents are packaged in a manner that reduces errors in the tracking and administration of drugs including, but not limited to, the use of unit dose systems or blister packs.</p>  |   |
| 02/20/2018 | <p>411-317-0000<br/>411-325-0190<br/>411-346-0110<br/>411-346-0150<br/>411-346-0180<br/>411-346-0190</p> | <p>Amend<br/>Amend<br/>Amend<br/>Amend<br/>Amend<br/>Amend</p> | <p>ODDS needs to immediately update OARs 411-317-0000, 411-325-0190, 411-346-0110, 411-346-0150, 411-346-0180, and 411-346-0190 to ensure compliance with Department-wide changes required by Senate Bill 243 (2017).</p> <p>OAR 411-317-0000 is being amended to update the following definitions:</p> <ul style="list-style-type: none"> <li>• “Abuse” to refer to the definition of “abuse” as it applies to a “child” as defined in ORS 419B.005, a “child in care” as defined in Senate Bill 243 (2017), an “adult” as defined in ORS 430.735, an “elderly person” or a “person with a disability” as defined in ORS 124.005, and a resident of a “long-term care facility” as defined in ORS 442.015.</li> <li>• “Abuse Investigation” to incorporate the rules in OAR chapter 413, division 015 for child protective services.</li> <li>• “Expenditure Guidelines” to incorporate Version 7.0.</li> <li>• “Mandatory Reporter” to refer to the definition of “public or private official” in ORS 124.050, 419B.005, 430.735, and 441.630.</li> <li>• “Substantiated” to simplify and mirror language used throughout the Department.</li> <li>• “Young Adult” to make a minor change that may be considered as housekeeping.</li> </ul> <p>OAR 411-325-0190 is being amended to incorporate the general definition of abuse in OAR 411-317-0000, specify the duty to report suspected abuse is personal to the staff, require providers to inform staff of their duty to immediately report abuse and provide annual training and written materials on abuse reporting</p> | <p>Failure to act promptly and immediately amend OARs 411-317-0000, 411-325-0190, 411-346-0110, 411-346-0150, 411-346-0180, and 411-346-0190 will result in serious prejudice to ODDS, providers, children receiving services, and the public interest.</p> <p>These rules need to be adopted promptly to comply with 2017 legislative changes.</p> <p>Failure to immediately amend these rules would result in statutory non-compliance with Senate Bill 243 (2017).</p> |

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|            |  |                                  | <p>requirements, and make minor housekeeping changes.</p> <p>OAR 411-346-0110 is being amended to delete the definition of “abuse” to incorporate the general definition of abuse in OAR 411-317-0000 and make minor housekeeping changes.</p> <p>OAR 411-346-0150 is being amended to refer to the general definition of abuse in OAR 411-317-0000, remove references to neglect because neglect is included in the definition of abuse, and make minor housekeeping changes to correct rule and statute citations relating to background check requirements.</p> <p>OAR 411-346-0180 is being amended to update the abuse reporting requirements and require a foster provider who has an employee to provide the employee with annual training and written materials on abuse reporting requirements.</p> <p>OAR 411-346-0190 is being amended to update the immediate notification and incident reporting requirements by incorporating reference to OAR 411-346-0180 and make a minor housekeeping change to remove duplicate language.</p> |   |
| 07/02/2018 | 411-345-0020<br>411-345-0025<br>411-345-0030<br>411-345-0085 | Amend<br>Amend<br>Amend<br>Amend | <p>ODDS needs to immediately amend OARs 411-345-0020, 411-345-0025, 411-345-0030, and 411-345-0085 to add benefits counseling as an activity of employment path services as reflected in ODDS' 1915(c) Home and Community-Based Services waivers.</p> <p>OAR 411-345-0020 about Definitions and Acronyms for Employment Services is being amended to define "benefits counseling" and add benefits counseling to the definition of "employment path services".</p> <p>OAR 411-345-0025 about Employment Service Requirements is being amended to include benefits counseling in the description of employment path services.</p> <p>OAR 411-345-0030 about Employment Provider Qualifications</p>  | <p>Failure to act promptly and immediately amend OARs 411-345-0020, 411-345-0025, 411-345-0030, and 411-345-0085 will result in serious prejudice to ODDS, employment professionals, and individuals receiving employment services.</p> <p>These rules need to be amended promptly to comply with ODDS' 1915(c) Home and Community-Based Services waivers.</p> <p>Failure to immediately amend these rules would result in ODDS not complying with federal waiver requirements to add benefits counseling as an activity of employment path services.</p> |

