

**DEPARTMENT OF HUMAN SERVICES
DEVELOPMENTAL DISABILITIES
OREGON ADMINISTRATIVE RULES**

**CHAPTER 411
DIVISION 305**

FAMILY SUPPORT SERVICES FOR CHILDREN

EFFECTIVE JANUARY 1, 2017

411-305-0027 Financial Limits of Family Support Services
(Repealed 1/1/2017)

411-305-0040 Family Support Service Information and Entry
(Repealed 6/1/2009)

411-305-0050 Family Support Services Enrollment, Duration, and Exit
(Repealed 1/1/2017)

411-305-0060 *(Renumbered to OAR 411-305-0105 6/1/2009)*

411-305-0070 *(Renumbered to OAR 411-305-0025 6/1/2009)*

411-305-0100 *(Renumbered to OAR 411-305-0027 6/1/2009)*

411-305-0105 Direct Assistance Funding Wait List
(Repealed 1/1/2017)

411-305-0110 Conditions for Direct Assistance Fund Purchases
(Repealed 1/1/2017)

411-305-0115 Using Direct Assistance Funds for Certain Purchases is Prohibited
(Repealed 1/1/2017)

411-305-0130 *(Renumbered to OAR 411-305-0115 6/1/2009)*

411-305-0150 *(Renumbered to OAR 411-305-0023 6/1/2009)*

411-305-0160 Special Record Requirements for Direct Assistance Fund Purchases
(Repealed 1/1/2017)

411-305-0170 Quality Assurance
(Repealed 1/1/2017)

411-305-0180 Variances
(Repealed 1/1/2017)

411-305-0200 Statement of Purpose
(Renumbered from OAR 411-305-0010 1/1/2017)

(1) The rules in OAR chapter 411, division 305 prescribe standards, responsibilities, and procedures for Community Developmental Disabilities Programs to partner with families and other community-based networks in the coordination of supports and services to --

(a) Maximize independence and increase the ability of a child to engage in a life that is fully integrated into the community;

(b) Increase the ability of a family to care for their child in the family home; and

(c) Strengthen the role of the family as the primary caregiver.

(2) Family support services include the supports and services described in OAR 411-305-0235.

(3) Family support services are individualized and built on family support and child and family-centered planning.

Stat. Auth.: ORS 409.050, 417.342, 430.662

Stats. Implemented: ORS 417.342, 427.005, 427.007, 427.104, 430.610, 430.620, 430.662 - 430.670

411-305-0205 Definitions and Acronyms
(Renumbered from OAR 411-305-0020 1/1/2017)

OAR 411-317-0000 includes general definitions for words and terms frequently used in OAR chapter 411, division 305. In addition to the definitions in OAR 411-317-0000, the following definitions apply specifically to the rules in OAR chapter 411, division 305. If the same word or term is defined differently in OAR 411-317-0000, the definition in this rule applies.

(1) "CDDP" means "Community Developmental Disabilities Program".

(2) "Child and Family-Centered Planning":

(a) Means a timely process, formal or informal, that includes persons chosen by the child (as age appropriate) and the parent or legal representative to ensure informed choices and decisions made for supports and services are consistent with 42 CFR 441.540.

(b) The process includes gathering and organizing information to reflect what is important to and for the child and the family and to help

--

(A) Determine and describe choices about the goals, desired outcomes, activities, providers, service settings, risks, and preferences of the child;

(B) Design strategies and networks of support to achieve goals and desired outcomes using the strengths, relationships, and resources of the child and family; and

(C) Identify, use, and strengthen naturally occurring opportunities for support at home and in the community.

(c) The methods for gathering information vary, but all are consistent with the cultural considerations, needs, and preferences of the child and the family.

(3) "Family" --

(a) Means a unit of two or more people that includes at least one child, found to be eligible for developmental disabilities services, where the primary caregiver is a family member as defined in OAR 411-317-0000.

(b) The term "family" is defined as described above for the following purposes:

(A) Determining the eligibility of a child for enrollment into family support services as a resident in the family home.

