

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

**CHAPTER 411  
DIVISION 320**

**COMMUNITY DEVELOPMENTAL DISABILITY PROGRAMS**

**EFFECTIVE JULY 1, 2014**

**411-320-0010 Statement of Purpose**

*(Amended 12/28/2013)*

The rules in OAR chapter 411, division 320 prescribe general administrative standards for the operation of a community developmental disability program (CDDP).

(1) A CDDP providing developmental disability services under a contract with the Department is required to meet the basic management, programmatic, and health, safety, and human rights regulations in the management of the community service system for individuals with intellectual or developmental disabilities.

(2) These rules prescribe the standards by which the Department provides services operated by the CDDP, including but not limited to eligibility determination, case management, adult protective services, and crisis diversion services.

Stat. Auth.: ORS 409.050 and 430.662

Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, and 430.662 to 430.695

**411-320-0020 Definitions**

*(Temporary Effective 07/01/2014 to 12/28/2014)*

Unless the context indicates otherwise, the following definitions and the definitions in OAR 411-317-0000 apply to the rules in OAR chapter 411, division 320:

(1) "24-Hour Residential Program" means a comprehensive residential home licensed by the Department under ORS 443.410 to provide residential care and training to individuals with intellectual or developmental disabilities.

(2) "ABAS" means Adaptive Behavior Assessment System.

(3) "ABES" means Adaptive Behavior Evaluation Scale.

(4) "Abuse" means:

(a) For a child:

(A) "Abuse" as defined in ORS 419B.005; and

(B) "Abuse" as defined in OAR 407-045-0260 when a child resides in a home certified, endorsed, and licensed to provide 24-hour residential services as described in OAR chapter 411, division 325.

(b) For an adult, "abuse" as defined in OAR 407-045-0260.

(5) "Abuse Investigation and Protective Services" means the reporting and investigation activities as required by OAR 407-045-0300 and any subsequent services or supports necessary to prevent further abuse as required by OAR 407-045-0310.

(6) "Adaptive Behavior" means the degree to which an individual meets the standards of personal independence and social responsibility expected for age and culture group. Other terms used to describe adaptive behavior include, but are not limited to, adaptive impairment, ability to function, daily living skills, and adaptive functioning. Adaptive behaviors are everyday living skills including, but not limited to, walking (mobility), talking (communication), getting dressed or toileting (self-care), going to school or work (community use), and making choices (self-direction).

(a) Adaptive behavior is measured by normed, standardized tests administered by a licensed clinical or school psychologist with specific training and experience in test interpretation of adaptive

behavior scales for individuals with intellectual or developmental disabilities. Adaptive behavior assessments include:

- (A) Adaptive Behavior Assessment System (ABAS);
- (B) Adaptive Behavior Evaluation Scale (ABES);
- (C) Vineland Adaptive Behavior Scale (VABS);
- (D) Scales of Independent Behavior-Revised (SIB-R); or
- (E) Other assessments that are designed to measure adaptive behavior standardized and normed to a population consistent with the population of the applicant or approved by the Department of Human Services, Office of Developmental Disability Services (ODDS).

(b) DOMAIN SCORES. Adaptive behavior domain scores are identified on the following assessments of adaptive behavior:

(A) The ABAS and ABES are:

- (i) Conceptual;
- (ii) Practical; and
- (iii) Social.

(B) The VABS are:

- (i) Socialization;
- (ii) Daily living skills;
- (iii) Communication; and
- (iv) Motor.

(C) The SIB-R are:

- (i) Personal living skills;
- (ii) Social interaction and communication skills;
- (iii) Community living skills; and
- (iv) Motor skills.

(c) **COMPOSITE SCORE.** The adaptive behavior composite score is the overall score which results from summing two or more domain scores on a given adaptive behavior assessment.

(d) **SKILLED AREAS.** Skilled areas are a particular assessed score. The skilled areas on the ABAS or ABES are the only skilled areas used for the purposes of OAR 411-320-0080 and include scaled scores in:

- (A) Communication;
- (B) Functional academics;
- (C) Self-direction;
- (D) Leisure;
- (E) Social;
- (F) Community use;
- (G) Home and school living;
- (H) Self-care;
- (I) Health and safety; and
- (J) Work.

(e) "Significant impairment" in adaptive behavior means:

(A) A composite score of at least two standard deviations below the norm;

(B) Two or more domain scores as identified in subsection (b) of this section are at least two standard deviations below the norm; or

(C) Two or more skilled areas as identified in subsection (d) of this section are at least two standard deviations below the norm.

(7) "Adult" means an individual 18 years or older with an intellectual or developmental disability.

(8) "Annual Plan" means the written summary a services coordinator completes for an individual who is not enrolled in waiver or Community First Choice services. An Annual Plan is not an ISP and is not a plan of care for Medicaid purposes.

(9) "Background Check" means a criminal records check and abuse check as defined in OAR 407-007-0210.

(10) "Behavior Support Plan" means the written strategy based on person-centered planning and a functional assessment that outlines specific instructions for a provider to follow to cause the challenging behaviors of an individual to become unnecessary and to change the behavior of the provider, adjust environment, and teach new skills.

(11) "Behavior Support" mean the services consistent with positive behavioral theory and practice that are provided to assist with behavioral challenges due to the intellectual or developmental disability of an individual that prevents the individual from accomplishing ADL, IADL, health related tasks, and cognitive supports to mitigate behavior. Behavior support services are provided in the home or community.

(12) "Brokerage" means "brokerage" as defined in OAR 411-340-0020.

(13) "Care" means "services" as defined in this rule.

(14) "Career Development Plan" means the part of an ISP that identifies the employment goals and objectives for an individual, the services and supports needed to achieve those goals, the people, agencies, and providers assigned to assist the individual to attain those goals, the obstacles to the individual working in an individualized job in an integrated employment setting, and the services and supports necessary to overcome those obstacles.

(15) "Case Management" means the functions performed by a services coordinator or personal agent. Case management includes determining service eligibility, developing a plan of authorized services, and monitoring the effectiveness of services and supports.

(16) "Case Management Contact" means a reciprocal interaction between a services coordinator and an individual or the legal or designated representative of the individual (as applicable).

(17) "CDDP" means "community developmental disability program". A CDDP is the entity that is responsible for plan authorization, delivery, and monitoring of services for individuals with intellectual or developmental disabilities in a specific geographic service area of the state under a contract with the Department, LMHA, or other entity as contracted by the Department.

(18) "Chemical Restraint" means the use of a psychotropic drug or other drugs for punishment or to modify behavior in place of a meaningful behavior or treatment plan.

(19) "Child" means an individual who is less than 18 years of age that has a provisional determination of an intellectual or developmental disability.

(20) "Choice" means the expression of preference, opportunity for, and active role of an individual in decision-making related to services received and from whom including, but not limited to, case management, service providers, services, and service settings. Personal outcomes, goals, and activities are supported in the context of balancing the rights, risks, and personal choices of the individual. Individuals are supported in opportunities to make changes when so expressed. Choice may be communicated orally, through sign language, or by other communication methods.

(21) "Choice Advising" means the impartial sharing of information about case management and other service delivery options available to individuals with intellectual or developmental disabilities provided by a person that meets the qualifications in OAR 411-320-0030(4)(c).

(22) "CIIS" means "children's intensive in-home services". CIIS include the services described in:

(a) OAR chapter 411, division 300 for the Children's Intensive In-Home Services, Behavior Program;

(b) OAR chapter 411, division 350 for medically fragile children's services; and

(c) OAR chapter 411, division 355 for the Medically Involved Children's Program.

(23) "CMS" means Centers for Medicare and Medicaid Services.

(24) "Community First Choice (K Plan)" means the state plan amendment authorized under section 1915(k) of the Social Security Act.

(25) "Complaint" means "complaint" as defined in OAR 411-318-0005.

(26) "Complaint Investigation" means "complaint investigation" as defined in OAR 411-318-0005.

(27) "Composite Score" means the score identified by an assessment of adaptive behavior as described in the definition for "adaptive behavior".

(28) "Comprehensive Services" means developmental disability services and supports that include 24-hour residential services provided in a licensed home, foster home, or through a supported living program. Comprehensive services are regulated by the Department alone or in combination with an associated Department-regulated employment or day support activities program. Comprehensive services are in-home services provided to an individual with an intellectual or developmental disability when the individual receives case management services from a CDDP.

Comprehensive services do not include support services for adults with intellectual or developmental disabilities enrolled in brokerages.

(29) "County of Origin" means:

(a) For an adult, the county of residence for the adult; and

(b) For a child, the county where the jurisdiction of the guardianship of the child exists.

(30) "Crisis" means:

(a) A situation as determined by a qualified services coordinator that may result in civil court commitment under ORS 427.215 to 427.306 and for which no appropriate alternative resources are available; or

(b) Risk factors described in OAR 411-320-0160(2) are present for which no appropriate alternative resources are available.

(31) "Crisis Diversion Services" mean short-term services provided for up to 90 days or on a one-time basis, directly related to resolving a crisis, and provided to, or on behalf of, an individual eligible to receive crisis services.

(32) "Crisis Plan" means the document generated by the CDDP or regional crisis diversion program that justifies and authorizes crisis supports and expenditures for an individual receiving crisis diversion services provided under these rules.

(33) "Current Documentation" means documentation relating to the intellectual or developmental disability of an individual in regards to the functioning of the individual within the last three years. Current documentation may include, but is not limited to, an ISP, Annual Plan, Behavior Support Plan, required assessment, educational records, medical assessments related to the intellectual or developmental disability of an individual, psychological evaluations, and assessments of adaptive behavior.

(34) "Day Support Activities" means "day support activities" as defined in OAR 411-345-0020.



(35) "Department" means the Department of Human Services.

(36) "Designated Representative" means any adult, such as a parent, family member, guardian, advocate, or other person authorized in writing by an individual to serve as the representative of the individual in connection with the provision of funded supports, who is not also a paid service provider for the individual. An individual is not required to appoint a designated representative.

(37) "Developmental Disability (DD)" means a neurological condition that:

(a) Originates before an individual is 22 years of age or 18 years of age for an intellectual disability;

(b) Originates in and directly affects the brain and has continued, or is expected to continue, indefinitely;

(c) Constitutes significant impairment in adaptive behavior as diagnosed and measured by a qualified professional as described in OAR 411-320-0080;

(d) Is not primarily attributed to other conditions including, but not limited to, a mental or emotional disorder, sensory impairment, motor impairment, substance abuse, personality disorder, learning disability, or Attention Deficit Hyperactivity Disorder (ADHD); and

(e) Requires training and support similar to an individual with an intellectual disability as described in OAR 411-320-0080.

(38) "Director" means the director of the Department of Human Services, Office of Developmental Disability Services or the designee of the Director.

(39) "Domain Score" means the score identified by an assessment of adaptive behavior as described in the definition for "adaptive behavior".

(40) "Eligibility Determination" means a decision by the CDDP or by the Department regarding the eligibility of a person for developmental disability services pursuant to OAR 411-320-0080 and is either a decision that a person is eligible or ineligible for developmental disability services.

(41) "Eligibility Specialist" means an employee of the CDDP or other agency that contracts with the county or Department to determine eligibility for developmental disability services.

(42) "Entry" means admission to a Department-funded developmental disability service.

(43) "Exit" means termination or discontinuance of a Department-funded developmental disability service by a Department licensed or certified provider.

(44) "Founded Reports" means the determination by the Department or Law Enforcement Authority (LEA), based on the evidence, that there is reasonable cause to believe that conduct in violation of the child abuse statutes or rules has occurred and such conduct is attributable to the person alleged to have engaged in the conduct.

(45) "Functional Needs Assessment":

(a) Means the comprehensive assessment or re-assessment that:

(A) Documents physical, mental, and social functioning; and

(B) Identifies risk factors, choices and preferences, service and support needs, strengths, and goals.

(b) The functional needs assessment may be the Adult Needs Assessment (ANA) or Child Needs Assessment (CNA) or other Department approved assessment.

(A) The Department incorporates Version B of the ANA dated July 1, 2014 into these rules by this reference. The ANA is maintained by the Department at:

[www.dhs.state.or.us/spd/tools/dd/cm/ANA\\_Adult\\_In-home.xls](http://www.dhs.state.or.us/spd/tools/dd/cm/ANA_Adult_In-home.xls).

(B) The Department incorporates Version B of the CNA dated July 1, 2014 into these rules by this reference. The CNA is maintained by the Department at:

[www.dhs.state.or.us/spd/tools/dd/cm/CNA\\_Child\\_In-home.xls](http://www.dhs.state.or.us/spd/tools/dd/cm/CNA_Child_In-home.xls).

(c) Printed copies may be obtained by calling (503) 945-6398 or writing the Department of Human Services, Developmental Disabilities, ATTN: Rule Coordinator, 500 Summer Street NE, Salem, OR 97301.

(46) "Guardian" means a parent for an individual less than 18 years of age or a person or agency appointed and authorized by a court to make decisions about services for an individual.

(47) "Health Care Representative" means:

(a) A health care representative as defined in ORS 127.505; or

(b) A person who has authority to make health care decisions for an individual under the provisions of OAR chapter 411, division 365.

(48) "Hearing" means a contested case hearing subject to OAR 137-003-0501 to 137-003-0700, which results in a final order.

(49) "History" means, for the purposes of an eligibility determination as defined in this rule, evidence of an intellectual disability prior to 18 years of age or an other developmental disability prior to 22 years of age, including all previous assessments and medical evaluations prior to the date of eligibility determination for developmental disability services.

(50) "Home" means the primary residence of an individual that is not under contract with the Department to provide services to the individual as a certified foster home or licensed or certified residential care facility, assisted living facility, nursing facility, or other residential support program site.

(51) "Home and Community-Based Waiver Services" mean the services approved by CMS in accordance with Section 1915(c) and 1115 of the Social Security Act.