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|            |  |   | <p>and Training Requirements is being amended to add certification and training requirements for employment professionals delivering benefits counseling as part of employment path services.</p> <p>OAR 411-345-0085 about Reports and Recordkeeping for Employment Services is being amended to include documentation requirements for benefits counseling.</p> <p>In addition, ODDS needs to make changes to correct grammatical errors and improve the accuracy, structure, and clarity of the rules.</p>   |   |
| 07/02/2018 | 411-317-0000   | Amend   | <p>ODDS needs to immediately amend OAR 411-317-0000 about General Definitions and Acronyms for Developmental Disabilities Services to reflect changes related to the use of the Oregon Needs Assessment (ONA) tool and updates to the 1915(c) Home and Community-Based Services waivers.</p> <p>OAR 411-317-0000 is being amended to:</p> <ul style="list-style-type: none"> <li>• Define "Assessor", "ONA", "Oregon Needs Assessment", and "OTIS"; and</li> <li>• Update the following definitions:                             <ul style="list-style-type: none"> <li>○ "Expenditure Guidelines" to incorporate Version 8.0;</li> <li>○ "Functional Needs Assessment" to incorporate the Oregon Needs Assessment;</li> <li>○ "ICF/IID Level of Care" to reflect the areas of major life activity assessed by the functional needs assessment; and</li> <li>○ "OAAPI" to reflect the recent name change to Office of Training, Investigations, and Safety (OTIS).</li> </ul> </li> </ul> | <p>Failure to act promptly and immediately amend OAR 411-317-0000 will result in serious prejudice to ODDS, case management entities, providers, and individuals receiving developmental disabilities services.</p> <p>These rules need to be amended promptly to comply with ODDS' 1915(c) Home and Community-Based Services waivers.</p> <p>Failure to immediately amend these rules would result in ODDS not complying with federal waiver requirements.</p> |
| 07/02/2018 | 411-318-0020<br>411-320-0030<br>411-340-0070<br>411-415-0020<br>411-415-0030<br>411-415-0050<br>411-415-0060 | Amend<br>Amend<br>Amend<br>Amend<br>Amend<br>Amend<br>Amend | <p>ODDS needs to immediately adopt OARs 411-425-0010, 411-425-0020, 411-425-0030, 411-425-0040, 411-425-0050, and 411-425-0060 and amend OARs 411-318-0020, 411-320-0030, 411-340-0070, 411-415-0020, 411-415-0030, 411-415-0050, 411-415-0060, 411-415-0070, 411-415-0110, 411-415-0120, 411-435-0040, 411-435-0050, 411-435-0060, 411-435-0070, 411-450-0020, 411-450-0050, and 411-450-0060 to incorporate changes related to the use</p>  | <p>Failure to act promptly and immediately adopt OARs 411-425-0010, 411-425-0020, 411-425-0030, 411-425-0040, 411-425-0050, and 411-425-0060 and amend OARs 411-318-0020, 411-320-0030, 411-340-0070, 411-415-0020, 411-415-0030, 411-415-0050, 411-415-0060, 411-415-0070, 411-415-0110, 411-415-0120, 411-435-0040, 411-435-0050, 411-435-0060, 411-435-0070, 411-450-0020, 411-450-0050, and 411-450-0060 will result in serious prejudice to ODDS, case</p> |

