APD Rule Advisory Committee for OAR 411-031

Meeting Minutes

Date 05/29/18

Location: HSB Room 137D

Meeting Attendees (X= Attended In-Person P=Attended by Conference Line)			
	Attendee	**Organization**	**Contact Info**
X	Mat Rapoza	DHS-APD Employee	Mathew.G.Rapoza@state.or.us
	Charles Richards	NWSDS SAC Advocate	
	Judi Richards	NWSDS SAC Advocate	
	Ruth McEwen	HCC and GCSS	
	Marsha Wentzell	HCC	
	Mary Houts	HCW	
	Vanessa Pepe	HCW	
	Mike Volpe	ODC Advocate	
	Cathy Savage		
	George Adams	DSAC	
	Jordan Crowder	Lane	
	Kimberly Colkitt		
	Roxie Mayfield		

MINUTES	
Agenda Item	**Discussion**
Introductions	• Everyone on the conference line and in person introduced themselves.
Opening	• Darla provided an overview for the reason why the rules are changing and how the rules are going to be reviewed.

Definitions 0310	Darla: Covered Updated Definition for Abuse Vanessa: Asked about links in definition of abuse, Darla clarified we are only looking at the rule changes itself, not the links in the rules Darla: Reviewed rule definitions on page 2 Marsha: Asked what "Career HCW means". Mat clarified that Career means those that can work for all consumers, as opposed to those that are "restricted" that may only work for one consumer. Darla flagging for definition review. Darla: Reviewed "Collective Bargaining Agreement" definition, which includes removing the phone number. Donita: suggested adding phrase "may be obtained". Darla agreed. Kimberly: Added a change in address Vanessa: Suggestion to add link to Community Transportation. Darla: Reviewed definition of Fiscal Improprieties, stated that it is changed due to CBA. Specifically, on added rule to the weekly hourly cap. Vanessa: Stated that she is concerned that she works "24/7" but can only work up to the cap. Stated that wording should state "claimed" hours. Stated concern over receiving over the cap letters. Also concerned that she must provide care unpaid hours as the consumer needs it. Marsha: Read memo that those that supposed to have 24-hour care is supposed to have a review of the hours. Darla: Clarified that ending live-in was not a personal decision. Asked if there is a better way to word the rules. Vanessa: no specific suggestion, she knows how she will show on the voucher. Ruth: Can we refer to the HCC that someone needs to be done on voucher for work that is in-kind or unpaid? Mat: Discussed Marsha's point about exceptions to the weekly cap, also discussed hours and shift services review by August 4, 2018. Mike: Said that backup system is eradicated by having the hourly cap limitations. Transition between HCWs can be difficult as background checks can take a while to complete. Backups don't always work out. Can cause new HCWs to not want to work. Darla recognizes how long BGC can take. Mike asked about exception process, fills out the form, and says the form can be repetitive as he has to fill out multiple times. Feeling that a consumer can be a full-time job. Mat stated if he can provide his concerns in an email. George: Concerned about language on the exception to the cap, concern that non- understanding that when consumer needs a backup plan, they are not able to because of the cap. Employers feel state doesn't recognize that

	backup hours are needed. Also feels definition in 27 HCW should have live-in services part removed. Mat: Explained emergent exception process if HCW suddenly not available. Marsha: Feels this hasn't been well communicated. George: This also falls on the in-home care agencies as well, as the issue is that hours are not getting properly authorized. Mike: Asked if exception form needs to be filled out in emergency situations, Mat said no Judy: Stated that many consumers are asked to juggle the amount of staffing that must occur, especially when it is 4 to 5 consumers. Darla: Mentioned that this is not part of this specific rule process. Darla: Updated definition of "Inactivated" reviewed, asking if new language is confusing. Consensus is that it is confusing. Marsha asks what happens when someone is inactivated, Darla mentioned that notice is sent out to them. Darla: Reviewed definition of Instrumental Activities of Daily living Darla: Reviewed Medically driven services and supports" definition George: Asked to be more specific on what a w/c means (manual vs powered). Darla: Reviewed definition of "Representative" or "Consumer-Employer's Representative". Including CFR behind the rule change. Basically, outlined that a paid provider cannot also be the representative. Judi asked if we can just say can't have conflict of interest, Darla mentioned that is found later in rule. Vanessa asked if we can link to CFR and remove language, Darla agreed. George asked if this conflicts with HB 2661, Kimberly said that is not Medicaid rules and may not apply. Kimberly asked if George can forward question to Kimberly for review. Darla: Reviewed definition of "unwelcome nuisance to the workplace". Asked if other reasons should be included in this definition. Roxy: Add that clothing is inappropriate Marsha: unwelcome music or taking over the consumer's space George: If a HCW has card for medical marijuana that could be a burden for consumers. Darla mentioned that consumer has a right to permit or not permit what is happening in their own home. Ruth mentioned that this could be difficult to have in rule, but instead should be a part of the agreement between the HCW and consumer. Darla suggested something about putting in rule that a generic statement about the HCW going against the employer's agreement.