(B) Identifying people who may apply, plan, and arrange for individual services.

(C) Determining who may receive family training.

(4) "Family Home" means the residence for a child that is not contracted with the Department to provide services such as a certified foster home, a licensed residential care facility, assisted living facility, or nursing facility, or any other licensed or certified residential setting. A child who is placed in a certified foster home does not qualify for family support services.

(5) "Family Support Funds" mean the public funds contracted by the Department to the CDDP to assist families with the purchase of supports and services for children enrolled in the family support program, according to the assessed needs of the child and their Annual Plan.

(6) "Family Support Services" means individualized planning and coordination of available supports and services provided to children and their families. Services, supports, and other assistance are built on the principles of family support and child and family-centered planning.

(7) "Family Support Policy Oversight Group" means a group appointed by the CDDP to provide consumer-based leadership and advice regarding family support issues such as development of policy, evaluation of services, and use of resources. The Family Support Policy Oversight Group may be a subgroup of an advisory body that has a broader scope or it may be a separate body with a specific focus on family support services.

(8) "ISP" means "Individual Support Plan".

(9) "ODDS" means the "Office of Developmental Disabilities Services".

(10) "These Rules" mean the rules in OAR chapter 411, division 305.

Stat. Auth.: ORS 409.050, 417.346, 427.104, 430.662

Stats. Implemented: ORS 417.340 - 417.344, 417.346 - 417.350, 427.005, 427.007, 427.104, 430.610, 430.620, 430.662 - 430.670

411-305-0210 Program Administration and Operation

(Renumbered from OAR 411-305-0023 1/1/2017)

(1) FAMILY LEADERSHIP. The CDDP may appoint a Family Support Policy Oversight Group to advise and assist the CDDP in matters related to family support services such as evaluating the effectiveness of family support services, evaluating family satisfaction with family support services, improving availability of resources to meet the support needs, and developing the plan for managing family support funds required by OAR 411-305-0230. When the CDDP elects to appoint a Family Support Oversight Group, the CDDP must develop and have available for review brief written descriptions of the purpose and scope of the Group, how membership is determined, and what process is used to resolve concerns or disagreements between the CDDP and the Group.

(2) PROGRAM MANAGEMENT. The CDDP must ensure the provision of family support services are in accordance with the program management and responsibilities described in OAR 411-320-0030 and 411-320-0040.

(3) SERVICE RECORDS. In addition to the service record requirements described in OAR 411-320-0070, the CDDP must maintain the following documentation specific to family support services:

(a) The date a child is enrolled in the family support program for case management only.

(b) The date when a child is referred to other programs and services, if family support funds are not available.

(4) COMMUNITY DEVELOPMENT. The CDDP may coordinate with other agencies and community partners to develop and manage expansion of resources required to meet the support needs of children and families. Assurance of agency coordination is in accordance with OAR 411-320-0040.

(5) QUALITY ASSURANCE. The CDDP must participate in statewide quality assurance, service evaluation, and program regulation activities as directed by the Department in OAR 411-320-0045.

(6) VARIANCES. The Department may grant a variance as described in OAR 411-320-0200.

Stat. Auth.: ORS 409.050, 417.346, 427.104, 430.662

Stats. Implemented: ORS 417.340 - 417.344, 417.346 - 417.350, 427.005, 427.007, 427.104, 430.610, 430.620, 430.662 - 430.670

411-305-0215 Required Services

(Renumbered from OAR 411-305-0025 1/1/2017)

(1) In addition to the assistance provided by a CDDP as described in OAR 411-415-0080, the CDDP must provide or arrange for the following services to support all children enrolled in family support services:

(a) ACCESS TO FAMILY SUPPORT FUNDING. The CDDP must assist families and children to access family support funds when available.

(b) CASE MANAGEMENT. The CDDP must provide case management services in accordance with the standards described in OAR 411-415-0050.

(c) SUPPORT NEEDS ASSESSMENT. The CDDP must assist a family to determine the support needs of their child and to assist the family to care for the child in the family home and community.