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|           | 411-415-0070<br>411-415-0110<br>411-415-0120<br>411-425-0010<br>411-425-0020<br>411-425-0030<br>411-425-0040<br>411-425-0050<br>411-425-0060<br>411-435-0040<br>411-435-0050<br>411-435-0060<br>411-435-0070<br>411-450-0020<br>411-450-0050<br>411-450-0060 | Amend<br>Amend<br>Amend<br>Adopt<br>Adopt<br>Adopt<br>Adopt<br>Adopt<br>Adopt<br>Amend<br>Amend<br>Amend<br>Amend<br>Amend<br>Amend<br>Amend | <p>of the ONA and updates to the 1915(c) Home and Community-Based Services waivers for children and adults with intellectual or developmental disabilities.</p> <p>OAR 411-318-0020 about a NOPA is being amended to require that a NOPA issued due to an ONA must identify the specific questions and responses from the ONA that caused an individual to not demonstrate significant impairment in an area of major life activity.</p> <p>OAR 411-320-0030 about Organization and Program Management for a CDDP is being amended to include the requirement that a CDDP provide a qualified assessor and assure the availability of a qualified assessor to conduct ONAs.</p> <p>OAR 411-340-0070 about Brokerage Personnel Policies and Practices is being amended to include the requirement that a Brokerage provide a qualified assessor and assure the availability of a qualified assessor to conduct ONAs.</p> <p>OAR 411-415-0020 about Definitions and Acronyms for Case Management Services is being amended to define "Initial Oregon Needs Assessment".</p> <p>OAR 411-415-0030 about Eligibility for Case Management Services is being amended to clarify when an individual changes a case management entity the following must be provided to the new case management entity --</p> <ul style="list-style-type: none"> <li>• A copy of the individual's current functional needs assessment if unavailable in the Department's electronic payment and reporting system.</li> <li>• A copy of the individual's functional behavior assessment.</li> </ul> <p>OAR 411-415-0050 about Standards for Case Management Services is being amended to clarify the following:</p> <ul style="list-style-type: none"> <li>• A Notification of Rights must be provided prior to an</li> </ul> | <p>management entities, providers, and individuals receiving developmental disabilities services.</p> <p>These rules need to be amended promptly to comply with ODDS' 1915(c) Home and Community-Based Services waivers.</p> <p>Failure to immediately amend these rules would result in ODDS not complying with federal waiver requirements.</p> |

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|           |     |        | <p>initial Individual Support Plan (ISP).</p> <ul style="list-style-type: none"> <li>• An individual newly determined eligible for developmental disabilities services must receive choice advising, including the choice of institutional or home and community-based services, prior to the authorization of the initial ISP.</li> </ul> <p>OAR 411-415-0060 about Case Management Assessment Activities is being amended to:</p> <ul style="list-style-type: none"> <li>• Incorporate the ONA.</li> <li>• Describe who must complete an ONA and when an ONA is required.</li> <li>• Require that every functional needs assessment conducted as of October 1, 2018 is done using the ONA.</li> <li>• Require that each individual whose services are authorized in an ISP has a completed ONA by June 30, 2019.</li> <li>• Reflect a completed ONA is the Level of Care (LOC) determination and functional needs assessment.</li> <li>• Require an initial LOC determination to be completed by an assessor using the ONA after June 30, 2018.</li> <li>• Clarify neither the LOC or functional needs assessment is tied to the ISP in terms of timelines.</li> </ul> <p>OAR 411-415-0070 about Service Planning is being amended to reflect the new names of ODDS' 1915(c) Home and Community-Based Services waivers.</p> <p>OAR 411-415-0110 about Record Requirements for Case Management is being amended to:</p> <ul style="list-style-type: none"> <li>• Incorporate reference to the ONA.</li> <li>• Require LOC determinations for individuals enrolled prior to July 1, 2018 to be maintained in an individual's service record.</li> </ul> <p>OAR 411-415-0120 about Reimbursement for Case Management Services is being amended to incorporate the role of an assessor.</p> |   |