(52) "IEP" means "Individualized Education Plan". An IEP is the written plan of instructional goals and objectives developed in conference with an individual, the parent or legal representative of an individual (as applicable), teacher, and a representative of the public school district.

(53) "Imminent Risk" means:

(a) An adult who is in crisis and shall be civilly court-committed to the Department under ORS 427.215 to 427.306 within 60 days without the use of crisis diversion services; or

(b) A child who is in crisis and shall require out-of-home placement within 60 days without the use of crisis diversion services.

(54) "Incident Report" means the written report of any injury, accident, act of physical aggression, use of protective physical intervention, or unusual incident involving an individual.

(55) "Independence" means the extent to which an individual exerts control and choice over his or her own life.

(56) "Individual" means an adult or a child with an intellectual or developmental disability applying for, or determined eligible for, developmental disability services.

(57) "Informal Adaptive Behavior Assessment" means:

(a) Observations of impairment in adaptive behavior recorded in the progress notes for an individual by a services coordinator or a trained eligibility specialist with at least two years of experience working with individuals with intellectual or developmental disabilities; or

(b) A standardized measurement of adaptive behavior such as a Vineland Adaptive Behavior Scale (VABS) or Adaptive Behavior Assessment System (ABAS) that is administered and scored by a social worker or other professional with a graduate degree and specific training and experience in individual assessment, administration, and test interpretation of adaptive behavior scales for individuals with intellectual or developmental disabilities.

(58) "Integration" as defined in ORS 427.005 means:

(a) The use by individuals with intellectual or developmental disabilities of the same community resources used by and available to other people;

(b) Participation by individuals with intellectual or developmental disabilities in the same community activities in which people without an intellectual or developmental disability participate, together with regular contact with people without an intellectual or developmental disability; and

(c) Individuals with intellectual or developmental disabilities reside in homes or home-like settings that are in proximity to community resources and foster contact with people in the community.

(59) "Intellectual Disability (ID)" means significantly subaverage general intellectual functioning defined as full scale intelligence quotient's (IQ's) 70 and under as measured by a qualified professional and existing concurrently with significant impairment in adaptive behavior directly related to an intellectual disability as described in OAR 411-320-0080 that is manifested during the developmental period prior to 18 years of age. Individuals with full scale IQ's 71-75 may be considered to have an intellectual disability if there is also significant impairment in adaptive behavior as diagnosed and measured by a licensed clinical or school psychologist as described in OAR 411-320-0080.

(60) "Intellectual Functioning" means functioning as assessed by one or more of the individually administered general intelligence tests developed for the purpose of measuring intelligence. For purposes of making eligibility determinations, intelligence tests do not include brief intelligence measurements.

(61) "Involuntary Transfer" means a service provider has made the decision to transfer an individual and the individual, or as applicable the legal or designated representative of the individual, has not given prior approval.

(62) "IQ" means intelligence quotient.

(63) "ISP" means "Individual Support Plan". An ISP includes the written details of the supports, activities, and resources required for an individual to achieve and maintain personal goals and health and safety. The ISP is developed at least annually to reflect decisions and agreements made during a person-centered process of planning and information gathering. The ISP reflects the services and supports that are important for an

individual to meet the needs of the individual identified through a functional needs assessment as well as the preferences of the individual for service providers, delivery, and frequency of the services and supports. The ISP is the plan of care for Medicaid purposes and reflects whether services are provided through a waiver, state plan, or natural supports.

(64) "ISP Team" means a team composed of an individual receiving services, the legal or designated representative of the individual (as applicable), services coordinator, and others chosen by the individual, or as applicable the legal or designated representative of the individual, such as service providers and family members.

(65) "Legal Representative":

(a) For a child means the parent of a child unless a court appoints another person or agency to act as the guardian of the child.

(b) For an adult means an attorney at law who has been retained by or for an adult individual, a power of attorney for the adult individual, or a person or agency authorized by a court to make decisions about services for an adult individual.

(66) "Level of Care" means an individual meets the following institutional level of care for an intermediate care facility for individuals with intellectual or developmental disabilities:

(a) The individual has an intellectual disability or a developmental disability as defined in this rule and meets the eligibility criteria in OAR 411-320-0080 for developmental disability services; and

(b) The individual has a significant impairment in one or more areas of adaptive behavior as determined in OAR 411-320-0080.

(67) "Licensed Medical Practitioner" means any of the following licensed professionals trained to diagnose a developmental disability:

(a) Medical Doctor (MD);

(b) Doctor of Osteopathic Medicine (DO);

- (c) Licensed Clinical Psychologist (Ph.D or Psy.D);
- (d) Nurse Practitioner (NP);
- (e) Physician Assistant (PA); or
- (f) Naturopathic Doctor (ND).

(68) "LMHA" means "local mental health authority". The LMHA is:

- (a) The county court or board of county commissioners of one or more counties that operate a CDDP;
- (b) The tribal council in the case of a Native American reservation;
- (c) The board of directors of a public or private corporation if the county declines to operate or contract for all or part of a CDDP; or
- (d) The advisory committee for the CDDP covering a geographic service area when managed by the Department.

(69) "Management Entity" means the CDDP or private corporation that operates the regional crisis diversion program, including acting as the fiscal agent for regional crisis diversion funds and resources.

(70) "Mandatory Reporter":

(a) Means any public or private official as defined in OAR 407-045-0260 who:

(A) Comes in contact with a child with or without an intellectual or developmental disability and has reasonable cause to believe the child has suffered abuse, or comes in contact with any person whom the public or private official has reasonable cause to believe abused the child, regardless of whether or not the knowledge of the abuse was gained in the official capacity of the public or private official.

(B) While acting in an official capacity, comes in contact with an adult with an intellectual or developmental disability and has

reasonable cause to believe the adult has suffered abuse, or comes in contact with any person whom the public or private official has reasonable cause to believe abused the adult.

(b) Nothing contained in ORS 40.225 to 40.295 affects the duty to report imposed by this definition, except that a psychiatrist, psychologist, clergy, attorney, or guardian ad litem appointed under ORS 419B.231 is not required to report if the communication is privileged under ORS 40.225 to 40.295.

(71) "Mechanical Restraint" means any mechanical device, material, object, or equipment that is attached or adjacent to the body of an individual that the individual cannot easily remove or easily negotiate around that restricts freedom of movement or access to the body of the individual.

(72) "Monitoring" means the periodic review of the implementation of services identified in an ISP or Annual Plan and the quality of services delivered by other organizations.

(73) "Motor Impairment" means impairment in the ability to move caused by trauma, disease, or any condition affecting the muscular-skeletal system, spinal cord, or sensory or motor nerves.

(74) "Natural Supports" means the parental responsibilities for a child and the voluntary resources available to an individual from the relatives, friends, significant others, neighbors, roommates, and the community of the individual that are not paid for by the Department.

(75) "Nursing Service Plan" means the plan that is developed by a registered nurse based on an initial nursing assessment, reassessment, or an update made to a nursing assessment as the result of a monitoring visit.

(a) The Nursing Service Plan is specific to an individual and identifies the diagnoses and health needs of the individual and any service coordination, teaching, or delegation activities.

(b) The Nursing Service Plan is separate from the ISP and any service plans developed by other health professionals.



(76) "OAAPI" means the Department of Human Services, Office of Adult Abuse Prevention and Investigation.

(77) "OHP" means Oregon Health Plan.

(78) "OHP Plus" means only the Medicaid benefit packages provided under OAR 410-120-1210(4)(a) and (b).

(79) "OIS" means "Oregon Intervention System". OIS is the system of providing training to people who work with designated individuals to provide elements of positive behavior support and non-aversive behavior intervention. OIS uses principles of pro-active support and describes approved protective physical intervention techniques that are used to maintain health and safety.

(80) "Older Adult" means an adult at least 65 years of age.

(81) "OSIP-M" means "Oregon Supplemental Income Program-Medical" as described in OAR 461-001-0030. OSIP-M is Oregon Medicaid insurance coverage for individuals who meet the eligibility criteria described in OAR chapter 461.

(82) "Person-Centered Planning":

(a) Means a timely and formal or informal process that is driven by an individual, includes people chosen by the individual, ensures that the individual directs the process to the maximum extent possible, and that the individual is enabled to make informed choices and decisions consistent with CFR 441.540.

(b) Person centered planning includes gathering and organizing information to reflect what is important to and for the individual and to help:

(A) Determine and describe choices about personal goals, activities, services, service providers, and lifestyle preferences;

(B) Design strategies and networks of support to achieve goals and a preferred lifestyle using individual strengths, relationships, and resources; 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 individual.

(83) "Personal Agent" means "personal agent" as defined in OAR 411-340-0020.

(84) "Physician" means a person licensed under ORS chapter 677 to practice medicine and surgery.

(85) "Positive Behavioral Theory and Practice" means a proactive approach to behavior and behavior interventions that:

(a) Emphasizes the development of functional alternative behavior and positive behavior intervention;

(b) Uses the least intervention possible;

(c) Ensures that abusive or demeaning interventions are never used; and

(d) Evaluates the effectiveness of behavior interventions based on objective data.

(86) "Productivity" as defined in ORS 427.005 means:

(a) Engagement in income-producing work by an individual that is measured through improvements in income level, employment status, or job advancement; or

(b) Engagement by an individual in work contributing to a household or community.

(87) "Program" means "service provider" as defined in this rule.

(88) "Progress Note" means a written record of an action taken by a services coordinator in the provision of case management, administrative tasks, or direct services to support an individual. A progress note may also be a recording of information related to the services, support needs, or circumstances of the individual which is necessary for the effective delivery of services.

(89) "Protection" means "protective services" as defined in this rule.

(90) "Protective Physical Intervention" means any manual physical holding of, or contact with, an individual that restricts freedom of movement.

(91) "Protective Services" mean the necessary actions taken as soon as possible to prevent subsequent abuse or exploitation of an individual, to prevent self-destructive acts, or to safeguard the person, property, and funds of an individual.

(92) "Provider" means "service provider" as defined in this rule.

(93) "Psychotropic Medication" means a medication the prescribed intent of which is to affect or alter thought processes, mood, or behavior including, but not limited to, anti-psychotic, antidepressant, anxiolytic (anti-anxiety), and behavior medications. The classification of a medication depends upon its stated, intended effect when prescribed.

(94) "Qualified Professional" means, for the purposes of OAR 411-320-0080, any of the following licensed professionals trained to make a diagnosis of a specific intellectual or developmental disability:

- (a) Licensed clinical psychologist (Ph.D., Psy.D.);
- (b) Medical doctor (MD);
- (c) Doctor of Osteopathic Medicine (DO); or
- (d) Nurse Practitioner (NP).

(95) "Quality Management Strategy" means the Quality Assurance Plan of the Department that includes the quality assurance strategies for the Department ([http://www.oregon.gov/DHS/spd/qa/app\\_h\\_qa.pdf](http://www.oregon.gov/DHS/spd/qa/app_h_qa.pdf)).

(96) "Region" means a group of Oregon counties defined by the Department that have a designated management entity to coordinate regional crisis and backup services and be the recipient and administration of funds for those services.

(97) "Regional Crisis Diversion Program" means the regional coordination of the management of crisis diversion services for a group of designated counties that is responsible for the management of the following developmental disability services:

(a) Crisis intervention services;

(b) Evaluation of requests for new or enhanced services for certain groups of individuals eligible for developmental disability services; and

(c) Other developmental disability services that the counties comprising the region agree are delivered more effectively or automatically on a regional basis.

(98) "Relief Care" means the intermittent services that are provided on a periodic basis for the relief of, or due to the temporary absence of, a person normally providing supports to an individual.

(99) "Restraint" means any physical hold, device, or chemical substance that restricts, or is meant to restrict, the movement or normal functioning of an individual.

(100) "Review" means a request for reconsideration of a decision made by a service provider, CDDP, support services brokerage, or the Department.

(101) "School Aged" means the age at which an individual is old enough to attend kindergarten through high school.

(102) "Self-Direction" means that an individual, or as applicable the legal or designated representative of the individual, has decision-making authority over services and takes direct responsibility for managing services with the assistance of a system of available supports that promotes personal choice and control over the delivery of waiver and state plan services.

(103) "Sensory Impairment" means loss or impairment of sight or hearing from any cause, including involvement of the brain.

(104) "Service Element" means a funding stream to fund programs or services including, but not limited to, foster care, 24-hour residential services, case management, supported living services, support services, crisis diversion services, in-home comprehensive services, or family support services.

(105) "Service Provider" means a public or private community agency or organization that provides recognized developmental disability services and is approved by the Department, or other appropriate agency, to provide these services.

(106) "Service Record" means the combined information related to an individual in accordance with OAR 411-320-0070.

(107) "Services" mean supportive services including, but not limited to, provision of room and board, supervision, protection, and assistance in bathing, dressing, grooming, eating, management of money, transportation, or recreation.

(108) "Services Coordinator" means an employee of a CDDP or other agency that contracts with the county or Department who provides case management services including, but not limited to, planning, procuring, coordinating, and monitoring services. A services coordinator acts as the proponent for individuals with intellectual or developmental disabilities and is the person-centered plan coordinator of an individual as defined in the Community First Choice state plan amendment.

(109) "SIB-R" means Scales of Independent Behavior-Revised.

(110) "Significantly Subaverage" means a score on a test of intellectual functioning that is two or more standard deviations below the mean for the test.

(111) "Skilled Areas" means a particular assessed score as described in the definition for "adaptive behavior".

(112) "SSI" means Supplemental Security Income.

(113) "State Plan" means Community First Choice or state plan personal care.

(114) "Substantiated" means an abuse investigation has been completed by the Department or the designee of the Department and the preponderance of the evidence establishes the abuse occurred.

(115) "Support" means the assistance that an individual requires, solely because of the affects of an intellectual or developmental disability, to maintain or increase independence, achieve community presence and participation, and improve productivity. Support is subject to change with time and circumstances.

