

Adult Foster Home Provider Alert

Policy updates, rule clarifications and announcements

Date: August 2, 2017
Topic: **Residency Contract for Medicaid Residents (REVISED 6/2017)**
To: APD Adult Foster Home Providers

The Department's sample APD AFH Residency Contract (Residency Agreement) for Medicaid Residents has been updated. This template is an optional tool for adult foster home licensees' use. It may also be used as a guide to develop the home's own contract for both Medicaid and private-pay residents. Find this updated form at:

APD AFH Provider Information, Forms webpage:

<http://www.oregon.gov/DHS/PROVIDERS-PARTNERS/LICENSING/APD-AFH/Alerts/17-0511%20ASPEN%20Instructions%20for%20the%20Licensee.pdf>

Home and Community-Based Services, Oregon-specific webpage for Aging and People with Disabilities: <http://www.oregon.gov/DHS/SENIORS-DISABILITIES/HCBS/Pages/APD.aspx>

A complete copy of the updated template is included with this Alert.

Residency Contract and Notification of Policies, Rights and Freedoms

Contract. This Residential Contract (the "Contract") is entered into between

"You" _____ or
Resident's name

_____ and
Resident's representative on behalf of Resident

"Licensee/Facility" _____

located at _____
Physical address of adult foster home

The term "you" and "your" includes the Resident and the representative acting on the Resident's behalf if designated above.

You have chosen to rent a:

Single occupancy room Shared occupancy room
for your personal use on a month-to-month basis beginning on _____.

Payment. You agree to pay Licensee/Facility your monthly payment for room and board in the amount determined by the Department and communicated through an official Department Policy Transmittal. You also agree to pay a service payment (if one is required of you) in the amount determined by the Department and identified in writing via a Department-issued document. Payment must be made no later than the _____ of each month. Payment shall be made payable to the Facility/Licensee named above according to the terms of this Contract. The payment will be pro-rated for partial month occupancy. The monthly payment will pay for room and board, basic care and services as identified in this Contract.

Damages. You will be held responsible for any property damages excluding damages caused by normal wear and tear.

Unlawful Activities. You agree not to engage in or allow illegal activities of any kind anywhere on the care home's premises. Suspected illegal activities will be reported to law enforcement.

Refunds. Licensee/Facility will issue applicable refunds no later than 30 days following your last day in the care home. The Licensee/Facility may not retain payment for services beyond your last day in the home. If your monthly payment includes room and board, your room and board payment is refundable and may be pro-rated based on length of stay during the applicable month.

Living Accommodations. You are invited to bring your own bed, linens and furniture for your personal use in your bedroom. For your safety, and to ensure Licensee/Facility remains in compliance with all regulatory requirements, you agree to request and obtain Licensee approval prior to moving furniture

into your room. You agree all exit ways must remain clear of obstacles that may interfere in evacuation. You may choose to use some or all of the accommodations provided by Licensee/Facility which includes:

- Bed (mattress and box springs)
- Bedding (linens, including fitted and flat sheets and a pillow case)
- Mattress pad
- Pillow
- Blankets (as needed for your comfort)
- Private dresser
- Closet space

Décor. You are invited to decorate your bedroom in accordance with your personal tastes. For your safety, preservation of the facility, and to ensure the Licensee/Facility remains in compliance with regulatory requirements, you agree to request and obtain permission prior to hanging pictures or items on walls, installation of items in the room, painting, or any other surface or structural modification to the bedroom.

Locks. A lock on your bedroom door is a regulatory requirement and you may choose not to use the locking feature. You will be provided with one key. You agree to not remove, modify or re-key the lock. You agree to not give the key to any person other than your representative, if named above. Lost or stolen keys should be immediately reported to the Licensee or facility staff. Additional or replacement keys will be provided as needed for the cost of replacement as evidenced by the receipt. Only appropriate staff will have keys to your room.

Storage. Storage space for your belongings is limited to the room you have chosen to rent. The Licensee/Facility will work with you to ensure your preferences are honored while maintaining compliance with all regulatory requirements.

