CHAPTER 411, DIVISION 30, IN-HOME SERVICES

Rule Advisory Committee (03/27/2020)

Summary of Comments

Stakeholder Participants:
Gwen Dayton with the Oregon Health Care Association
Amy Miller with Multnomah County AAA Supervisor, Branch 2818
Mike Volpe Consumer and Commissioner with the OHCC
Tina Treasure Consumer
Andrew Boeger with SEIU

APD Representatives:
Bob Weir
Mat Rapoza
Christine Maciel
Paul Johnson
Donitta Booth
Kristina Krause

PERSON	RULE SECTION	COMMENT
Tina Treasure	411-030-0020(24)(c), p. 5	1) Rule cited in this section needs to be changed to 0072. 2) Alternate wording should be considered for the terms "in DHS's discretion." Changed to "at" the departments discretion
Andy Boeger	0068(1)(2)(a) Shift Services, pp. 20 -21?	Asked: When do people actually do this (log care for 24-hour periods)? Before authorized, when in the process is this happening? Bob's Answer: Should happen at the beginning of the process. Now the log happens earlier in the process based on this rule change. The intent is to try as early in the process as possible, to estimate the activities that are happening and documents the care that is given every waking hour. Explanation sufficed no change needed
Tina Treasure	0068 Shift Services pp. 20 – 21.	Asked: Is there a template that can be used for providers to create a log? Bob's Answer: There is a template log, but we don't mandate that providers use a certain format. We do not want to promote a technical reason to demand it. Explanation sufficed no change needed
Gwen Dayton		General Question: Is this going to be a permanent rule? Bob's Answer: It is a temporary rule now, but it will be permanent when the RAC process is finalized.
Tina Treasure	0071(3)(g)(B) Exceptions to Maximum	"The phrase, 'each time the task is attempted' seems odd. This could create confusion." Tina suggested that it may be better to state,

	Hours of Service (p. 32)	"each time the task is preformed or attempted." Changed to performed or attempted
Bob Weir	0072(4) (p. 37)	Bob noted there is an error in the rule citation in this section that needs to be changed (Unsure of precise location – but it may need to change to 0070(7)). Bob was aware of this change. Changed to 411-030-0070(7)
	0072(5)(d) (p. 38)	There is an error in the rule citation -- not 0070(6)(A): Changed to (0070(7) Bob is aware of this change.
Tina Treasure	0072(5)(a) (p. 38)	How is "insufficient" determined and who is it determined by? Bob's Answer: They still need to recruit and give time. Tina (personal comment): "They don't just go on what the Registry says about providers that are available. What appears to be a lot of workers on the Registry list does not turn out to be that way. How would you define a good faith effort by the consumer to find a provider? We need some wording around what a good faith effort would look like. Maybe it is not unreasonable to ask for help to be given to consumers to understand what a good faith effort looks like for them to go through." I think this is in practice or training not rule.
Tina Treasure	0072(5)(f) (p. 42)	"When would it be appropriate to talk about how a new provider would be trained? If the consumer cannot do the training . . . how can we be more creative . . . to ideas about how to raise that issue? . . . some do not want this rule to be challenged – it is not allowed by Medicaid to pay 2 people at the same time for training purposes of HCWs. It's a little confusing – the wording and who can be trained. You cannot pay for two providers during the same time not just for the same task." Bob's Answer: Two people cannot be paid for the same task. Basic concern revolves around the need to have an existing HCW train a new HCW for the same consumer about specific care and service needs of that consumer, when both cannot be paid for this time of training under current practice. Response: Paul Johnson will reach out to Tina to clarify her concerns and he and Mike Volpe will follow up with the OHCC about these concerns. Paul will need Tina's email to reach out to her.
Bob Weir	0072(6)(9) (p. 39)	Bob noted the conflict between information in (6) and (9) – we will change content in (6) to reflect the 90-day period found in (9). Tina Treasure commented that the conflict should be resolved by using 90 day period. Changed 411-030-0072(6) to "may approve "up to 90 days"
Tina Treasure	p. 39	Tina also noted that the differences in the wording in sections (9) and section (6) both sections need to reflect 90 calendar days. See above.

Tina Treasure	0070(7) p. 38	Changes needed to rule citation in section 0070(5)(d) Bob Weir noted this change.
Tina Treasure	0072(12)(b) pp. 40-41	Concerned about HCW working for more than allowed hours for a consumer to get 40 or 50 hours. "It isn't within . . . no win situation . . . consumer would be without care if one provider left (2nd one is let go). HCW cannot step up to fill the need and not end up going over cap." Bob provided helpful answer. Tina suggested that consumers should understand/be provided clarification: "Yes, you can have a cap but you must go all out to find someone else" (because the HCW works for more than one employer).
Tina Treasure	0100(4)(F) (p. 49)	"How would this work for ICP?" Christine "This applies to the person participating – to the consumer themselves who have had allegations made against them, not necessarily to the worker."
Tina Treasure	0100(3)(H) (p. 48)	"What about the phrase 'complete enrollment.' Is there a website to go to, to get information on the status of EVV? . . . to know where we are at in that process. Where is Oregon at in implementation?" Mat Rapoza: There is no public facing document for the HCW program. For ICP, we are working on it. Tina: "Is there an oversight committee that would have minutes or something to look at?" Mat: "Minutes are made but not posted publicly. Tina will contact Mat to get connected to the right person.