(116) "Support Services" means "support services" as defined in OAR 411-340-0020.

(117) "Support Services Brokerage" means "brokerage" as defined in OAR 411-340-0020.

(118) "These Rules" mean the rules in OAR chapter 411, division 320.

(119) "Transfer" means movement of an individual from one service site to another service site administered or operated by the same service provider.

(120) "Transition Plan" means the written plan of services and supports for the period of time between the entry of an individual into a particular service and the development of an ISP for the individual. The Transition Plan is approved by a services coordinator and includes a summary of the services necessary to facilitate adjustment to the services offered, the supports necessary to ensure health and safety, and the assessments and consultations necessary for ISP development.

(121) "U.S. Citizen" means an individual that meets the criteria in OAR 461-120-0110. A U.S. Citizen includes:

- (a) An individual born in the United States, Puerto Rico, Guam, Northern Mariana Islands, Virgin Islands, American Samoa, or Swains Island;

(b) A foreign-born child less than 18 years of age residing in the United States with his or her birth or adoptive parents, at least one of whom is a U.S. citizen by birth or naturalization;

(c) An individual granted citizenship status by Immigration and Naturalization Services (INS);

(d) A qualified non-citizen as described in OAR 461-120-0125;

(e) A citizen of Puerto Rico, Guam, Virgin Islands, or Saipan, Tinian, Rota, or Pagan of the Northern Mariana Islands; or

(f) A national from American Samoa or Swains Island.

(122) "Unusual Incident" means any incident involving an individual that includes serious illness or an accident, death, injury or illness requiring inpatient or emergency hospitalization, a suicide attempt, a fire requiring the services of a fire department, an act of physical aggression, or any incident requiring an abuse investigation.

(123) "VABS" means Vineland Adaptive Behavior Scale.

(124) "Variance" means the temporary exception from a regulation or provision of these rules that may be granted by the Department as described in OAR 411-320-0200.

(125) "Waiver Services" means "home and community-based waiver services" as defined in this rule.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-695

### **411-320-0030 Organization and Program Management** *(Amended 12/28/2013)*

(1) ORGANIZATION AND INTERNAL MANAGEMENT. Each service provider of community developmental disability services funded by the Department must have written standards governing the operation and

management of the CDDP. Such standards must be up to date, available upon request, and include:

(a) An up-to-date organization chart showing lines of authority and responsibility from the LMHA to the CDDP manager and the components and staff within the CDDP;

(b) Position descriptions for all staff providing community developmental disability services;

(c) Personnel policies and procedures concerning:

(A) Recruitment and termination of employees;

(B) Employee compensation and benefits;

(C) Employee performance appraisals, promotions, and merit pay;

(D) Staff development and training;

(E) Employee conduct, including the requirement that abuse of an individual by an employee, staff, or volunteer of the CDDP is prohibited and is not condoned or tolerated; and

(F) Reporting of abuse, including the requirement that any employee of the CDDP is to report incidents of abuse when the employee comes in contact with and has reasonable cause to believe that an individual has suffered abuse. Notification of mandatory reporting status must be made at least annually to all employees and documented on forms provided by the Department.

(2) MANAGEMENT PLAN. The CDDP must maintain a current management plan assigning responsibility for the program management functions and duties described in this rule. The management plan must:

(a) Consider the unique organizational structure, policies, and procedures of the CDDP;



(b) Assure that the functions and duties are assigned to people who have the knowledge and experience necessary to perform them, as well as ensuring that the functions are implemented; and

(c) Reflect implementation of minimum quality assurance activities described in OAR 411-320-0045 that support the Department's Quality Management Strategy for meeting CMS' waiver quality assurances as required by 42 CFR 441.301 and 441.302.

### (3) PROGRAM MANAGEMENT.

(a) Staff delivering developmental disability services must be organized under the leadership of a designated CDDP manager and receive clerical services sufficient to perform their required duties.

(b) The LMHA, public entity, or the public or private corporation operating the CDDP must designate a full-time employee who must, on at least a part-time basis, be responsible for management of developmental disability services within a specific geographic service area.

(c) In addition to other duties as may be assigned in the area of developmental disability services, the CDDP must at a minimum develop and assure:

(A) Implementation of plans as may be needed to provide a coordinated and efficient use of resources available to serve individuals;

(B) Maintenance of positive and cooperative working relationships with legal and designated representatives, families, service providers, support services brokerages, the Department, local government, and other state and local agencies with an interest in developmental disability services;

(C) Implementation of programs funded by the Department to encourage pursuit of defined program outcomes and monitor the programs to assure service delivery that is in compliance with related contracts and applicable local, state, and federal requirements;

(D) Collection and timely reporting of information as may be needed to conduct business with the Department, including but not limited to information needed to license foster homes, collect federal funds supporting services, and investigate complaints related to services or suspected abuse; and

(E) Use of procedures that attempt to resolve complaints involving individuals or organizations that are associated with developmental disability services.

(4) QUALIFIED STAFF. Each CDDP must provide a qualified CDDP manager, services coordinator, eligibility specialist, and abuse investigator specialist for adults with intellectual or developmental disabilities, or have an agreement with another CDDP to provide a qualified eligibility specialist and abuse investigator specialist for adults with intellectual or developmental disabilities.

(a) CDDP MANAGER.

(A) The CDDP manager must have knowledge of the public service system for developmental disability services in Oregon and at least:

(i) A bachelor's degree in behavioral science, social science, health science, special education, public administration, or human service administration and a minimum of four years experience with at least two of those years of experience in developmental disability services that provided recent experience in program management, fiscal management, and staff supervision; or

(ii) Six years of experience with staff supervision; or

(iii) Six years of experience in technical or professional level staff work related to developmental disability services.

(B) On an exceptional basis, the CDDP may hire a person who does not meet the qualifications in subsection (A) of this section if the county and the Department have mutually agreed on a training and technical assistance plan that assures that the person quickly acquires all needed skills and experience.

(C) When the position of a CDDP manager becomes vacant, an interim CDDP manager must be appointed to serve until a permanent CDDP manager is appointed. The CDDP must request a variance as described in section (7) of this rule if the person appointed as interim CDDP manager does not meet the qualifications in subsection (A) of this section and the term of the appointment totals more than 180 days.

(b) CDDP SUPERVISOR. The CDDP supervisor (when designated) must have knowledge of the public service system for developmental disability services in Oregon and at least:

(A) A bachelor's degree or equivalent course work in a field related to management such as business or public administration, or a field related to developmental disability services may be substituted for up to three years required experience; or

(B) Five years of experience in staff supervision or five years of experience in technical or professional level staff work related to developmental disability services.

(c) SERVICES COORDINATOR. The services coordinator must have knowledge of the public service system for developmental disability services in Oregon and at least:

(A) A bachelor's degree in behavioral science, social science, or a closely related field; or

(B) A bachelor's degree in any field and one year of human services related experience, such as work providing assistance to individuals and groups with issues such as economical disadvantages, employment, abuse and neglect, substance

abuse, aging, disabilities, prevention, health, cultural competencies, or housing; or

(C) An associate's degree in a behavioral science, social science, or a closely related field and two years of human services related experience, such as work providing assistance to individuals and groups with issues such as economical disadvantages, employment, abuse and neglect, substance abuse, aging, disabilities, prevention, health, cultural competencies, or housing; or

(D) Three years of human services related experience, such as work providing assistance to individuals and groups with issues such as economical disadvantages, employment, abuse and neglect, substance abuse, aging, disabilities, prevention, health, cultural competencies, or housing.

(d) ELIGIBILITY SPECIALIST. The eligibility specialist must have knowledge of the public service system for developmental disability services in Oregon and at least:

(A) A bachelor's degree in behavioral science, social science, or a closely related field; or

(B) A bachelor's degree in any field and one year of human services related experience; or

(C) An associate's degree in behavioral science, social science, or a closely related field and two years of human services related experience; or

(D) Three years of human services related experience.

(e) ABUSE INVESTIGATOR SPECIALIST. The abuse investigator specialist must have at least:

(A) A bachelor's degree in human science, social science, behavioral science, or criminal science and two years of human services, law enforcement, or investigative experience; or

(B) An associate's degree in human science, social science, behavioral science, or criminal science and four years of human services, law enforcement, or investigative experience.

(5) EMPLOYMENT APPLICATION. An application for employment at the CDDP must inquire whether an applicant has had any founded reports of child abuse or substantiated abuse.

(6) BACKGROUND CHECKS.

(a) Any employee, volunteer, advisor of the CDDP, or any subject individual defined by OAR 407-007-0210, including staff who are not identified in this rule but use public funds intended for the operation of the CDDP, who has or shall have contact with a recipient of CDDP services, must have an approved background check in accordance with OAR 407-007-0200 to 407-007-0370 and ORS 181.534.

(A) Effective July 28, 2009, the CDDP may not use public funds to support, in whole or in part, any employee, volunteer, advisor of the CDDP, or any subject individual defined by OAR 407-007-0210, who shall have contact with a recipient of CDDP services and who has been convicted of any of the disqualifying crimes listed in OAR 407-007-0275.

(B) Effective July 28, 2009, a person does not meet the qualifications described in this rule if the person has been convicted of any of the disqualifying crimes listed in OAR 407-007-0275.

(C) Any employee, volunteer, advisor of the CDDP, or any subject individual defined by OAR 407-007-0210 must self-report any potentially disqualifying condition as described in OAR 407-007-0280 and OAR 407-007-0290. The person must notify the Department or the Department's designee within 24 hours.

(b) Subsections (A) and (B) of section (a) do not apply to employees who were hired prior to July 28, 2009 that remain in the current position for which the employee was hired.

(7) VARIANCE. The CDDP must submit a written variance request to the Department prior to employing a person not meeting the minimum qualifications in section (4) of this rule. A variance request may not be requested for sections (5) and (6) of this rule. The written variance request must include:

(a) An acceptable rationale for the need to employ a person who does not meet the minimum qualifications in section (4) of this rule; and

(b) A proposed alternative plan for education and training to correct the deficiencies.

(A) The proposal must specify activities, timelines, and responsibility for costs incurred in completing the alternative plan.

(B) A person who fails to complete the alternative plan for education and training to correct the deficiencies may not fulfill the requirements for the qualifications.

(8) STAFF DUTIES.

(a) SERVICES COORDINATOR DUTIES. The duties of the services coordinator must be specified in the employee's job description and at a minimum include:

(A) The delivery of case management services to individuals as described in OAR 411-320-0090;

(B) Assisting the CDDP manager in monitoring the quality of services delivered within the county; and

(C) Assisting the CDDP manager in the identification of existing and insufficient service delivery resources or options.

(b) ELIGIBILITY SPECIALIST DUTIES. The duties of the eligibility specialist must be specified in the employee's job description and at a minimum include:

(A) Completing intake and eligibility determination for individuals applying for developmental disability services;

(B) Completing eligibility redetermination for individuals requesting continuing developmental disability services; and

(C) Assisting the CDDP manager in the identification of existing and insufficient service delivery resources or options.

(c) ABUSE INVESTIGATOR SPECIALIST DUTIES. The duties of the abuse investigator specialist must be specified in the employee's job description and at a minimum include:

(A) Conducting abuse investigation and protective services for adult individuals with intellectual or developmental disabilities enrolled in, or previously eligible and voluntarily terminated from, developmental disability services;

(B) Assisting the CDDP manager in monitoring the quality of services delivered within the county; and

(C) Assisting the CDDP manager in the identification of existing and insufficient service delivery resources or options.

(9) STAFF TRAINING. Qualified staff of the CDDP must maintain and enhance their knowledge and skills through participation in education and training. The Department provides training materials and the provision of training may be conducted by the Department or CDDP staff, depending on available resources.

(a) CDDP MANAGER TRAINING. The CDDP manager must participate in a basic training sequence and be knowledgeable of the duties of the staff they supervise and the developmental disability services they manage. The basic training sequence is not a substitute for the normal procedural orientation that must be provided by the CDDP to the new CDDP manager.

(A) The orientation provided by the CDDP to a new CDDP manager must include:

(i) An overview of developmental disability services and related human services within the county;

(ii) An overview of the Department's rules governing the CDDP;

(iii) An overview of the Department's licensing and certification rules for service providers;

(iv) An overview of the enrollment process and required documents needed for enrollment into the Department's payment and reporting systems;

(v) A review and orientation of Medicaid, SSI, Social Security Administration, home and community-based waiver and state plan services, OHP, and the individual support planning processes; and

(vi) A review (prior to having contact with individuals) of the CDDP manager's responsibility as a mandatory reporter of abuse, including abuse of individuals with intellectual or developmental disabilities, individuals with mental illness, older adults, individuals with physical disabilities, and children.

(B) The CDDP manager must attend the following trainings endorsed or sponsored by the Department within the first year of entering into the position:

(i) Case management basics; and

(ii) ISP training.

(C) The CDDP manager must continue to enhance his or her knowledge, as well as maintain a basic understanding of developmental disability services and the skills, knowledge, and responsibilities of the staff they supervise.

(i) Each CDDP manager must participate in a minimum of 20 hours per year of additional Department-sponsored



training or other training in the areas of intellectual or developmental disabilities.

(ii) Each CDDP manager must attend trainings to maintain a working knowledge of system changes in the area the CDDP manager is managing or supervising.

(b) CDDP SUPERVISOR TRAINING. The CDDP supervisor (when designated) must participate in a basic training sequence and be knowledgeable of the duties of the staff they supervise and of the developmental disability services they manage. The basic training sequence is not a substitute for the normal procedural orientation that must be provided by the CDDP to the new CDDP supervisor.