Storage Fee after Departure. A daily storage fee of \$_____, takes effect on the 16th day following your departure from the Facility.

Basic Care and Services. Your basic care and services include those care needs and services identified by your individualized needs assessment conducted by your case manager.

Transportation. The Licensee/Facility will arrange for appropriate transportation upon request, and as needed. You are responsible for the cost of any transportation that is not covered by Medicaid.

Meals. The Facility's meal schedule is: Breakfast_____; Lunch_____; Dinner_____. *(The morning meal time must be no more than 14 hours following the evening meal time.)* Nutritious snacks and liquids will be available for you to access at other times. You are encouraged to participate in meal planning to assist the Licensee/Facility support your preferences. If you miss a scheduled meal time, a replacement for the last meal missed will be available to you.

Voluntary Move. The Licensee/Facility will notify your Case Manager and cooperate with screening activities of potential providers should you wish to move.

Involuntary Move. You may be required to move to another room, or move out of the Facility for specific reasons, as stated in Oregon Administrative Rule OAR 411-050-0645(11), which includes:

- Closure of the Facility (including suspension, revocation, non-renewal or voluntary surrender of license).
- Nonpayment of monthly fee.
- Unable to meet evacuation standards.
- Your welfare, or the welfare of other residents:
 - Behavior that poses an imminent danger to self or others.
 - Behavior or actions that repeatedly and substantially interferes with the rights, health or safety of others.
 - Use of illegal drugs or a criminal act that places you or others at risk of harm.
- Violation of the home's written policies pertaining to recreational or medical marijuana or violation of the Oregon Medical Marijuana Act, ORS 475.300 to 475.346.
- Medical reasons: Complex, unstable or unpredictable conditions that exceed the level of care and services the facility provides.
- The Licensee/Facility was not notified that the resident is on probation, parole, or post-prison supervision after conviction of a sex crime defined in ORS 181.805.
- For Medicaid-eligible residents only:
 - When a current, private-pay resident becomes eligible for Medicaid services and Licensee/Facility is not an enrolled Medicaid provider.
 - When the Licensee/Facility's Medicaid Provider Enrollment Agreement is terminated.

Notice of Involuntary Move. You may be required to move out of the Facility for specific reasons, as stated in Oregon Administrative Rule, OAR 411-050-0645(11) and (13).

- **30-Day Notice.** The Licensee/Facility will issue at least 30 days of written notice prior to an involuntary move. The notice will be delivered in person to you and will be delivered in person, or by registered or certified mail to your representative, if applicable. A copy of the notice will be provided to your assigned case manager and the local licensing authority, and may also be submitted to the Oregon Long-Term Care Ombudsman on your behalf.
- **Less than 30-Day Notice.** Less than 30 days' written notice may be issued only in the following circumstances:
 - If undue delay in moving would jeopardize the health, safety or well-being of a tenant, including:
 - ◆ A medical emergency that requires the immediate care of a level or type that Licensee/Facility is unable to provide; or
 - ◆ Behavior that poses immediate danger to the resident or others.

- If you are hospitalized or temporarily out of the Facility and the Licensee/Facility determines they are no longer able to meet your needs; or
- The Licensee/Facility was not notified that the resident is on probation, parole, or post-prison supervision after conviction of a sex crime defined in ORS 181.805.

Your Rights in an Involuntary Move. You have the right to receive at least 30 calendar days of notice except for the circumstances described above. If you have questions, or if you do not want to move, you may contact your case manager or the Local Licensing Authority to request a conference and/or an administrative hearing. If you have questions about your right to disagree with the involuntary move-out notice, you may also contact the Oregon Long-Term Care Ombudsman at 1-800-522-2602, or 3855 Wolverine Street NE, Suite 6, Salem, Oregon 97305, or by email to LTCInfo@state.or.us.

House Policies. The following policies apply to all occupants of the home, staff and visitors:

Pets. Pets are: Not allowed Allowed _____

An accommodation may be requested for an assistance animal according to the Americans with Disabilities Act and the Fair Housing Act. Evidence of current animal vaccinations, as required by law, must be provided to the Foster Care Provider/Facility. Costs associated with animals, and responsibility for the care of animals, are the responsibility of the animal owner.