	Darla: reviewed definition of “Violates the Protective Service and Abuse Rules”.
411-031-0040	Darla: Removed live-in language from opening paragraph. Darla: Updated rule citation in (1) Darla: Stated definition for (2) should read HCW Job description. Marsha: asks how task lists goes along with the job description. Darla mentioned job description could include preferences on how the work is done. Marsha said that task list is not specific to certain tasks. Ruth: Do these rules agree with rules in DD? Darla: Do not have specific jurisdiction over those rules. Marsha: Can task list indicate tasks that are “like” those that are listed? Mike: If HCW is also PSW, how does cap apply? Darla clarified that cap is across both programs. George: Pointed out in (4) that services are not authorized in a hospital or other facilities. Darla and Mat: Mentioned that Medicaid is paying for care in hospital, can’t be duplicated per federal rule. George: Can HCW tell nurse in hospital about the consumer’s needs. Is that disqualifying? Darla: No, that will not be disqualifying (in trouble with the state). George: Can state make sure that local offices communicate to HCWs that they are able to do this? Darla: mentioned that is why it is in the rule, also that is stated in orientation and in HCW guide. Vanessa: How does someone get paid when there is standby type time when transporting the consumer to a medical appointment? Mat stated that this is not a part of our current rule discussion. Roxy: Reiterated concern about when she is in hospital, the staff may not understand her exact needs, so HCW must attend. Must be exception to this. Mat: Indicated that this will need to be approved by CMS. Marsha: Seconded this concern that has been brought up. Darla: In (7) removed live-in language and sleeping arrangement associated with that. George: Feels it should be noted that if HCW decides to suddenly quit, that employee gives 60 days as it is difficult to find a new HCW quickly. Judi feel

	that is not a reasonable amount of time. Darla mentioned that with a CBA, that will be very difficult to enforce in rule, but will think about it. Marsha: Specific training should be offered for quad care. Ruth suggested that could be a part of the Enhanced care certification. Darla said that could be discussed at HCC. George: Talked about some sort of specialized care that allows for $17.00 an hour. Mat discussed the process for the additional $3.00 an hour (VDQ). George is concerned that consumers are not aware of it. Ruth didn't feel that this is part of the rules today. Mike: Some HCWs do provide adequate notice, while others do not. Doesn't think rule will change that. 60 days would not help. Vanessa said that could be emphasized in training. Marsha: Feels that enrollment standards (8) should be strengthened. Participate in continued learning and assessment as required per HB 1534. Kimberly: start process to change rule regarding the above info. Darla: Under "restricted provider enrollment", stated that those under 18 are rarely approved. Should this stay in rule? Vanessa: asked about scenarios on this. Darla: mentioned that younger than 18 may not always know magnitude of work involved. Ruth: asked if this is never approved, it should be stricken. George agreed it should be removed. Darla: HCW Orientation statement may be confusing, suggested rewording for input. Ruth said that make sure any changes here jive with new legislation. Vanessa says language should state that 30 days is "should" and not "must". Darla stated needs to review exact language from CBA. Mary stated that should be 30, exception to 90. (placeholder to review this in the CBA). Darla: considering a "G" to include the HCW fails to comply with the Department's requested background check. Asked if it was ok, no comments. Vanessa: Under Effective Date of enhanced HCW rate payment, clarify when it meets the enhanced homecare worker certification with a link, Darla mentioned could add link to CBA. Marsha: in (C) on page 17, that it is delegated by a Contract RN. George said that quads and paras need this. Darla: Reviewed (11) Community Transportation per CBA changes that HCW must have a valid license and insurance. Darla mentioned that although not in rule, HCWs are supposed to tell insurance agencies if their work involves transporting consumers. Judi asked if HCW is driving consumer's care how it is covered. Darla mentioned that depends on the coverage. Mary indicated that she brought copies of driver's license, CNA, and food handler's card

	when working for consumer. Vanessa asked does HCW must show proof of insurance? Darla said that is not in rule, but it may be developed in policy in the future. Mike says that he requires his HCWs to show license and proof of insurance prior to driving him. George: Said that sometimes HCWs will ride along with consumers. Mat said that is assessed under the SPLs, and if allowed, may be paid for.
411-031-0050	Darla: Under (1)(d), initial is crossed out because it is misleading. Stated that applicant that is applying again can be denied based upon background check, APS, etc. George: concern that with the hearings, the consumer should be notified that a HCW is being terminated. Darla: Stated that case managers are made aware and are asked to communicate to the consumer. George is suggesting that for pair and quads, if a provider is being terminated, that other HCWs should be available on standby. Darla mentioned this has been a point of discussion. Ruth mentioned that additional that HB 1534 goes into this. Judi: on bottom of page 25 (n), feels this statement is awkward and suggested reworking. Darla explained what this means, specifically where a HCW is asking for payment when they are not authorized. Vanessa said could add that HCW could work unpaid. Darla: Reviewed language for (4), deleted language for receiving referral from APD or AAA, as 30-day review should start when an alleged violation is made known. Darla: In (8), removed language in this last sentence, consider rewording to go with the default order.