(A) The orientation provided by the CDDP to a new CDDP supervisor must include:

(i) An overview of developmental disability services and related human services within the county;

(ii) An overview of the Department's rules governing the CDDP;

(iii) An overview of the Department's licensing and certification rules for service providers;

(iv) An overview of the enrollment process and required documents needed for enrollment into the Department's payment and reporting systems;

(v) A review and orientation of Medicaid, SSI, Social Security Administration, home and community-based waiver and state plan services, OHP, and the individual support planning processes; and

(vi) A review (prior to having contact with individuals) of the CDDP supervisor's responsibility as a mandatory reporter of abuse, including abuse of individuals with intellectual or developmental disabilities, individuals with

mental illness, older adults, individuals with physical disabilities, and children.

(B) The CDDP supervisor must attend the following trainings endorsed or sponsored by the Department within the first year of entering into the position:

- (i) Case management basics; and
- (ii) ISP training.

(C) The CDDP supervisor must continue to enhance his or her knowledge, as well as maintain a basic understanding of developmental disability services and the skills, knowledge, and responsibilities of the staff they supervise.

- (i) Each CDDP supervisor must participate in a minimum of 20 hours per year of additional Department-sponsored training or other training in the areas of intellectual or developmental disabilities.
- (ii) Each CDDP supervisor must attend trainings to maintain a working knowledge of system changes in the area the CDDP supervisor is managing or supervising.

(c) SERVICES COORDINATOR TRAINING. The services coordinator must participate in a basic training sequence. The basic training sequence is not a substitute for the normal procedural orientation that must be provided by the CDDP to the new services coordinator.

(A) The orientation provided by the CDDP to a new services coordinator must include:

- (i) An overview of the role and responsibilities of a services coordinator;
- (ii) An overview of developmental disability services and related human services within the county;

(iii) An overview of the Department's rules governing the CDDP;

(iv) An overview of the Department's licensing and certification rules for service providers;

(v) An overview of the enrollment process and required documents needed for enrollment into the Department's payment and reporting systems;

(vi) A review and orientation of Medicaid, SSI, Social Security Administration, home and community-based waiver and state plan services, OHP, and the individual support planning processes for the services they coordinate; and

(vii) A review (prior to having contact with individuals) of the services coordinator's responsibility as a mandatory reporter of abuse, including abuse of individuals with intellectual or developmental disabilities, individuals with mental illness, older adults, individuals with physical disabilities, and children.

(B) The services coordinator must attend the following trainings endorsed or sponsored by the Department within the first year of entering into the position:

(i) Case management basics; and

(ii) ISP training (for services coordinators providing services to individuals in comprehensive services).

(C) The services coordinator must continue to enhance his or her knowledge, as well as maintain a basic understanding of developmental disability services and the skills, knowledge, and responsibilities necessary to perform the position. Each services coordinator must participate in a minimum of 20 hours per year of Department-sponsored training or other training in the areas of intellectual or developmental disabilities.

(d) ELIGIBILITY SPECIALIST TRAINING. The eligibility specialist must participate in a basic training sequence. The basic training sequence is not a substitute for the normal procedural orientation that must be provided by the CDDP to the new eligibility specialist.

(A) The orientation provided by the CDDP to a new eligibility specialist must include:

(i) An overview of eligibility criteria and the intake process;

(ii) An overview of developmental disability services and related human services within the county;

(iii) An overview of the Department's rules governing the CDDP;

(iv) An overview of the Department's licensing and certification rules for service providers;

(v) An overview of the enrollment process and required documents needed for enrollment into the Department's payment and reporting systems;

(vi) A review and orientation of Medicaid, SSI, Social Security Administration, home and community-based waiver and state plan services, and OHP; and

(vii) A review (prior to having contact with individuals) of the eligibility specialist's responsibility as a mandatory reporter of abuse, including abuse of individuals with intellectual or developmental disabilities, individuals with mental illness, older adults, individuals with physical disabilities, and children.

(B) The eligibility specialist must attend and complete eligibility core competency training within the first year of entering into the position and demonstrate competency after completion of core competency training. Until completion of eligibility core competency training, or if competency is not demonstrated, the eligibility specialist must consult with another trained eligibility

specialist or consult with a Department diagnosis and evaluation coordinator when making eligibility determinations.

(C) The eligibility specialist must continue to enhance his or her knowledge, as well as maintain a basic understanding of the skills, knowledge, and responsibilities necessary to perform the position.

(i) Each eligibility specialist must participate in Department-sponsored trainings for eligibility on an annual basis.

(ii) Each eligibility specialist must participate in a minimum of 20 hours per year of Department-sponsored training or other training in the areas of intellectual or developmental disabilities.

(e) ABUSE INVESTIGATOR SPECIALIST TRAINING. The abuse investigator specialist must participate in core competency training. Training materials are provided by OAAPI. The core competency training is not a substitute for the normal procedural orientation that must be provided by the CDDP to the new abuse investigator specialist.

(A) The orientation provided by the CDDP to a new abuse investigator specialist must include:

(i) An overview of developmental disability services and related human services within the county;

(ii) An overview of the Department's rules governing the CDDP;

(iii) An overview of the Department's licensing and certification rules for service providers;

(iv) A review and orientation of Medicaid, SSI, Social Security Administration, home and community-based waiver and state plan services, OHP, and the individual support planning processes; and

(v) A review (prior to having contact with individuals) of the abuse investigator specialist's responsibility as a mandatory reporter of abuse, including abuse of individuals with intellectual or developmental disabilities, individuals with mental illness, older adults, individuals with physical disabilities, and children.

(B) The abuse investigator specialist must attend and pass core competency training within the first year of entering into the position and demonstrate competency after completion of core competency training. Until completion of core competency training, or if competency is not demonstrated, the abuse investigator specialist must consult with OAAPI prior to completing the abuse investigation and protective services report.

(C) The abuse investigator specialist must continue to enhance his or her knowledge, as well as maintain a basic understanding of the skills, knowledge, and responsibilities necessary to perform the position. Each abuse investigator specialist must participate in quarterly meetings held by OAPPI. At a minimum, one meeting per year must be attended in person.

(f) ATTENDANCE. The CDDP manager must assure the attendance of the CDDP supervisor (when designated), services coordinator, eligibility specialist, and abuse investigator specialist at Department-mandated training.

(g) DOCUMENTATION. The CDDP must keep documentation of required training in the personnel files of the individual employees including the CDDP manager, CDDP supervisor (when designated), services coordinator, eligibility specialist, abuse investigator specialist, and other employees providing services to individuals.

(10) ADVISORY COMMITTEE. Each CDDP must have an advisory committee.

(a) The advisory committee must meet at least quarterly.

(b) The membership of the advisory committee must be broadly representative of the community with a balance of age, sex, ethnic, socioeconomic, geographic, professional, and consumer interests represented. Membership must include advocates for individuals as well as individuals and the individuals' families.

(c) The advisory committee must advise the LMHA, CDDP director, and CDDP manager on community needs and priorities for services, and assist in planning, reviewing, and evaluating services, functions, duties, and quality assurance activities described in the CDDP's management plan.

(d) When the Department or a private corporation is operating the CDDP, the advisory committee must advise the LMHA, CDDP director, and CDDP manager on community needs and priorities for services, and assist in planning, reviewing, and evaluating services, functions, duties, and quality assurance activities described in the CDDP's management plan.

(e) The advisory committee may function as the disability issues advisory committee as described in ORS 430.625 if so designated by the LMHA.

(11) NEEDS ASSESSMENT, PLANNING, AND COORDINATION. Upon the Department's request, the CDDP must assess local needs for services to individuals and must submit planning and assessment information to the Department.

(12) CONTRACTS.

(a) If the CDDP, or any of the CDDPs services as described in the Department's contract with the LMHA, is not operated by the LMHA, there must be a contract between the LMHA and the organization operating the CDDP or the services, or a contract between the Department and the operating CDDP. The contract must specify the authorities and responsibilities of each party and conform to the requirements of the Department's rules pertaining to contracts or any contract requirement with regard to operation and delivery of services.

(b) The CDDP may purchase certain services for an individual from a qualified service provider without first providing an opportunity for competition among other service providers if the service provider is selected by the individual or the individual's family or legal or designated representative (as applicable).

(A) The service provider selected must also meet Department certification or licensing requirements to provide the type of service to be contracted.

(B) There must be a contract between the service provider and the CDDP that specifies the authorities and responsibilities of each party and conforms to the requirements of the Department's rules pertaining to contracts or any contract requirement with regard to operation and delivery of services.

(c) When a CDDP contracts with a public agency or private corporation for delivery of developmental disability services, the CDDP must include in the contract only terms that are substantially similar to model contract terms established by the Department. The CDDP may not add contractual requirements, including qualifications for contractor selection that are nonessential to the services being provided under the contract. The CDDP must specify in contracts with service providers that disputes arising from these limitations must be resolved according to the complaint procedures contained in OAR 411-320-0170. For purposes of this rule, the following definitions apply:

(A) "Model contract terms established by the Department" means all applicable material terms and conditions of the omnibus contract, as modified to appropriately reflect a contractual relationship between the service provider and CDDP and any other requirements approved by the Department as local options under procedures established in these rules.

(B) "Substantially similar to model contract terms" means that the terms developed by the CDDP and the model contract terms require the service provider to engage in approximately



the same type activity and expend approximately the same resources to achieve compliance.

(C) "Nonessential to the services being provided" means requirements that are not substantially similar to model contract terms developed by the Department.

(d) As a local option, the CDDP may impose a requirement on a public agency or private corporation delivering developmental disability services under a contract with the CDDP that is in addition to or different from requirements specified in the omnibus contract if all of the following conditions are met:

(A) The CDDP has provided the affected contractors with the text of the proposed local option as it is to appear in the contract. The proposed local option must include:

(i) The date upon which the local option is to become effective; and

(ii) A complete written description of how the local option is to improve individual independence, productivity, or integration or the protection of individual health, safety, or rights;

(B) The CDDP has sought input from the affected contractors concerning ways the proposed local option impacts individual services;

(C) The CDDP, with assistance from the affected contractors, has assessed the impact on the operations and financial status of the contractors if the local option is imposed;

(D) The CDDP has sent a written request for approval of the proposed local option to the Department's director that includes:

(i) A copy of the information provided to the affected contractors;

(ii) A copy of any written comments and a complete summary of oral comments received from the affected contractors concerning the impact of the proposed local option; and

(iii) The text of the proposed local option as it is to appear in contracts with service providers, including the proposed date upon which the requirement is to become effective.

(E) The Department has notified the CDDP that the new requirement is approved as a local option for that program; and

(F) The CDDP has advised the affected contractors of their right and afforded them an opportunity to request mediation as provided in these rules before the local option is imposed.

(e) The CDDP may add contract requirements that the CDDP considers necessary to ensure the siting and maintenance of residential facilities in which individual services are provided. These requirements must be consistent with all applicable state and federal laws and regulations related to housing.

(f) The CDDP must adopt a dispute resolution policy that pertains to disputes arising from contracts with service providers funded by the Department and contracted through the CDDP. Procedures implementing the dispute resolution policy must be included in the contract with any such service provider.

### (13) FINANCIAL MANAGEMENT.

(a) There must be up-to-date accounting records for each developmental disability service accurately reflecting all revenue by source, all expenses by object of expense, and all assets, liabilities, and equities. The accounting records must be consistent with generally accepted accounting principles and conform to the requirements of OAR 309-013-0120 to 309-013-0220.

(b) There must be written statements of policy and procedure as are necessary and useful to assure compliance with any Department

administrative rules pertaining to fraud and embezzlement and financial abuse or exploitation of individuals.

(c) Billing for Title XIX funds must in no case exceed customary charges to private pay individuals for any like item or service.

(14) POLICIES AND PROCEDURES. There must be such other written and implemented statements of policy and procedure as necessary and useful to enable the CDDP to accomplish its service objectives and to meet the requirements of the contract with the Department, these rules, and other applicable standards and rules.

Stat. Auth.: ORS 409.050 and 430.662

Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, and 430.662 to 430.695

#### **411-320-0040 Program Responsibilities**

*(Temporary Effective 07/01/2014 to 12/28/2014)*

The CDDP must ensure the provision of the following services and system supports.

##### (1) ACCESS TO SERVICES.

(a) In accordance with the Civil Rights Act of 1964 (codified as 42 USC 2000d et seq.), any person may not be denied community developmental disability services on the basis of race, color, creed, gender, national origin, or duration of residence. CDDP contractors must comply with Section 504 of the Rehabilitation Act of 1973 (codified as 29 USC 794 and as implemented by 45 CFR Section 84.4) that states in part, "No qualified person must, on the basis of handicap, be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination under any program or activity that receives or benefits from federal financial assistance".

(b) Any individual determined eligible for developmental disability services by the CDDP must also be eligible for other community developmental disability services unless entry to the service is subject to diagnostic or developmental disability category or age restrictions based on predetermined criteria or contract limitations.

(2) COORDINATION OF COMMUNITY SERVICES. Planning and implementation of services for individuals served by the CDDP must be coordinated between components of the CDDP, other local and state human service agencies, and any other service providers as appropriate for the needs of the individual.

(3) CASE MANAGEMENT SERVICES. The CDDP must provide case management services to individuals who are eligible for and desire services.

(a) The CDDP may provide case management to individuals who are waiting for a determination of eligibility and reside in the county at the time they apply.

(b) Case management may be provided directly by the CDDP or under a contract between the CDDP and a service provider of case management services.

(c) If an individual is receiving services in more than one county, the county of origin must be responsible for case management services unless otherwise negotiated and documented in writing with the mutually agreed upon conditions.

(d) Case management services require an impartial point of view to fulfill the necessary functions of planning, procuring, monitoring, and protective services. Except as allowed under subsection (e) of this section, the case management program must be provided under an organizational structure that separates case management from other direct services for individuals. This separation may take one of the following forms:

(A) The CDDP may provide case management and subcontract for delivery of other direct services through one or more different organizations; or

(B) The CDDP may subcontract for delivery of case management through an unrelated organization and directly provide the other services or further subcontract these other

direct services through organizations that are not already under contract to provide case management services.