(A) An assessment for family support services must be conducted as described in OAR 411-305-0225 when a child --

(i) Is enrolled in developmental disabilities services as described in OAR 411-305-0220 and is only accessing family support services, including case management only;

(ii) Enters case management services as described in OAR 411-415-0030; and

(iii) Is not expected to have a functional needs assessment, as described in OAR 411-415-0060, to access other ODDS-funded services.

(B) Assessments used to determine required supports and services, preferences, and resources, may include documentation of an eligibility determination for developmental disabilities services as described in OAR 411-320-0080, including evaluations and plans available from other service systems.

(2) When a child is determined eligible for developmental disabilities services consistent with OAR 411-320-0080, the CDDP must inform the family about family support services, including Department policy and the In-Home Expenditure Guidelines when applicable. The CDDP must provide accurate, up-to-date information that must include the following:

(a) The process for accessing family support funds and for determining the amount available to purchase supports.

(b) Common processes encountered in using family support services, including how to raise and resolve concerns.

(c) The responsibility of providers of family support services and CDDP employees as mandatory reporters of suspected child abuse.

(d) A description of the responsibilities of the family in regard to the use of public funds.

(e) An explanation of the rights of the family to select and direct providers, qualified according to OAR 411-305-0240, to provide supports and services authorized through an Annual Plan and purchased with family support funds.

(f) Procedures to address complaints regarding the delivery of family support services that have not been resolved using the complaint procedures (informal or formal) of a provider agency. The complaint procedures must be consistent with the requirements in OAR 411-318-0015.

(g) An assurance that additional information about family support services shall be made available at the request of the family. Additional information may include, but is not limited to, the following:

(A) A description of the organizational structure of the CDDP.

(B) A description of any contractual relationships the CDDP has in place or may establish to accomplish the family support service functions required by these rules.

(C) If applicable, a description of the relationship between the CDDP and the Family Support Policy Oversight Group.

(3) The CDDP must make information required in sections (1) and (2) of this rule available using language, format, and presentation methods appropriate for effective communication according to the needs and abilities of each family.

Stat. Auth.: ORS 409.050, 417.346, 427.104, 430.662

Stats. Implemented: ORS 417.340 - 417.344, 417.346 - 417.350, 427.005, 427.007, 427.104, 430.610, 430.620, 430.662 - 430.670

411-305-0220 Eligibility, Enrollment, and Exit

(Renumbered from OAR 411-305-0030 1/1/2017)

(1) NON-DISCRIMINATION. Children determined eligible according to section (2) of this rule may not be denied family support services or otherwise discriminated against on the basis of age, diagnostic or disability category, race, color, creed, national origin, citizenship, income, or duration of Oregon residence.

(2) ELIGIBILITY. To be eligible for family support services, a child must --

(a) Be under the age of 18;

(b) Be determined eligible for developmental disabilities services by the CDDP and enrolled into case management services;

(c) Reside in the family home; and

(d) Not receive other ODDS-funded services, other than State Plan personal care services as described in OAR chapter 411, division 034, or adoption or guardianship assistance through Child Welfare.

(3) CONCURRENT ELIGIBILITY. A child is not eligible for family support services from more than one CDDP unless the concurrent service --

(a) Is necessary to transition from one county to another with a change of residence;

(b) Is part of a collaborative plan developed by both CDDPs; and

(c) Does not duplicate services and expenditures.

(4) ENROLLMENT. A child, who meets the eligibility requirements in section (2) of this rule, is considered enrolled in family support services when the child --

(a) Is enrolled in case management services;

(b) Has an Annual Plan that reflects current support needs; and

(c) Is not enrolled in other ODDS-funded services, other than State Plan personal care services as described in OAR chapter 411, division 034, or adoption or guardianship assistance through Child Welfare.

(5) EXIT.

(a) A child must exit family support services when any of the following occurs:

(A) The child turns 18 years of age.