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|           |     |        | <p>OAR chapter 411, division 425 about Functional Needs Assessments is being adopted to prescribe standards, responsibilities, and procedures for conducting the ONA.</p> <ul style="list-style-type: none"> <li>• OAR 411-425-0010 includes the purpose of the ONA.</li> <li>• OAR 411-425-0020 defines terms and acronyms used in OAR chapter 411, division 425.</li> <li>• OAR 411-425-0030 includes agency requirements and prohibits conflicts of interest.</li> <li>• OAR 411-425-0040 includes the qualifications and training requirements for an assessor.</li> <li>• OAR 411-425-0050 includes direction to allow the Department or the Oregon Health Authority to provide quality assurance.</li> <li>• OAR 411-425-0060 includes the ONA standards.</li> </ul> <p>OAR 411-435-0040 about Conditions of Purchase for Ancillary Services is being amended to correct terminology related to the Expenditure Guidelines.</p> <p>OAR 411-435-0050 about Community First Choice Ancillary Services is being amended to correct terminology related to the Expenditure Guidelines.</p> <p>OAR 411-435-0060 about Waiver Ancillary Services is being amended to correct waiver terminology.</p> <p>OAR 411-435-0070 about Other Waiver Ancillary Services is being amended to correct waiver terminology and remove special diets as a service for individuals enrolled in a Brokerage.</p> <p>OAR 411-450-0020 about Definitions and Acronyms for Community Living Supports is being amended to remove definitions that are no longer applicable and update the definition of "Adult In-Home Supports Needs Assessment (ANA)", "Child In-Home Support Needs Assessment (CNA)", and "Service Level".</p> |   |

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|            |                              |                | <p>OAR 411-450-0050 about Minimum Standards for Community Living Supports is being amended to correct terminology related to the Expenditure Guidelines.</p> <p>OAR 411-450-0060 about Community Living Supports is being amended to:</p> <ul style="list-style-type: none"> <li>• Update standards for relief care;</li> <li>• Eliminate references of the ANA or CNA as the functional needs assessment while preserving the ANA or CNA as the tool that sets services levels; and</li> <li>• Encode the current mandate to not lower a service level below what it was on October 31, 2016, or any higher levels determined since.</li> </ul> <p>In addition, ODDS has made changes to correct grammatical errors and improve the accuracy, structure, and clarity of the rules.</p>  |  |
| 08/03/2018 | 411-375-0070<br>411-375-0080 | Amend<br>Amend | <p>ODDS needs to immediately amend OAR 411-375-0070 and OAR 411-375-0080 to specify and implement a process for immediate inactivation of an independent provider's provider number and their hearing rights.</p> <p>OAR 411-375-0070 about inactivation and termination of independent providers is being amended to specify a process for immediate inactivation of an independent provider's provider number and the information required on an emergency inactivation order.</p> <p>OAR 411-375-0080 about hearing rights for independent providers is being amended to implement a process for an independent provider to request a hearing when their provider enrollment number is immediately inactivated.</p> <p>In addition, ODDS needs to make changes to correct grammatical errors and improve the accuracy, structure, and clarity of the rules.</p> | <p>Failure to act promptly and immediately amend OARs 411-375-0070 and 411-375-0080 will result in serious prejudice to personal support workers who are inactivated in an emergency.</p> <p>These rules need to be amended promptly to provide a process for personal support workers to request a hearing when they are inactivated in an emergency.</p> <p>Failure to immediately amend these rules would result in personal support workers being inactivated in an emergency without the ability to request that ODDS ensure their inactivation was done properly.</p> <p>These rules will provide a clear process for personal support workers to request ODDS has acted within their authority when deciding to inactivate a personal support worker in an emergency.</p> |
| 08/23/2018 | 411-360-0200                 | Amend          | ODDS needs to immediately amend OAR 411-360-0200 to comply   | Failure to act promptly and immediately amend OAR 411-360-0200   |