(e) The CDDP or other organization that provides case management services may also provide other direct services under one or more of the following circumstances:

(A) The CDDP coordinates the delivery of family support services for children less than 18 years of age living in the family home or comprehensive in-home supports for adults.

(B) The CDDP determines that an organization providing direct services is no longer able to continue providing services or the organization providing direct services is no longer willing or able to continue providing services and no other organization is able or willing to continue operations on 30 days notice.

(C) In order to develop new or expanded direct services for geographic service areas or populations because other local organizations are unwilling or unable to provide appropriate services.

(f) If the CDDP intends to perform direct services other than family support services or comprehensive in-home support, a variance must be prior authorized by the Department.

(A) It is assumed that the CDDP provides family support services or comprehensive in-home supports described in subsection (e)(A) of this section. If the CDDP does not provide one or both of these services, the CDDP must submit a written variance request to the Department for prior approval that describes how the services are going to be provided.

(B) If the circumstances described in subsection (e)(B) of this rule exist, the CDDP must propose a plan to the Department for review, including action to assume responsibility for case management services and the mechanism for addressing potential conflict of interest.

(C) If the CDDP providing case management services delivers other services as allowed under subsection (e)(C) of this section, the CDDP must submit a written variance request to the Department for prior approval that includes the action to assume responsibility for case management services and the mechanism for addressing potential conflict of interest.

(g) If the CDDP providing case management services delivers other services as allowed under subsections (e)(B) and (e)(C) of this section, the CDDP must solicit other organizations to assume responsibility for delivery of these other services through a request for proposal (RFP) at least once every two years. When an RFP is issued, a copy of the RFP must be sent to the Department. The Department must be notified of the results of the solicitation, including the month and year of the next solicitation if there are no successful applicants.

(h) If the CDDP wishes to continue providing case management and other direct services without conducting a solicitation as described in subsection (g) of this section, the CDDP must submit a written variance request to the Department for prior approval that describes how conflict of roles are to be managed within the CDDP.

(i) If the CDDP also operates a support services brokerage, the CDDP must submit a written variance request to the Department for prior approval that includes the mechanism for addressing potential conflict of interest.

(4) FAMILY SUPPORT SERVICES. The CDDP must ensure the availability of a program for family support services in accordance with OAR chapter 411, division 305.

(5) ABUSE AND PROTECTIVE SERVICES.

(a) The CDDP must assure that abuse investigations for adults with intellectual or developmental disabilities are appropriately reported and conducted by trained staff according to statute and administrative rules. When there is reason to believe a crime has been committed, the CDDP must report to law enforcement.

(b) The CDDP must report any suspected or observed abuse of a child directly to the Department or local law enforcement.

(6) FOSTER HOMES. The CDDP must recruit applicants to operate foster homes and maintain forms and procedures necessary to license or certify foster homes. The CDDP must maintain copies of the following records:

(a) Initial and renewal applications for a foster home;

(b) All inspection reports completed by the CDDP, including required annual renewal inspection and any other inspections;

(c) General information about the foster home;

(d) Documentation of references, classification information, credit check (if necessary), background check, and training for service providers and substitute caregivers;

(e) Documentation of foster care exams for adult foster home providers;

(f) Correspondence;

(g) Any meeting notes;

(h) Financial records;

(i) Annual agreement or contract;

(j) Legal notices and final orders for rule violations, conditions, denials, or revocations (if any); and

(k) Copies of the annual license or certificate for the foster home.

(7) CONTRACT MONITORING. The CDDP must monitor all community developmental disability subcontractors to assure that:

(a) Services are provided as specified in the contract between the CDDP and the Department; and

(b) Services are in compliance with these rules and other applicable Department rules.

(8) INFORMATION AND REFERRAL. The CDDP must provide information and referral services to individuals, families of individuals, and interested others.

(9) AGENCY COORDINATION. The CDDP must assure coordination with other agencies to develop and manage resources within the county or region to meet the needs of individuals.

(10) SERVICE DELIVERY COMPLAINTS. The CDDP must implement procedures to address individual or family complaints regarding service delivery that have not been resolved using the complaint procedures (informal or formal) of the CDDP subcontractor. The complaint procedures must be consistent with the requirements in OAR 411-318-0015.

(11) COMPREHENSIVE IN-HOME SUPPORTS. The CDDP must ensure the availability of comprehensive in-home supports in accordance with OAR chapter 411, division 330.

(12) EMERGENCY PLANNING. The CDDP must ensure the availability of a written emergency procedure and disaster plan for meeting all civil or weather emergencies and disasters. The emergency procedure and disaster plan must be immediately available to the CDDP manager and employees. The emergency procedure and disaster plan must:

(a) Be integrated with the county emergency preparedness plan, where appropriate;

(b) Include provisions on coordination with all developmental disability service provider agencies in the county and any Department offices, as appropriate;

(c) Include provisions for identifying individuals most vulnerable; and

(d) Include any plans for health and safety checks, emergency assistance, and any other plans that are specific to the type of emergency.



Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-695

### **411-320-0045 Quality Assurance Responsibilities**

*(Amended 12/28/2013)*

(1) Each CDDP must draft a local CDDP management plan as described in OAR 411-320-0030 that supports the Department's Quality Management Strategy for meeting CMS' six waiver quality assurances, as required and defined by 42 CFR 441.301 and 441.302. CMS' six waiver assurances are:

- (a) Administrative authority;
- (b) Level of care;
- (c) Qualified service providers;
- (d) Service plans;
- (e) Health and welfare; and
- (f) Financial accountability.

(2) Each CDDP must implement, maintain, and monitor minimum quality assurance activities, as required by the Department and set forth in section (3) of this rule. CDDPs may conduct additional quality assurance activities that consider local community needs and priorities for services and the unique organizational structure, policies, and procedures of the CDDP.

(3) The CDDP must conduct, monitor, and report the outcomes and any remediation as a result of the following Department required activities:

- (a) Individual case file reviews;
- (b) Customer satisfaction surveys administered at least every two years;
- (c) Service provider file reviews;

(d) Analysis of SERT (Serious Event Review Team) system data which may include:

- (A) Review by service provider, location, reason, status, outcome, and follow-up;
- (B) Identification of trends;
- (C) Review of timely reporting of abuse allegations; and
- (D) Coordination of delivery of information requested by the Department, such as the Serious Event Review Team (SERT).

Stat. Auth.: ORS 409.050 and 430.662

Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, and 430.662 to 430.695

#### **411-320-0050 Management of Regional Services**

*(Amended 12/28/2013)*

(1) INTERGOVERNMENTAL AGREEMENT. The management entity for a group of counties to deliver crisis diversion services, community training, quality assurance activities, or other services, must have an intergovernmental agreement with each affiliated CDDP.

(2) REGIONAL PLAN. The CDDP or private corporation acting as the management entity for the region must prepare, in conjunction with affiliated CDDP's, a plan detailing the services that are to be administered regionally. The regional plan must be updated when needed and submitted to the Department for approval. The regional plan must include:

- (a) A description of how services are to be administered;
- (b) An organizational chart and staffing plan; and
- (c) A detailed budget, on forms provided by the Department.

(3) IMPLEMENTATION. The CDDP or private corporation acting as the management entity for the region must work in conjunction with the

affiliated CDDP's to implement the regional plan as approved by the Department, within available resources.

(4) **MANAGEMENT STANDARDS.** The region, through the management entity and the affiliated CDDP partners, must maintain compliance with the management standards outlined in OAR 411-320-0030 and this rule.

Stat. Auth.: ORS 409.050 and 430.662

Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, and 430.662 to 430.695

### **411-320-0060 Individual Rights**

*(Temporary Effective 07/01/2014 to 12/28/2014)*

(1) The CDDP must have and implement written policies and procedures that protect the individual rights described in section (4) of this rule.

(2) Upon enrollment, request, and annually thereafter, the individual rights described in section (4) of this rule must be provided to an individual and the legal or designated representative of an individual.

(3) The individual rights described in this rule apply to all individuals eligible for or receiving developmental disability services. A parent or guardian may place reasonable limitations on the rights of a child.

(4) While receiving developmental disability services, an individual has the right to:

(a) Be free and protected from abuse or neglect and to report any incident of abuse or neglect without being subject to retaliation;

(b) Be free from seclusion, unauthorized training or treatment, protective physical intervention, chemical restraint, or mechanical restraint and assured that medication is administered only for the clinical needs of the individual as prescribed by a health care provider, unless an imminent risk of physical harm to the individual or others exists and only for as long as the imminent risk continues;

(c) Individual choice for an adult to consent to or refuse treatment, unless incapable and then an alternative decision maker must be

allowed to consent to or refuse treatment for the adult. For a child, the parent or guardian of the child must be allowed to consent to or refuse treatment, except as described in ORS 109.610 or limited by court order;

(d) Informed, voluntary, written consent prior to receiving services, except in a medical emergency or as otherwise permitted by law;

(e) Informed, voluntary, written consent prior to participating in any experimental programs;

(f) A humane service environment that affords reasonable protection from harm, reasonable privacy in all matters that do not constitute a documented health and safety risk to the individual, and access and the ability to engage in private communications with any public or private rights protection program, services coordinator, CDDP representative, and others chosen by the individual, through personal visits, mail, telephone, or electronic means;

(g) Contact and visits with legal and medical professionals, legal or designated representatives, family members, friends, advocates, and others chosen by the individual, except where prohibited by court order;

(h) Participate regularly in the community and use community resources, including recreation, developmental disability services, employment services and day support activities, school, educational opportunities, and health care resources;

(i) Access to a free and appropriate public education for children and adults less than 21 years of age, including a procedure for school attendance or refusal to attend.

(j) Reasonable and lawful compensation for performance of labor, except personal housekeeping duties;

(k) Manage the individual's own money and financial affairs unless the right has been taken away by court order or other legal procedure;

(l) Keep and use personal property, personal control and freedom regarding personal property, and a reasonable amount of personal storage space;

(m) Adequate food, housing, clothing, medical and health care, supportive services, and training;

(n) Seek a meaningful life by choosing from available services, service settings, and service providers consistent with the support needs of the individual identified through a functional needs assessment, and enjoying the benefits of community involvement and community integration:

(A) Services must promote independence and dignity and reflect the age and preferences of the individual; and

(B) The services must be provided in a setting and under conditions that are most cost effective and least restrictive to the liberty of the individual, least intrusive to the individual, and that provide for self-directed decision-making and control of personal affairs appropriate to the preferences, age, and identified support needs of the individual;

(o) An individualized written plan for services created through a person-centered planning process, services based upon the plan, and periodic review and reassessment of service needs;

(p) Ongoing opportunity to participate in the planning of services in a manner appropriate to the capabilities of the individual, including the right to participate in the development and periodic revision of the plan for services, the right to be provided with a reasonable explanation of all service considerations through choice advising, and the right to invite others chosen by the individual to participate in the plan for services;

(q) Request a change in the plan for services;

(r) A timely decision upon request for a change in the plan for services;

(s) Advance written notice of any action that terminates, suspends, reduces, or denies a service or request for service, and notification of other available sources for necessary continued services;

(t) A hearing to challenge an action that terminates, suspends, reduces, or denies a service or request for service;

(u) Exercise all rights set forth in ORS 426.385 and 427.031 if the individual is committed to the Department;

(v) Be informed at the start of services and annually thereafter of the rights guaranteed by this rule, the contact information for the protection and advocacy system described in ORS 192.517(1), the procedures for reporting abuse, and the procedures for filing complaints, reviews, or requests for hearings if services have been or are proposed to be terminated, suspended, reduced, or denied;

(w) Have these rights and procedures prominently posted in a location readily accessible to individuals and made available to representatives of the individual;

(x) Be encouraged and assisted in exercising all legal, civil, and human rights accorded to other citizens of the same age, except when limited by a court order;

(y) Be informed of, and have the opportunity to assert complaints as described in OAR 411-318-0015 with respect to infringement of the rights described in this rule, including the right to have such complaints considered in a fair, timely, and impartial complaint procedure without any form of retaliation or punishment; and

(z) Freedom to exercise all rights described in this rule without any form of reprisal or punishment.

(5) The rights described in this rule are in addition to, and do not limit, all other statutory and constitutional rights that are afforded all citizens, including but not limited to the right to exercise religious freedom, vote, marry, have or not have children, own and dispose of property, and enter into contracts and execute documents, unless specifically prohibited by law in the case of children less than 18 years of age.

(6) An individual who is receiving developmental disability services, or as applicable a legal or designated representative of the individual, has the right under ORS 430.212 to be informed that a family member has contacted the Department to determine the location of the individual and to be informed of the name and contact information of the family member, if known.

(7) The rights described in this rule may be asserted and exercised by an individual, the legal representative of an individual, and any representative designated by an individual.

(8) Nothing in this rule may be construed to alter any legal rights and responsibilities between a parent and child.

(9) A guardian is appointed for an adult only as is necessary to promote and protect the well-being of the adult. A guardianship for an adult must be designed to encourage the development of maximum self-reliance and independence of the adult, and may be ordered only to the extent necessitated by the actual mental and physical limitations of the adult. An adult for whom a guardian has been appointed is not presumed to be incompetent. An adult with a guardian retains all legal and civil rights provided by law, except those that have been expressly limited by court order or specifically granted to the guardian by the court. Rights retained by the adult include, but are not limited to, the right to contact and retain counsel and to have access to personal records. (ORS 125.300).

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-695

#### **411-320-0070 Service Records**

*(Amended 12/28/2013)*

(1) CONFIDENTIALITY. An individual's service record must be kept confidential in accordance with ORS 179.505, ORS 192.515 to 192.518, 45 CFR 205.50, 45 CFR 164.512, the Health Insurance Portability and Accountability Act (HIPAA), 42 CFR Part 2 HIPAA, and any Department rules or policies pertaining to individual service records.

(2) INFORMATION SHARING. Pertinent clinical, financial eligibility, and legal status information concerning an individual supported by the CDDP must be made available to other CDDP's responsible for the individual's services, consistent with state statutes and federal laws and regulations concerning confidentiality and privacy.