Tobacco and Smoking.

This is a non-tobacco and non-smoking facility. Chewing tobacco and smoking (including the use of vape products) are not allowed in or on the premises.

This is a smoking facility. Smoking (including the use of vape products) is permitted-only in the designated areas as described below:

Legal Medical Marijuana and Recreational Cannabis.

This is a marijuana-free and cannabis-free facility. The possession and/or use of marijuana or cannabis in or on the grounds of the facility is prohibited. Violation of this policy is grounds for an involuntary move-out.

The Licensee/Facility permits the possession and use of legal medical marijuana and recreational cannabis. The Licensee/Facility and the resident must adhere to all applicable ORS (Oregon Revised Statutes), OAR (Oregon Administrative Rules), and federal law related to the use and storage of marijuana or cannabis in or on the grounds of the facility.

Alcohol. Alcohol is: Not allowed Allowed _____

Room Monitoring Devices. Staff may use an intercom or other type of audio monitoring device so as to be alerted to any emergency and potential night needs. You have the right to your privacy, and if you agree to the use of a monitoring device, you may choose to turn it off, or request it be turned off, at any time.

- I do not agree to the use of any room monitoring device in my bedroom or bathroom.
- I agree to the use of an audible room monitoring device in my bedroom. I understand that I have the right to turn the device off, or request it to be turned off, at any time.

Visitors. You may have visitors of your choosing at any time. Visitors may not stay in the care home more than 24 hours without approval from the Licensee/Facility. Visitors shall not sleep in the common areas of the home nor sleep in another resident's bed. The Licensee/Facility is not responsible for providing food or sleeping accommodations for guests of the Resident. You are responsible to:

- Inform the Licensee/Facility of the presence of your visitor(s); or
- Adhere to the following visitor check-in policy (Licensee to identify the visitor's check-in policy here): _____

Specific visitors that present an active health and safety risk to persons present in the household will be asked to leave the premises.

Disclosures.

Medicaid Enrollment Status. Licensee/Facility is an enrolled Medicaid provider.

Disclaimers.

- This Contract is not subject to the Oregon Residential Landlord Tenant Act. (ORS 90.113)
- This Contract is a sample form that is provided by the Department of Human Services as a courtesy. This form does not constitute legal advice or a suggested legal strategy, and may not be applicable to every situation. Please consult with your legal representative regarding the terms contained in this form.

Resident's Bill of Rights. The licensee, the licensee's family, and employees of the home will not violate these rights and will help all residents to exercise them. The Resident's Bill of Rights is attached, has been explained, and by reference is part of this Contract.

HCBS Rights. You have additional freedoms, protections, and rights guaranteed to you as part of the Home and Community-Based Services (HCBS) rules, Oregon Administrative Rule 411-004. There may be

times when, to protect your safety or others' health and safety, we may propose reasonable limits in the areas described below. **A limitation will not begin without you or your legal representative's consent.**

Your HCBS rights include:

- Lockable bedroom door for privacy, ability to furnish and decorate your space, and have visitors of your choosing as noted in the **Locks, Living Accommodations, Décor, Storage, and Visitor** sections above.
- The right to access food at any time.
- The right to choose your roommate. If you share a room, you will be offered a choice of roommate prior to final selection of the roommate. However, you may not refuse roommates simply to have a private room. Refusing roommates to obtain a private room may result in additional charges not to exceed the current Medicaid room and board standard. You will receive at least a 30-day notice before any additional charges are due. Failure to pay additional charges may result in a 30-day involuntary move-out notice for nonpayment.
- The right to control your schedule and activities.

You have a right to exercise your Resident HCBS freedoms, protections and rights; however, you may not infringe on the privacy and rights of others and should be respectful to others living in the home.

Name of Facility

Name of Licensee

Mailing address

Phone number

Licensee's signature

Date

Resident's signature

Date

Resident's representative (if applicable)

Date

Resident or Resident's representative acknowledges receipt of a signed copy of this Contract, including the Resident's Bill of Rights. _____

Initials