(B) The child is no longer eligible for developmental disabilities services determined by the CDDP of the county of origin as described in OAR 411-320-0080.

(C) The child no longer resides in the family home.

(D) The child is enrolled in other ODDS-funded services.

(E) The parent or legal representative either cannot be located or has not responded after 30 days of repeated attempts by CDDP staff to complete the Annual Plan development and monitoring activities, and does not respond to a notice of intent to terminate.

(F) The CDDP has sufficient evidence that the parent or legal representative has engaged in fraud or misrepresentation, failed to use resources as agreed upon in the Annual Plan, refused to cooperate with documenting expenses of family support funds, or otherwise knowingly misused public funds associated with family support services.

(b) When a child is being exited from family support services, a written Notification of Planned Action must be provided as described in OAR 411-318-0020.

Stat. Auth.: ORS 409.050, 417.346, 427.104, 430.662

Stats. Implemented: ORS 417.340 - 417.344, 417.346 - 417.350, 427.005, 427.007, 427.104, 430.610, 430.620, 430.662 - 430.670

411-305-0225 Needs Assessment and Service Planning

(Renumbered from OAR 411-305-0080 1/1/2017)

(1) The CDDP must provide or arrange for an annual child and family-centered planning process within 90 days of enrollment and annually thereafter as long as the child is enrolled in family support services. The initial annual meeting must be face-to-face. Follow-up contacts to complete the Annual Plan may be made by telephone or by other interactive methods if the child or their parent or legal representative agrees.

(2) NEEDS ASSESSMENT. The CDDP must determine and document the support needs of a child and family using a Department approved form which may include the functional needs assessment, in addition to other person-centered planning tools.

(3) ANNUAL PLAN. The CDDP, the child (as age appropriate), and the family must develop a written Annual Plan as a result of the annual

planning process. The Annual Plan must be conducted on a Department approved form, which may include using an ISP in place of an Annual Plan.

(a) When using the ISP, accompanying documents used to develop the ISP and any supporting documents (as applicable) must also be used.

(b) The Annual Plan and records supporting development of the Annual Plan must include evidence of the following:

(A) Family members, the child (as age appropriate), and others of the family or legal representative's choosing have participated in the planning process.

(B) Family support funds are used only to purchase supports or services tied to identified outcomes and necessary for the child to be supported in the family home.

(C) A services coordinator has assessed the availability of other public, private, formal, and informal resources for providing supports and services to the child and family before using family support funds.

(D) The services coordinator is working with the family to develop new resources whenever possible.

(E) Identification of risks, including risk of serious neglect, intimidation, and exploitation.

(F) Informed decisions by the parent or legal representative regarding the nature of supports and services or other steps taken to address any identified risks.

(G) Education and support for the child and the family to recognize and report abuse.

(c) The CDDP may not commit family support funds through the Annual Plan beyond the period for which family support funds have been allocated to the CDDP.

(4) SERVICE MONITORING. The services coordinator must conduct and document reviews of the Annual Plan and available resources with the parent or legal representative in accordance with OAR 411-415-0090.

Stat. Auth.: ORS 409.050, 417.346, 427.104, 430.662

Stats. Implemented: ORS 417.340 - 417.344, 417.346 - 417.350, 427.005, 427.007, 427.104, 430.610, 430.620, 430.662 - 430.670

411-305-0230 Managing Family Support Funds and Conditions of Purchase

(Renumbered from OAR 411-305-0090 1/1/2017)

(1) The CDDP must develop and implement a written plan for managing access to family support funds using forms and procedures prescribed by the Department that includes, but is not limited to the following:

(a) The number of children anticipated to receive family support funding each year.

(b) The plan for prioritization and aim to serve more children with allocated funds.

(2) In any plan year, the CDDP determines the actual amount a family may access from family support funds, consistent with the program intent to serve as many children as possible and not to exceed the maximum limits established by the Department. Family support funds are made available on a first-come, first-served basis unless the CDDP submits an alternative practice approved by the Department. Unique financial limits may apply to individual service categories.