(3) RECORD REQUIREMENTS. In order to meet Department and federal record documentation requirements, the CDDP, through the CDDP's employees, must maintain a service record for each individual who receives services from the CDDP.

(a) Information contained in the service record must include:

(A) Documentation of any initial referral to the CDDP for services;

(B) The application for developmental disability services. The application for developmental disability services must be completed prior to an eligibility determination and must be on the application form required by the Department or transferred onto CDDP letterhead;

(C) Sufficient documentation to conform to Department eligibility requirements, including notices of eligibility determination;

(D) Documentation of the initial intake interview or home assessment, as well as any subsequent social service summaries;

(E) Documentation of the functional needs assessment defining the individual's support needs for ADL and IADL;

(F) Documentation of initial, annual, and requested choice advising;

(G) Documentation of the individual's request for support services and the individual's selection of an available support services brokerage within the CDDP's geographic service area;



(H) Referral information or documentation of referral materials sent to a service provider or another CDDP;

(I) Progress notes written by a services coordinator as described in section (4) of this rule;

(J) Medical information, as appropriate;

(K) Admission and exit meeting documentation into any comprehensive service, including any transition plans, crisis diversion plans, or other plans developed as a result of the meeting;

(L) ISP or Annual Plans, including documentation that the plan is authorized by a services coordinator;

(M) Copies of any incident reports initiated by a CDDP representative for any unusual incident that occurred at the CDDP or in the presence of the CDDP representative;

(N) Documentation of a review of unusual incidents received from service providers. Documentation of the review of unusual incidents must be made in progress notes and a copy of the incident report must be placed in the individual's file. If applicable, information must be electronically entered into the SERT system and referenced in progress notes;

(O) Documentation of Medicaid eligibility, if applicable;

(P) The initial and annual level of care determination on a form prescribed by the Department;

(i) For individuals receiving children's intensive in-home services or children's 24-hour residential services, the CDDP must maintain a current copy of the annual level of care determination or reflect documentation of attempts to obtain a current copy.

(ii) Once an individual is enrolled in a support services brokerage, the CDDP must maintain a copy of the initial

level of care determination form completed by the CDDP and any annual reviews completed by the CDDP; and

(Q) Legal records, such as guardianship papers, civil commitment records, court orders, and probation and parole information (as appropriate).

(b) An information sheet or reasonable alternative must be kept current and reviewed at least annually for each individual receiving case management services from the CDDP enrolled in comprehensive services, family support services, or living with family or independently. Information must include:

(A) The individual's name, current address, date of entry into the CDDP, date of birth, sex, marital status (for individuals 18 or older), religious preference, preferred hospital, medical prime number and private insurance number (where applicable), and guardianship status; and

(B) The names, addresses, and telephone numbers of:

(i) For an adult, the individual's legal or designated representative and family (as applicable), and for a child, the child's parent or guardian and education surrogate (as applicable);

(ii) The individual's physician and clinic;

(iii) The individual's dentist;

(iv) The individual's school, day program, or employer, if applicable;

(v) Other agency representatives providing services to the individual; and

(vi) Any court ordered or legal representative authorized contacts or limitations from contact for individuals living in a foster home, supported living program, or 24-hour residential program.

(c) A current information sheet or reasonable alternative must be maintained for each individual enrolled in a support services brokerage. The current information must include the information listed in subsection (b) of this section.

(4) PROGRESS NOTES. Progress notes must include documentation of the delivery of case management services provided to an individual by a services coordinator. Progress notes must be recorded chronologically and documented consistent with CDDP policies and procedures. All late entries must be appropriately documented. At a minimum, progress notes must include:

(a) The month, day, and year the services were rendered and the month, day, and year the entry was made if different from the date services were rendered;

(b) The name of the individual receiving service;

(c) The name of the CDDP, the person providing the services (i.e., the services coordinator's signature and title), and the date the entry was recorded and signed;

(d) The specific services provided and actions taken or planned, if any;

(e) Place of service. Place of service means the county where the CDDP or agency providing case management services is located, including the address. The place of service may be a standard heading on each page of the progress notes; and

(f) For notes pertaining to meetings with or discussions about the individual, the names of other participants, including the participants' titles and agency representation, if any.

(5) RETENTION OF RECORDS. The CDDP must have a record retention plan for all records relating to the CDDP's provision of, and contracts for, services that is consistent with this rule and OAR 166-150-0055. The record retention plan must be made available to the public or the Department upon request.

(a) Financial records, supporting documents, and statistical records must be retained for a minimum of three years after the close of the contract period or until the conclusion of the financial settlement process with the Department, whichever is longer.

(b) Individual service records must be kept for seven years after the date of an individual's death, if known. If the case is closed, inactive, or the date of death is unknown, the individual service record must be kept for 70 years.

(c) Copies of annual ISPs must be kept for 10 years.

(6) TRANSFER OF RECORDS. In the event an individual moves from one county to another county in Oregon, the individual's complete service record as described in section (3) of this rule must be transferred to the receiving CDDP within 30 days of transfer. The sending CDDP must ensure that the service record required by this rule is maintained in permanent record and transferred to the CDDP having jurisdiction for the individual's services. The sending CDDP must retain the following information to document that services were provided to the individual while enrolled in CDDP services:

(a) Documentation of eligibility for developmental disability services received while enrolled in services through the CDDP, including waiver or state plan eligibility;

(b) Service enrollment and termination forms;

(c) CDDP progress notes;

(d) Documentation of services provided to the individual by the CDDP; and

(e) Any required documentation necessary to complete the financial settlement with the Department.

Stat. Auth.: ORS 409.050 and 430.662

Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, and 430.662 to 430.695

**411-320-0080 Application and Eligibility Determination**  
(Temporary Effective 07/01/2014 to 12/28/2014)

(1) APPLICATION.

(a) To apply for developmental disability services:

(A) An applicant or the legal representative of an applicant must use the Department required application, form SDS 0552, and apply in the county of origin as defined in OAR 411-320-0020;

(B) The applicant must be an U.S. citizen as defined in OAR 411-320-0020;

(C) The applicant must reside in Oregon or if the applicant is less than 18 years of age, the applicant and the legal representative of the applicant must reside in Oregon; and

(D) The application must be complete, signed, and dated.

(b) The CDDP must consider an application if the criteria in subsection (a) of this section are met. If the criteria in subsection (a) of this section are not met, the CDDP shall deny the application.

(c) The date the CDDP receives the completed, signed, and dated application is the date of application for developmental disability services.

(d) Upon receipt of an application, the CDDP must give an applicant the Department required notification of hearing rights (FACT sheet for Complaints, Fair Hearing, Administrative Review SDS 0948).

(e) A new application may not be required if the file of an individual has been closed for less than 12 months following a closure, denial, or termination and the individual meets all of the criteria in subsection (a) of this section.

(f) The CDDP must identify whether an applicant receives any unearned income.

(A) The CDDP must refer all applicants with no unearned income to the local Medicaid office to be determined eligible for OHP Plus.

(B) The CDDP must refer an applicant less than 18 years of age to Social Security if the CDDP identifies that the applicant may qualify for Social Security benefits.

(2) ELIGIBILITY SPECIALIST. Each CDDP must identify at least one qualified eligibility specialist to act as a designee of the Department for purposes of making an eligibility determination. The eligibility specialist must meet performance qualifications and training expectations for determining developmental disability eligibility according to OAR 411-320-0030.

(3) INTELLECTUAL DISABILITY. A history of an intellectual disability as defined in OAR 411-320-0020 and significant impairment in adaptive behavior as described in OAR 411-320-0020 must be evident prior to the 18th birthday of an individual for the individual to be eligible for developmental disability services.

(a) Diagnosing an intellectual disability is done by measuring intellectual functioning and adaptive behavior as assessed by standardized tests administered by a licensed clinical or school psychologist with specific training and experience in test interpretation of intellectual functioning and adaptive behavior scales for individuals with intellectual disabilities.

(A) For individuals who have consistent Full Scale IQ results of 65 and less, no assessment of adaptive behavior may be needed if current documentation supports eligibility.

(B) For individuals who have Full Scale IQ results of 66-75, verification of an intellectual disability requires an assessment of adaptive behavior.

(C) A General Ability Index result may be used in place of a Full Scale IQ score to determine eligibility in the event that a licensed clinical or school psychologist determines that the

General Ability Index is a more valid measure of overall intelligence when compared to the Full Scale IQ score.

(D) A Specific Index IQ result may be used in the event Full scale IQ or General Ability Index results are not able to be provided by the clinical impression of a licensed psychologist.

(E) If an individual is not able to participate in an intelligence test due to profound intellectual disability, a statement of profound intellectual disability must be documented by a qualified professional and an adaptive behavior assessment demonstrating a composite score of at least two standard deviations below the mean must be completed.

(b) Impairment of adaptive behavior must be directly related to an intellectual disability and cannot be primarily attributed to other conditions, including but not limited to a mental or emotional disorder, sensory impairment, motor impairment, substance abuse, personality disorder, learning disability, or ADHD.

(c) The condition and impairment must continue, or be expected to continue, indefinitely.

(4) OTHER DEVELOPMENTAL DISABILITY. A history of an other developmental disability as defined in OAR 411-320-0020 and significant impairment in adaptive behavior as described in OAR 411-320-0020 must be evident prior to the 22nd birthday of an individual for the individual to be eligible for developmental disability services.

(a) Diagnosing an other developmental disability requires a medical or clinical diagnosis of a developmental disability by a qualified professional and significant impairment in adaptive behavior as assessed by standardized tests administered by a licensed clinical or school psychologist.

(A) Other developmental disabilities include autism, cerebral palsy, epilepsy, or other neurological disabling conditions that originate in and directly affect the brain.

(B) The individual must require training and support similar to that required by an individual with an intellectual disability, which means the individual has a composite or domain score that is at least two standard deviations below the mean, as measured on a standardized assessment of adaptive behavior administered by a qualified professional.

(b) Significant impairment of adaptive behavior must be directly related to an other developmental disability and cannot be primarily attributed to other conditions including, but not limited to, a mental or emotional disorder, sensory impairment, motor impairment, substance abuse, personality disorder, learning disability, or ADHD.

(c) The condition and impairment must continue, or be expected to continue, indefinitely.

#### (5) ELIGIBILITY FOR CHILDREN LESS THAN 7 YEARS OF AGE.

(a) Eligibility for children less than 7 years of age is always provisional.

(b) Eligibility determinations for children less than 7 years of age must be based on documentation that is no more than three years old.

(A) The documentation must include:

(i) A standardized and normed early childhood assessment completed by a professional with at least a master's degree level or above and training to administer early childhood assessments that demonstrates at least two standard deviations below the mean in two or more areas of the adaptive behavior described in paragraph (B) of this subsection; or

(ii) In the absence of a standardized and normed early childhood assessment, a medical statement by a licensed medical practitioner that confirms the presence of an other developmental disability that is a neurological condition or syndrome that originates in and directly affects the brain and causes or is likely to cause



impairment in at least two or more areas of the adaptive behavior described in paragraph (B) of this subsection.

(B) Areas of adaptive behavior include:

- (i) Adaptive, self-care, or self-direction;
- (ii) Receptive and expressive language or communication;
- (iii) Learning or cognition;
- (iv) Gross motor; or
- (v) Social.

(C) The impairment, condition, or syndrome cannot be primarily attributed to other conditions including, but not limited to, a mental or emotional disorder, sensory impairment, motor impairment, substance abuse, personality disorder, learning disability, or ADHD.

(D) The condition and impairment must continue, or be expected to continue, indefinitely.

(c) REDETERMINATION OF ELIGIBILITY.

(A) Any time there is evidence that contradicts an eligibility determination, the Department or the designee of the Department may redetermine eligibility or obtain additional information, including securing an additional evaluation for clarification purposes.

(B) The CDDP must notify a child and the legal representative of the child any time that a redetermination of eligibility is needed. Notification of the redetermination and the reason for the review of eligibility must be in writing and sent prior to the eligibility redetermination.

(C) Redetermination for school aged eligibility for a child who was originally determined eligible as a child less than 7 years of

age using a standardized and normed early childhood assessment as described in subsection (b)(A)(i) of this section must be completed no later than the child's 9th year birthdate.

(D) Redetermination for school aged eligibility for a child who was originally determined eligible as a child less than 7 years of age using a medical statement by a licensed medical practitioner as described in subsection (b)(A)(ii) of this section must be completed no later than the child's 7th year birthdate.

(6) ELIGIBILITY FOR SCHOOL AGED CHILDREN. Eligibility for school aged children as defined in OAR 411-320-0020 is always provisional.

(a) Eligibility determinations for school aged children must be completed on children who are at least 5 years of age and who have had school aged testing completed.

(b) Eligibility determinations for school aged children may be completed:

(A) Up to age 18 for school aged children who are provisionally eligible based on a condition of an intellectual disability; and

(B) Up to age 22 for school aged children who are provisionally eligible based on a condition of an other developmental disability.

(c) Eligibility determinations for school aged children must include:

(A) Documentation of an intellectual disability and significant impairment in adaptive behavior as described in section (3) of this rule; or

(B) A diagnosis and documentation of an other developmental disability and significant impairment in adaptive behavior as described in section (4) of this rule.

(d) Eligibility determinations for school aged children must be based on documentation that is no more than three years old.

(e) REDETERMINATION OF ELIGIBILITY.

(A) Any time there is evidence that contradicts an eligibility determination, the Department or the designee of the Department may redetermine eligibility or obtain additional information, including securing an additional evaluation for clarification purposes.

(B) The CDDP must notify a school aged child and the legal representative of the child any time that a redetermination of eligibility is needed. Notification of the redetermination and the reason for the review of eligibility must be in writing and sent prior to the eligibility redetermination.

(f) REDETERMINATION OF SCHOOL AGED CHILDREN FOR ADULT ELIGIBILITY.