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|            |  |   | <p>with Medicaid and state policy requirements for furnishing Medicaid to individuals who receive supports away from a licensed AFH-DD.</p> <p>ODDS is immediately amending OAR 411-360-0200 about Adjustment, Suspension, or Termination of payment to specify a provider will not be paid when an individual is away from a licensed AFH-DD for more than 14 consecutive days or 45 days in an Individual Support Plan (ISP) year while accompanied by the provider or staff paid by the provider.</p>   | <p>will result in serious prejudice to ODDS and AFH-DD providers and residents.</p> <p>Failure to act promptly and immediately amend OAR 411-360-0200 prevents ODDS and AFH-DD providers from complying with existing Medicaid and state policy requirements.</p> <p>OAR 411-360-0200 needs to be immediately amended to comply with Medicaid and state policy requirements for furnishing Medicaid to individuals who receive supports away from a licensed AFH-DD.</p>   |
| 08/23/2018 | 411-317-0000<br>411-325-0190<br>411-346-0110<br>411-346-0150<br>411-346-0180<br>411-346-0190<br>411-346-0200 | Amend<br>Amend<br>Amend<br>Amend<br>Amend<br>Amend<br>Amend | <p>ODDS needs to immediately amend OARs 411-317-0000, 411-325-0190, 411-346-0110, 411-346-0150, 411-346-0180, 411-346-0190, and 411-346-0200 to comply with Medicaid and statutory requirements.</p> <p>OAR 411-317-0000 about Definitions for Developmental Disabilities Services is being amended to:</p> <ul style="list-style-type: none"> <li>• Define "Assessor", "ONA", "Oregon Needs Assessment", and "OTIS" to incorporate changes related to the use of the Oregon Needs Assessment (ONA) and reflect a recent name change: and</li> <li>• Update the following definitions:                             <ul style="list-style-type: none"> <li>○ "Abuse" to refer to the definition of "abuse" as it applies to a "child" as defined in ORS 419B.005, a "child in care" as defined in ORS 418.257, an "adult" as defined in ORS 430.735, an "elderly person" or a "person with a disability" as defined in ORS 124.005, and a resident of a "long-term care facility" as defined in ORS 442.015.</li> <li>○ "Abuse Investigation" to incorporate the rules in OAR chapter 413, division 015 for child protective services.</li> <li>○ "Expenditure Guidelines" to incorporate Version 8.0.</li> <li>○ "Functional Needs Assessment" to incorporate the ONA;</li> <li>○ "ICF/IID Level of Care" to reflect the areas of major</li> </ul> </li> </ul> | <p>Failure to act promptly and immediately amend OARs 411-317-0000, 411-325-0190, 411-346-0110, 411-346-0150, 411-346-0180, 411-346-0190, and 411-346-0200 will result in serious prejudice to ODDS, providers, children receiving services, and the public interest.</p> <p>Failure to act promptly and immediately amend OARs 411-317-0000, 411-325-0190, 411-346-0110, 411-346-0150, 411-346-0180, 411-346-0190, and 411-346-0200 prevents ODDS and providers from complying with existing Medicaid and statutory requirements.</p> <p>OARs 411-317-0000, 411-325-0190, 411-346-0110, 411-346-0150, 411-346-0180, 411-346-0190, and 411-346-0200 need to be immediately amended to comply with Medicaid and statutory requirements.</p> |

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|           |     |        | <p>life activity assessed by the functional needs assessment;</p> <ul style="list-style-type: none"> <li>○ "Mandatory Reporter" to refer to the definition of "public or private official" in ORS 124.050, 419B.005, 430.735, and 441.630.</li> <li>○ "OAAPI" to reflect the recent name change to the Office of Training, Investigations, and Safety (OTIS).</li> <li>○ "Substantiated" to simplify and mirror language used throughout the Department.</li> <li>○ "Young Adult" to make a minor change that may be considered as housekeeping.</li> </ul> <p>OAR 411-325-0190 about Abuse and Incident Reporting for 24-hour Residential Settings is being amended to implement ORS 418.257 by incorporating the general definition of abuse in OAR 411-317-0000, specifying the duty to report suspected abuse is personal to the staff, and requiring providers to inform staff of their duty to immediately report abuse and provide annual training and written materials on abuse reporting requirements. In addition, minor housekeeping changes were made.</p> <p>OAR 411-346-0110 about Definitions for Foster Homes for Children with Intellectual or Developmental Disabilities is being amended to:</p> <ul style="list-style-type: none"> <li>• Implement ORS 418.257 by deleting the definition of "abuse" to incorporate the general definition of abuse in OAR 411-317-0000.</li> <li>• Delete the definition of "Functional Needs Assessment" to incorporate the general definition in OAR 411-317-0000.</li> <li>• In addition, minor housekeeping changes were made.</li> </ul> <p>OAR 411-346-0150 about General Requirements for Certification of Foster Homes for Children with Intellectual or Developmental Disabilities is being amended to implement ORS 418.257 by referring to the general definition of abuse in OAR 411-317-0000 and removing references to neglect because neglect is included in the definition of abuse. In addition, minor housekeeping changes</p> |   |