(3) Estimates used to establish the annual limits of family support funds for specific services in the Annual Plan must be based on the In-Home Expenditure Guidelines.

(a) Family support services may only be delivered in accordance with applicable state and federal wage and hour regulations.

(b) The CDDP must establish a process for review and approval of all purchases to ensure program intent and monitor authorized Annual Plans for continued cost effectiveness.

(4) The CDDP must review family support fund purchases and obligations at least every 90 days.

(5) Purchase of supports and services through family support funds must --

(a) Be tied to the identified support needs and desired outcomes of the child, consistent with their Annual Plan developed in accordance with OAR 411-305-0225;

(b) Be an allowable support and service as listed in OAR 411-305-0235;

(c) Meet the conditions outlined in section (6) of this rule;

(d) Be consistent with the In-Home Expenditure Guidelines;

(e) Not exceed the maximum annual amount per plan year in accordance with section (2) of this rule; and

(f) Be considered full payment for the authorized supports and services.

(6) CONDITIONS OF PURCHASES. Family support funds must be authorized for the purpose defined in OAR 411-305-0200 and in an Annual Plan that meets the requirements described in OAR 411-305-0225.

(a) To be authorized and eligible for payment with family support funds, all supports and services must be determined by the services coordinator to be:

(A) Directly related to the developmental disability and support needs of the eligible child;

(B) Used only to purchase supports or services necessary for a child to continue to be supported in the family home;

(C) Cost effective;

(D) Not typical for a family to provide a child of the same age;
and

(E) Included in the approved Annual Plan and supporting documents or otherwise allowed in these rules.

(b) Supports and services purchased with family support funds must be provided only as a social benefit as defined in OAR 411-317-0000, and are not typical for a parent or legal representative to provide to a child of the same age.

(c) Additional conditions of purchases are described in OAR 411-435-0040 and 411-450-0050.

Stat. Auth.: ORS 409.050, 417.346, 427.104, 430.662

Stats. Implemented: ORS 417.340 - 417.344, 417.346 - 417.350, 427.005, 427.007, 427.104, 430.610, 430.620, 430.662 - 430.670

411-305-0235 Supports and Services

(Renumbered from OAR 411-305-0120 1/1/2017)

(1) Family support funds may be used to purchase a combination of the following supports and services:

- (a) Assistive devices as described in section (2) of this rule.
- (b) Assistive technology as described in section (3) of this rule.
- (c) Attendant care as described in section (4) of this rule.
- (d) Behavior support services as described in section (5) of this rule.
- (e) Community inclusion as described in section (6) of this rule.
- (f) Community transportation as described in section (7) of this rule.
- (g) Environmental modifications as described in section (8) of this rule.

(h) Environmental safety modifications as described in section (9) of this rule.

(i) Family training as described in section (10) of this rule.

(j) Respite as described in section (11) of this rule.

(k) Skills training as described in section (12) of this rule.

(l) Specialized medical supplies as described in section (13) of this rule.

(2) ASSISTIVE DEVICES. Assistive devices must be authorized in accordance with the criteria for assistive devices described in OAR 411-435-0050 and not to exceed the maximum limit established annually per child as described in OAR 411-305-0230.

(3) ASSISTIVE TECHNOLOGY. Assistive technology must be authorized in accordance with the criteria for assistive technology described in OAR 411-435-0050 and not to exceed the maximum limit established annually per child as described in OAR 411-305-0230.

(4) ATTENDANT CARE SERVICES. Attendant care services must be authorized in accordance with OAR 411-450-0060.

(5) BEHAVIOR SUPPORT SERVICES. Behavior support services must be provided in accordance with the criteria for behavior support services described in OAR 411-435-0050.

(6) COMMUNITY INCLUSION. Community inclusion supports encourage a child to participate in organized group recreation and leisure activities that assist the child to acquire, retain, or improve skills that enhance independence and integration.