(A) Redetermination of school aged children for adult eligibility must be completed:

(i) Between the ages of 16 and 18 if school aged eligibility was determined based on an intellectual disability as described in section (3) of this rule; or

(ii) Between the ages of 20 and 22 if school aged eligibility was determined based on an other developmental disability as described in section (4) of this rule.

(B) The documentation of an intellectual disability or an other developmental disability must include:

(i) Information no more than three years old for individuals less than 22 years of age; or

(ii) Information obtained after the 17th birthday of an individual for individuals 22 years of age and older.

(C) If school aged eligibility was determined based on an intellectual disability as described in section (3) of this rule, an

intellectual functioning assessment may be used to determine adult eligibility. An adult intellectual functioning assessment completed within the last three years is not needed if the school aged child has:

- (i) More than one completed intellectual functioning assessment and all full scale IQ scores are 65 or less as described in section (3)(a)(A) of this rule; and
- (ii) Impairment in adaptive behavior as identified in section (3) of this rule; and
- (iii) Current documentation that supports eligibility.

(D) If school aged eligibility was determined based on an other developmental disability as described in section (4) of this rule, the following criteria must be met:

- (i) A current medical or clinical diagnosis of an other developmental disability is required unless all of the following are met:
  - (I) Documentation of an other developmental disability by a qualified professional as described in section (4) of this rule;
  - (II) Impairment in adaptive behavior that continues to be directly related to the other developmental disability;
  - (III) Current documentation that continues to support eligibility; and
  - (IV) No other medical or mental or emotional disorder.
- (ii) If an individual has additional medical or mental or emotional disorders a new assessment may be required.

(iii) An informal adaptive behavior assessment as defined in OAR 411-320-0020 may be completed if all of the following apply:

(I) An assessment of adaptive behavior is required in order to redetermine eligibility;

(II) An assessment of adaptive behavior has already been completed by a licensed school or clinical psychologist; and

(III) The school aged child has obvious significant impairment in adaptive behavior.

## (7) ELIGIBILITY FOR ADULTS.

(a) Eligibility for adults must include:

(A) Documentation of an intellectual disability and significant impairment in adaptive behavior as described in section (3) of this rule; or

(B) Documentation of an other developmental disability and significant impairment in adaptive behavior as described in section (4) of this rule.

(b) Documentation for an initial adult eligibility determination must include:

(A) Information no more than three years old for individuals less than 22 years of age; or

(B) Information obtained after the 17th birthday of an individual for individuals 22 years of age and older.

## (c) INTELLECTUAL FUNCTIONING ASSESSMENT.

(A) An intellectual functioning assessment completed on or after the age of 16 may be used to determine adult eligibility.

(B) An adult Intellectual Functioning Assessment may not be needed if an individual has:

(i) More than one completed intellectual functioning assessment and all full scale IQ scores are 65 or less as described in section (3)(a)(A) of this rule; and

(ii) Significant impairment in adaptive behavior as identified in section (3) of this rule.

(C) An adult intellectual functioning assessment may not be needed if an individual has a diagnosis and documentation of an other developmental disability as described in section (4) of this rule.

(d) REDETERMINATION OF ELIGIBILITY.

(A) Any time there is evidence that contradicts an eligibility determination, the Department or the designee of the Department may redetermine eligibility or obtain additional information, including securing an additional evaluation for clarification purposes.

(B) The CDDP must notify an individual and if applicable the legal representative of the individual any time that a redetermination of eligibility is needed. Notification of the redetermination and the reason for the review of eligibility must be in writing and sent prior to the eligibility redetermination.

(C) In the event the eligibility of an adult requires a redetermination, the redetermination must be completed as described in subsections (a), (b), and (c) of this section.

(8) ABSENCE OF DATA IN DEVELOPMENTAL YEARS.

(a) In the absence of sufficient data during the developmental years, current data may be used if:

(A) There is no evidence of head trauma;

(B) There is no evidence or history of significant mental or emotional disorder; or

(C) There is no evidence or history of substance abuse.

(b) If there is evidence or a history of head trauma, significant mental or emotional disorder, or substance abuse, then a clinical impression by a qualified professional regarding how the functioning of the individual may be impacted by the identified condition must be obtained in order to determine if the significant impairment in adaptive behavior is directly related to a developmental disability and not primarily related to a head trauma, significant mental or emotional disorder, or substance abuse.

(9) SECURING EVALUATIONS. In the event that an eligibility specialist has exhausted all local resources to secure the necessary evaluations for an eligibility determination, the Department or the designee of the Department shall assist in obtaining additional testing if required to complete the eligibility determination.

(10) PROCESSING ELIGIBILITY DETERMINATIONS. The CDDP in the county of origin is responsible for making the eligibility determination.

(a) The CDDP must work in collaboration with the individual or the legal representative of the individual to gather historical records related to the intellectual or developmental disability of an individual.

(b) The CDDP must process an application for developmental disability services in the following time frames:

(A) The CDDP must complete an eligibility determination and issue a notice as described in section (11) of this rule within 90 calendar days of the date that the application for services is received by the CDDP, except in the following circumstances:

(i) The CDDP may not make an eligibility determination because the individual or the legal representative of the individual fails to complete an action;

(ii) There is an emergency beyond the control of the CDDP; or

(iii) More time is needed to obtain additional records by the CDDP, the individual, or the legal representative of the individual.

(B) The process of making an eligibility determination may be extended up to 90 calendar days by mutual agreement among all parties. Mutual agreement may be in oral or written form. The CDDP must document the reason for the delay in the service record for the individual, including the type of contact made to verify the agreement of the individual or the legal representative of the individual to an extension.

(c) The CDDP must make an eligibility determination unless the following applies and is documented in the progress notes for an individual:

(A) The individual or the legal representative of the individual voluntarily withdraws the application for the individual;

(B) The individual dies; or

(C) The individual cannot be located.

(d) The CDDP may not use the time frames established in subsection (b) of this section as:

(A) A waiting period before determining eligibility; or

(B) A reason for denying eligibility.

(11) NOTICE OF ELIGIBILITY DETERMINATION. The CDDP, based upon a review of the documentation used to determine eligibility, must issue written notification (notice) of the eligibility determination of the CDDP.

(a) The CDDP must send or hand deliver the notice to the individual and if applicable the legal representative of the individual within 10



working days of making the eligibility determination or 90 calendar days of receiving an application for services, whichever comes first.

(b) The notice must be on the following forms prescribed by the Department:

(A) The Notice of Eligibility Determination (SDS 5103); or

(B) The Notification of Planned Action (SDS 0947).

(12) REQUESTING A HEARING. An individual or the legal representative of an individual may request a hearing as described in OAR 411-318-0025 if the individual or the legal representative of the individual disagrees with the eligibility determination or redetermination made by the CDDP.

(13) TRANSFERABILITY OF ELIGIBILITY DETERMINATION. An eligibility determination made by one CDDP must be honored by another CDDP when an individual moves from one county to another.

(a) The receiving CDDP must notify the individual and if applicable the legal representative of the individual on forms prescribed by the Department that a transfer of services to a new CDDP has taken place within 10 days of the enrollment date identified on the Developmental Disability Enrollment Form (SDS 0337).

(b) The receiving CDDP must continue services for the individual as soon as it is determined that the individual is residing in the county of the receiving CDDP.

(c) The receiving CDDP must ensure verification of the eligibility of the individual for developmental disability services in the form of the following:

(A) Statement of an eligibility determination;

(B) Notification of eligibility determination; and

(C) Evaluations and assessments supporting eligibility.

(d) In the event that the items in subsection (c) of this section cannot be located, written documentation from the sending CDDP verifying

eligibility and enrollment in developmental disability services may be used. Written verification may include documentation from the electronic payment system of the Department.

(e) If the receiving CDDP receives information that suggests the individual is not eligible for developmental disability services, the receiving CDDP may complete a redetermination. The CDDP that determined the individual was eligible for developmental disability services may be responsible for the services authorized on the basis of that eligibility determination.

(f) If an individual submits an application for developmental disability services and discloses that he or she has previously received developmental disability services in another CDDP and the termination of case management services as described in OAR 411-320-0100(3) occurred within the past 12 months, the eligibility determination from the other CDDP shall transfer as outlined in this section of the rule.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-695

#### **411-320-0090 Case Management Program Responsibilities**

*(Temporary Effective 07/01/2014 to 12/28/2014)*

(1) AVAILABILITY. As required by these rules, the CDDP must assure the availability of a services coordinator to meet the service needs of an individual and any emergencies or crisis. The assignment of the services coordinator must be appropriately documented in the service record for an individual and the CDDP must accurately report enrollment in the Department payment and reporting systems.

(2) POLICIES AND PROCEDURES. The CDDP must adopt written procedures to assure that the delivery of services meet the standards in section (4) of this rule.

(a) The CDDP must have procedures for the ongoing involvement of individuals and the family members of individuals in the planning and

review of consumer satisfaction with the delivery of case management or direct services provided by the CDDP.

(b) Copies of the procedures for planning and review of case management services, consumer satisfaction, and complaints must be maintained on file at the CDDP offices. The procedures must be available to:

(A) CDDP employees who work with individuals;

(B) Individuals who are receiving services from the CDDP and the families of individuals;

(C) Legal or designated representatives (as applicable) and service providers of individuals; and

(D) The Department.

(3) NOTICE OF SERVICES. The CDDP must inform the individuals, and as applicable the family members and legal or designated representatives of the individuals, of the minimum case management services that are set out in section (4) of this rule.

(4) MINIMUM STANDARDS FOR CASE MANAGEMENT SERVICES.

(a) The CDDP must ensure that eligibility for services is determined by an eligibility specialist trained in accordance with OAR 411-320-0030.

(b) A services coordinator must maintain documentation of the referral process of an individual to a service provider and if applicable, include the reason the service provider preferred by the individual, or as applicable the legal or designated representative of the individual, declined to deliver services to the individual.

(c) An Annual Plan for an individual receiving case management services through the CDDP must be developed and reviewed in accordance with OAR 411-320-0120.

(d) Program services must be authorized in accordance with OAR 411-320-0120.

(e) Services coordinators must monitor services and supports for all individuals enrolled in case management services through the CDDP in accordance with the standards described in OAR 411-320-0130.

(f) If an individual loses OSIP-M or OHP Plus eligibility and the individual is receiving case management services through the CDDP, a services coordinator must assist the individual in identifying why OSIP-M or OHP Plus eligibility was lost and whenever possible, assist the individual in becoming eligible for OSIP-M or OHP Plus again. The services coordinator must document efforts taken to assist the individual in becoming OSIP-M or OHP Plus eligible in the service record for the individual.

(g) Entry, exit, and transfers from comprehensive services must be in accordance with OAR 411-320-0110.

(h) Crisis diversion services for an individual receiving case management services through a CDDP must be assessed, identified, planned, monitored, and evaluated by a services coordinator in accordance with OAR 411-320-0160.

(i) Abuse investigations and protective services for adults must be provided as described in OAR 407-045-0250 to 407-045-0360 and include investigating complaints of abuse, writing investigation reports, and monitoring the implementation of report recommendations.

(j) Civil commitment services must be provided in accordance with ORS 427.215 to 427.306.

(k) The CDDP must describe case management and other service delivery options within the geographic service area provided by the CDDP or support services brokerage to an individual. Choice advising must begin at least 6 months before the 18th birthday of a child and must be provided to individuals 18 years and older.

(A) An individual newly determined eligible for developmental disability services must receive choice advising prior to or concurrent with the initial level of care determination for the individual.

(B) An individual moving into a county with an existing eligibility determination who is not enrolled in support services must receive choice advising within 10 days of the move or of the CDDP learning of the move.

(C) Choice advising must be provided initially and at least annually thereafter. Annual choice advising must include informing the individual of the right of the individual to request access to other available services. Documentation of the discussion must be included in the service record for the individual.

(D) If an individual is not eligible for state plan or waiver services, initial and annual choice advising must also inform the individual of the right of the individual to access case management from the CDDP or a support services brokerage.

(l) A services coordinator must coordinate services with the child welfare (CW) caseworker assigned to a child to ensure the provision of required supports from the Department, CDDP, and CW.

(m) A services coordinator may attend IEP planning meetings or other transition planning meetings for a child when the services coordinator is invited to participate by the family or guardian of the child.

(A) The services coordinator may, to the extent resources are available, assist the family of the child in accessing critical non-educational services that the child or the family of the child may need.

(B) Upon request and to the extent possible, the services coordinator may act as a proponent for the child or the family of the child at IEP meetings.

(C) The services coordinator must participate in transition planning by attending IEP meetings or other transition planning meetings for students 16 years of age or older, or until the student is no longer enrolled in CDDP case management, to discuss the transition of the individual to adult living and work situations unless the attendance of the services coordinator is refused by the parent or guardian of the child or the individual if the individual is 18 years or older.

(n) The CDDP must ensure that individuals eligible for and receiving developmental disability services are enrolled in the Department payment and reporting systems. The county of origin must enroll the individual into the Department payment and reporting systems for all developmental disability service providers except in the following circumstances:

(A) The Department completes the enrollment or termination form for children entering or leaving a licensed 24-hour residential program that is directly contracted with the Department.

(B) The Department completes the Department payment and reporting systems enrollment, termination, and billing forms for children entering or leaving CIIS.

(C) The Department completes the enrollment, termination, and billing forms as part of an interagency agreement for purposes of billing for crisis diversion services by a region.

(o) When appropriate, a services coordinator must facilitate referrals to nursing facilities as described in OAR 411-070-0043.

(p) A services coordinator must coordinate and monitor the specialized services provided to an eligible individual living in a nursing facility in accordance with OAR 411-320-0150.

(q) A services coordinator must ensure that all serious events related to an individual are reported to the Department using the SERT system. The CDDP must ensure that there is monitoring and follow-up on both individual events and system trends.