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|            |                              |                | <p>were made to correct rule and statute citations relating to background check requirements.</p> <p>OAR 411-346-0180 about Professional Responsibilities of a Foster Provider for Children with Intellectual or Developmental Disabilities is being amended to implement ORS 418.257 and 418.258 by updating the abuse reporting requirements and requiring a foster provider who has an employee to provide the employee with annual training and written materials on abuse reporting requirements.</p> <p>OAR 411-346-0190 about Standards and Practices for Care and Services of Foster Homes for Children with Intellectual or Developmental Disabilities is being amended to implement ORS 418.258 by updating the immediate notification and incident reporting requirements by incorporating reference to OAR 411-346-0180. In addition, a minor housekeeping change was made to remove duplicate language.</p> <p>OAR 411-346-0200 about Environmental Standards for Foster Homes for Children with Intellectual or Developmental Disabilities is being amended to reflect tobacco products may not be provided to an individual under the age of 21.</p> |   |
| 11/08/2018 | 411-320-0020<br>411-320-0080 | Amend<br>Amend | <p>ODDS needs to immediately amend OARs 411-320-0020 and 411-320-0080 to reflect changes related to the application and determination of developmental disabilities services. ODDS needs to proceed by filing temporary rules because ODDS, CDDPs, and individuals applying for, or receiving services, will immediately benefit when ODDS' rules reflect the current standards for applying for and determining eligibility for developmental disabilities services.</p> <p>OAR 411-320-0020 about Definitions and Acronyms for CDDPs is being amended to reflect changes related to the application and determination of eligibility for developmental disabilities services by:</p>  | <p>Failure to act promptly and immediately amend OARs 411-320-0020 and 411-320-0080 will result in serious prejudice to ODDS, CDDPs, and individuals applying for, or receiving, developmental disabilities services, and the individuals' family members and legal and designated representatives.</p> <p>Failure to act promptly and immediately amend OARs 411-320-0020 and 411-320-0080 will prevent the Department from having an eligibility determination process that is clear and replicable. Having a consistent eligibility determination process is critical because eligibility is determined by different eligibility specialists throughout the state in various counties. Failure to have a consistent process means an individual may apply in one county and be denied services but apply</p> |

DHS Report for ORS 183.403 (HB 4106 2016) – OAR 411 Temporary Rules in 2018 for the Office of Developmental Disabilities Services (ODDS)