(a) Community inclusion supports purchased with family support funds may include:

(A) Cost of individualized provider support required by the child to participate in an organized activity; and

(B) The participation or registration cost of an organized activity that meets the purpose of community inclusion, and supports are based on an individualized Annual Plan. Costs may include the registration and participation fees up to a maximum of \$150 per plan year, individualized Annual Plan and the usual and customary payment rate of the provider agency.

(b) Community inclusion supports exclude the following:

(A) Supports that replace normal family roles and responsibilities in the acquisition and retention of communication, socialization, recreation, and self-help skills of the child.

(B) Supports that replace normal family responsibility for child care while the primary caregiver works or goes to school.

(C) Educational and supportive services provided by schools as part of a free and appropriate public education for children under the Individuals with Disabilities Education Act.

(D) Child care as defined under OAR 414-300-0005 for certified child care centers, OAR 414-350-0010 for certified family child care homes, or OAR 414-205-0010 for registered family child care homes, while the primary caregiver works or goes to school.

(E) Tuition to private schools or payment of programs or services in lieu of public school.

(F) Private lessons or memberships.

(c) Community inclusion supports may be provided by a personal support worker or a provider agency according to the provider standards described in OAR 411-305-0240.

(7) COMMUNITY TRANSPORTATION. Community transportation must be authorized in accordance with the criteria for community transportation described in OAR 411-435-0050 and not to exceed the maximum limit established annually per child as described in OAR 411-305-0230.

(8) ENVIRONMENTAL MODIFICATIONS. Environmental modifications must be authorized in accordance with the criteria for environmental modifications described in OAR 411-435-0050 and not to exceed the maximum limit established annually per child as described in OAR 411-305-0230.

(9) ENVIRONMENTAL SAFETY MODIFICATIONS. Environmental safety modifications must be authorized in accordance with the criteria for environmental safety modifications described in OAR 411-435-0060(3)(b) to (q) and not to exceed the maximum limit established annually per child as described in OAR 411-305-0230.

(10) FAMILY TRAINING. Family training must be authorized in accordance with the criteria for family training described in OAR 411-435-0060(2)(b) to (d).

(11) RESPITE. Respite is provided for the short-term relief of the primary caregiver from the demands of ongoing care for a child with an intellectual or developmental disability on a periodic or intermittent basis.

(a) Respite may include both hourly and daily services that may be provided in --

(A) The family home;

(B) A licensed or certified setting;

(C) The home of a qualified provider, chosen by the parent or legal representative, that is a safe setting for the child; or

(D) The community.

(b) Respite services are not authorized for the following:

(A) Solely to allow the primary caregiver of the child to attend school or work;

(B) For vacation travel and lodging expenses; or

(C) To pay for room and board.

(c) Respite may be provided by a personal support worker or a provider agency according to the provider standards described in OAR 411-305-0240.

(12) SKILLS TRAINING. Skills training must be authorized in accordance with the criteria for skills training described in OAR 411-450-0060.

(13) SPECIALIZED MEDICAL SUPPLIES. Specialized medical supplies must be authorized in accordance with the criteria for specialized medical supplies described in OAR 411-435-0060, except for the general eligibility criteria in OAR 411-435-0030.

Stat. Auth.: ORS 409.050, 417.346, 427.104, 430.662

Stats. Implemented: ORS 417.340 - 417.344, 417.346 - 417.350, 427.005, 427.007, 427.104, 430.610, 430.620, 430.662 - 430.670

411-305-0240 Standards for Providers

(Renumbered from OAR 411-305-0140 1/1/2017)

(1) Independent providers, provider agencies, and general business providers paid with family support funds must be qualified as provider types as described in OAR 411-450-0070, excluding adult foster home providers.

(2) Provider agencies paid with family support funds must meet the standards described in OAR 411-450-0080.

(3) Provider agencies for respite and community inclusion may also be licensed under ORS 446.330.

Stat. Auth.: ORS 409.050, 417.346, 427.104, 430.662

Stats. Implemented: ORS 417.340 - 417.344, 417.346 - 417.350, 427.005, 427.007, 427.104, 430.610, 430.620, 430.662 - 430.670