| Eff. Date  | OAR                          | Action         | Statement of Need – Reason for Action   | Findings of Need to Act Promptly and Why A Temporary Rule was Appropriate   |
|------------|------------------------------|----------------|---|---|
|            |                              |                | <ul style="list-style-type: none"> <li>• Updating the definitions for "Adaptive Behavior", "Completed Application", "Current Documentation", "Developmental Disability", "Intake", "Intellectual Disability", "Motor Impairment", "OAAPI", "Significantly Subaverage", and "U.S. Citizen".</li> <li>• Removing the definition for "SIB-R".</li> <li>• Defining "FSIQ", "Indefinitely", "Intelligence Tests", "Learning Disability", "Neurological Condition", "Request for Eligibility Determination", and "School-Age Testing".</li> </ul> <p>OAR 411-320-0080 about Application and Eligibility Determination is being amended to:</p> <ul style="list-style-type: none"> <li>• Replace "Intake Form" with "Request for Eligibility Determination".</li> <li>• Update the sections relating to applying for developmental disabilities services and diagnosing an intellectual disability and an other developmental disability.</li> <li>• Requiring that individuals with IQ 71-75 there is also a diagnosis of intellectual disability.</li> <li>• Provide clarity related to eligibility determinations for early childhood (children less than 7 years of age) and redetermination of school aged children for adult eligibility.</li> <li>• Update the sections relating to intelligence tests and processing eligibility determinations.</li> <li>• Include a section for progress notes of the intake process.</li> </ul> | <p>in a different county and be determined eligible If eligibility is unclear, individuals that do not meet the eligibility requirements may receive services, which would result in a potential loss of funding to support staffing, services, and systems to individuals experiencing intellectual or developmental disabilities that meet the eligibility requirements.</p> <p>OAR 411-320-0020 and 411-320-0080 need to be immediately amended to modify and clarify eligibility for developmental disabilities services to provide clear direction to eligibility specialists.</p>           |
| 12/18/2018 | 411-320-0020<br>411-320-0080 | Amend<br>Amend | <p>ODDS needs to immediately amend OARs 411-320-0020 and 411-320-0080 to correct inadvertent errors and omissions in the temporary rules that became effective on November 8, 2018 related to the application and determination of developmental disabilities services. ODDS needs to proceed by filing temporary rules because ODDS, CDDPs, and individuals applying for, or receiving services, will immediately benefit when ODDS' rules reflect the current standards for applying for and determining eligibility for developmental disabilities services.</p>   | <p>Failure to act promptly and immediately amend OARs 411-320-0020 and 411-320-0080 will result in serious prejudice to ODDS, CDDPs, and individuals applying for, or receiving, developmental disabilities services, and the individuals' family members and legal and designated representatives.</p> <p>Failure to act promptly and immediately amend OARs 411-320-0020 and 411-320-0080 will create a 10-day timeline for review and action on all records which will cause undue delay in processing applications and documentation directly related to eligibility by requiring service</p> |

DHS Report for ORS 183.403 (HB 4106 2016) – OAR 411 Temporary Rules in 2018 for the Office of Developmental Disabilities Services (ODDS)

| Eff. Date | OAR | Action | Statement of Need – Reason for Action  | Findings of Need to Act Promptly and Why A Temporary Rule was Appropriate  |
|-----------|-----|--------|--|--|
|           |     |        | <p>OAR 411-320-0020 about Definitions and Acronyms is being amended to define "Notice of Redetermination" and remove the definition of "U.S. Citizen".</p> <p>OAR 411-320-0080 about Application and Eligibility Determination is being amended to:</p> <ul style="list-style-type: none"> <li>• Refer to OAR 461-115-0704 to clarify the documentation that is needed to verify U.S. citizenship or alien status;</li> <li>• Require an application and related documents be reviewed regularly to evaluate completeness;</li> <li>• Clarify documentation requirements for redetermination of school aged children for adult eligibility; and</li> <li>• Specify Community Developmental Disabilities Programs (CDDPs) must review documents and complete necessary actions relating to eligibility in a timely manner upon receipt of a record to determine if a completed application exists.</li> </ul> <p>In addition, other changes have been made to correct grammatical errors, ensure consistent terminology, and improve the accuracy, structure, and clarity of the rules.</p> | <p>delivery offices to redirect work on documenting processing and action on all documents, even if the document required no action. Eligibility redeterminations would be inaccurate, based on an error in verbiage on the acceptable age of eligibility records which would allow records to be used that are not current.</p> <p>OAR 411-320-0020 and 411-320-0080 need to be immediately amended to modify and clarify eligibility for developmental disabilities services to correct inadvertent errors and omissions in the temporary rules that became effective on November 8, 2018 related to the application and determination of developmental disabilities services.</p> |