(r) When a services coordinator completes a level of care determination, the services coordinator must ensure that OHP Plus and OSIP-M eligible individuals are offered the choice of home and community-based waiver and state plan services, provided a notice of hearing rights (FACT sheet for Complaints, Fair Hearing, Administrative Review SDS 0948), and have a completed level of care determination that is reviewed annually or at any time there is a significant change. (s) A services coordinator must participate in the appointment of the health care representative of an individual as described in OAR chapter 411, division 365.

(t) A services coordinator must coordinate with other state, public, and private agencies regarding services to individuals.

(u) The CDDP must ensure that a services coordinator is available to provide or arrange for comprehensive in-home supports for adults, in-home supports for children, or family supports as required to meet the support needs of eligible individuals. This includes:

(A) Identifying needs through a functional needs assessment for individuals accessing Community First Choice;

(B) Providing assistance in planning supports;

(C) Providing assistance in finding and arranging resources and supports;

(D) Providing education and technical assistance to make informed decisions about support need and direct service providers;

(E) Arranging fiscal intermediary services;

(F) Arranging employer-related supports; and

(G) Providing assistance with monitoring and improving the quality of supports.

(5) SERVICE PRIORITIES. If it becomes necessary for the CDDP to prioritize the availability of case management services, the CDDP must request and have approval of a variance prior to implementation of any alternative plan. If the reason for the need for the variance could not have been reasonably anticipated by the CDDP, the CDDP has 15 working days to submit the variance request to the Department. The variance request must:

- (a) Document the reason the service prioritization is necessary, including any alternatives considered;
- (b) Detail the specific service priorities being proposed; and
- (c) Provide assurances that the basic health and safety of individuals continues to be addressed and monitored.

(6) FAMILY RECONNECTION. The CDDP and a services coordinator must provide assistance to the Department when a family member is attempting to reconnect with an individual who was previously discharged from Fairview Training Center or Eastern Oregon Training Center or an individual who is currently receiving developmental disability services.

- (a) If a family member contacts the CDDP for assistance in locating an individual, the CDDP must refer the family member to the Department. A family member may contact the Department directly.
- (b) The Department shall send the family member a Department form requesting further information to be used in providing notification to the individual. The form shall include the following information:
  - (A) Name of requestor;
  - (B) Address of requestor and other contact information;
  - (C) Relationship to individual;
  - (D) Reason for wanting to reconnect; and
  - (E) Last time the family had contact.



(c) The Department shall determine:

(A) If the individual was previously a resident of Fairview Training Center or Eastern Oregon Training Center;

(B) If the individual is deceased or living;

(C) Whether the individual is currently or previously enrolled in Department services; and

(D) The county in which services are being provided, if applicable.

(d) Within 10 working days from the receipt of the request, the Department shall notify the family member if the individual is enrolled or no longer enrolled in Department services.

(e) If the individual is enrolled in Department services, the Department shall send the completed family information form to the individual, or as applicable the legal or designated representative of the individual, and the services coordinator.

(f) If the individual is deceased, the Department shall follow the process for identifying the personal representative of the individual as provided for in ORS 192.526.

(A) If the personal representative and the requesting family member are the same, the Department shall inform the personal representative that the individual is deceased.

(B) If the personal representative is different from the requesting family member, the Department shall contact the personal representative for permission before sharing information about the individual with the requesting family member. The Department must make a good faith effort to find the personal representative and obtain a decision concerning the sharing of information as soon as practicable.

(g) When an individual is located, the services coordinator when the individual is enrolled in case management or the CDDP in

conjunction with the personal agent when the individual is enrolled in a support services brokerage, must facilitate a meeting with the individual, or as applicable the legal or designated representative of the individual, to discuss and determine if the individual wishes to have contact with the family member.

(A) The services coordinator or the CDDP in conjunction with the personal agent, as applicable, must assist the individual, or as applicable the legal or designated representative of the individual, in evaluating the information to make a decision regarding initiating contact, including providing the information from the form and any relevant history with the family member that may support contact or present a risk to the individual.

(B) If the individual does not have a legal or designated representative or is unable to express his or her wishes, the ISP team of the individual must be convened to review factors and choose the best response for the individual after evaluating the situation.

(h) If the individual, or as applicable the legal or designated representative of the individual, wishes to have contact, the individual, or as applicable the legal or designated representative of the individual or ISP team designee, may directly contact the family member to make arrangements for the contact.

(i) If the individual, or as applicable the legal or designated representative of the individual, does not wish to have contact, the services coordinator or the CDDP in conjunction with the personal agent (as applicable), must notify the Department. The Department shall inform the family member in writing that no contact is requested.

(j) The notification to the family member regarding the decision of the individual, or as applicable the legal or designated representative of the individual, must be within 60 business days from the receipt of the information form from the family member.

(k) The decision by the individual, or as applicable the legal or designated representative of the individual, is not appealable.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-695

#### **411-320-0100 Coordination of Services**

*(Temporary Effective 07/01/2014 to 12/28/2014)*

##### **(1) DESIGNATION OF A SERVICES COORDINATOR OR PERSONAL AGENT.**

(a) When an individual chooses case management services through a personal agent, the CDDP must send referral information to the appropriate support services brokerage within 10 days following the decision of the individual. If there is no available brokerage capacity for an individual requesting brokerage services, the individual may receive case management through the CDDP and receive other available, chosen supports until brokerage capacity becomes available.

(b) When an individual chooses case management services through a services coordinator, the CDDP must designate a services coordinator within five days following the decision of the individual.

(c) When an individual is enrolled in a support services brokerage and moves from one CDDP geographic service area to another CDDP geographic service area, the new CDDP must enroll the individual in the Department payment and reporting systems.

##### **(2) CHANGE OF CASE MANAGEMENT SERVICE PROVIDER.**

(a) The CDDP must keep the change of services coordinators to a minimum unless the individual, or as applicable the legal or designated representative of the individual requests the change of services coordinators. If the CDDP changes the assignment of a services coordinator, the CDDP must notify the individual, the legal or designated representative of the individual (as applicable), and all current service providers within 10 working days of the change. The notification must be in writing and include the name, telephone number, and address of the new services coordinator.

(b) The individual receiving services, or as applicable the legal or designated representative of the individual, may request a new services coordinator within the same CDDP or request case management services from a support services brokerage.

(A) The CDDP must develop standards and procedures that support timely response to requests for a change of a services coordinator or when referring case management services to a support services brokerage.

(B) If another services coordinator is assigned by the CDDP as the result of a request by the individual, or as applicable the legal or designated representative of the individual, the CDDP must notify the individual, the legal or designated representative of the individual (as applicable), and all current service providers within 10 working days of the change. The notification must be in writing and include the name, telephone number, and address of the new services coordinator.

### (3) TERMINATION OF CASE MANAGEMENT SERVICES.

(a) A services coordinator retains responsibility for providing case management services to an individual until the responsibility is terminated in accordance with this rule, until another services coordinator is designated, or until the individual is enrolled in support services. A CDDP must terminate case management services when any of the following occur:

(A) An individual or the legal representative of an individual delivers a signed written request that case management services be terminated or such a request is made by telephone and documented in the service record for the individual. An individual, or as applicable the legal or designated representative of the individual, may refuse contact by a services coordinator as well as the involvement of the services coordinator at the ISP meeting for the individual, unless the services are mandatory as described in section (5) of this rule.

(B) The individual dies.

(C) The individual is determined to be ineligible for developmental disability services in accordance with OAR 411-320-0080.

(D) The individual moves out of state or to another county in Oregon. If an individual moves to another county, case management services must be referred and transferred to the new county, unless an individual requests otherwise and both the referring CDDP and the CDDP in the new county mutually agree. In the case of a child moving into a foster home or 24-hour residential program, the county of parental residency or court jurisdiction must retain case management responsibility.

(E) An individual cannot be located after repeated attempts by letter and telephone.

(b) If an individual is being terminated from services for any reason listed in subsection (a) of this section, the CDDP must issue a Notification of Planned Action consistent with OAR 411-318-0020 to notify the individual of the intent of the CDDP to terminate services.

#### (4) TERMINATION FROM DEPARTMENT PAYMENT AND REPORTING SYSTEMS.

(a) The CDDP must terminate an individual in the Department payment and reporting systems when:

(A) The individual or the legal representative of the individual delivers a signed written request to the support services brokerage requesting brokerage services be terminated. An individual who declines support services but wishes to continue receiving developmental disability services through the CDDP is terminated from the support services brokerage but is not terminated from developmental disability services;

(B) The individual dies;

(C) The individual is determined to be ineligible for developmental disability services in accordance with OAR 411-320-0080;

(D) The individual moves out of state or to another county in Oregon. If an individual moves to another county, developmental disability services must be referred and transferred to the new county, unless an individual requests otherwise and both the referring CDDP and the CDDP in the new county mutually agree; or

(E) Notification from the support services brokerage that an individual cannot be located after repeated attempts by letter and telephone.

(b) The CDDP retains responsibility for maintaining enrollment in the Department payment and reporting systems for individuals enrolled in support services until the responsibility is terminated as described in this section of this rule.

(5) MANDATORY SERVICES. An individual in developmental disability services must accept the following services:

(a) Case management provided by a services coordinator or personal agent;

(b) Abuse investigations;

(c) The presence of a services coordinator, when applicable, at Department-funded program entry, exit, or transfer meetings or transition planning meetings required for entry or exit to adult services, including support services and in-home comprehensive services for adults;

(d) Monitoring of service provider programs in accordance with OAR 411-320-0130 (when applicable); and

(e) Access to the service record for the individual by the services coordinator.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-695

## **411-320-0110 Entry and Exit Requirements**

*(Temporary Effective 07/01/2014 to 12/28/2014)*

### **(1) ENTRY TO A DEPARTMENT-FUNDED DEVELOPMENTAL DISABILITY PROGRAM.**

(a) The Department authorizes entry into children's residential services, CIIS, and the Stabilization and Crisis Unit. A services coordinator must make referrals for entry and participate in all entry meetings for children's residential services, CIIS, and the Stabilization and Crisis Unit.

(b) Entry to all other Department-funded programs for individuals must be coordinated and authorized by a services coordinator in accordance with these rules.

### **(2) RESIDENTIAL PLACEMENT SETTING OPTIONS.** In accordance with ORS 427.121, a services coordinator must present at least three appropriate residential placement setting options, including at least two different types of residential settings, to an adult individual eligible to receive comprehensive services prior to the initial placement of the adult individual into comprehensive services. The services coordinator is not required to present the residential placement setting options if:

(a) The services coordinator demonstrates that three appropriate placement settings or two different types of residential settings are not available within the geographic area where the adult individual wishes to reside;

(b) The adult individual selects a placement setting option and waives the right to be presented with other residential placement setting options; or

(c) The adult individual is at imminent risk to health or safety in the current placement setting.

### **(3) WRITTEN INFORMATION REQUIRED.** Prior to the entry of an individual into comprehensive services, a services coordinator or the designee of the services coordinator must provide available and sufficient

written information necessary to meet the support needs of an individual to the service provider for the individual.

(a) The written information must be provided in a timely manner and include:

(A) A copy of the eligibility determination document for the individual;

(B) A statement indicating the safety skills of the individual, including the ability of the individual to evacuate from a building when warned by a signal device and adjust water temperature for bathing and washing;

(C) A brief written history of any behavioral challenges of the individual, including supervision and support needs;

(D) The medical history of the individual and information on health care supports that includes when available:

(i) The results of a physical exam (if any) made within 90 days prior to the entry;

(ii) The results of any dental evaluation;

(iii) A record of immunizations;

(iv) A record of known communicable diseases and allergies; and

(v) A record of major illnesses and hospitalizations.

(E) A written record of any current or recommended medications, treatments, diets, and aids to physical functioning for the individual;

(F) A copy of the most recent needs assessment. If the needs of an individual have changed over time, the previous needs assessments must also be provided;



(G) Copies of protocols, the risk tracking record, and any support documentation (if applicable);

(H) Copies of documents relating to the guardianship or conservatorship of the individual, health care representative for the individual, power of attorney, court orders, probation and parole information, or any other legal restrictions on the rights of the individual (if applicable);

(I) Written documentation to explain why preferences or choices of the individual cannot be honored at that time;

(J) Written documentation that the individual is participating in out-of-residence activities, including public school enrollment for individuals less than 21 years of age; and

(K) A copy of the most recent Behavior Support Plan and assessment, ISP, Nursing Service Plan, IEP, and mental health treatment plan (if applicable).

(b) If the individual is being admitted from the family home of the individual and the information required in subsection (a) of this section is not available, the services coordinator must ensure that the service provider assesses the individual upon entry for issues of immediate health or safety.

(A) The services coordinator must document a plan to secure the information listed in subsection (a) of this section no later than 30 days after entry.

(B) The plan must include a written justification as to why the information is not available and a copy must be given to the service provider at the time of entry.

(c) If the individual is being admitted from comprehensive services, the information listed in subsection (a) of this section must be made available prior to entry.

(d) If an individual is admitted to a program for crisis diversion services for a period not to exceed 30 days, subsection (a) of this section does not apply.

(4) ENTRY MEETING. Prior to the date of entry of an individual into a Department-funded comprehensive service, the ISP team must meet to review referral material in order to determine appropriateness of placement. The members of the ISP team are determined according to OAR 411-320-0120. Findings of the entry meeting must be recorded in the service record for the individual and distributed to the ISP team members. The findings of the entry meeting must include at a minimum:

- (a) The name of the individual proposed for services;
- (b) The date of the entry meeting;
- (c) The date determined to be the date of entry of the individual;
- (d) Documentation of the participants included in the entry meeting;
- (e) Documentation of the pre-entry information required by section (3)(a) of this rule;
- (f) Documentation of the decision to serve the individual requesting services; and
- (g) A written Transition Plan for no longer than 60 days after entry that includes all medical, behavior, and safety supports needed by the individual.

(5) TRANSFER OR EXIT FROM DEPARTMENT-FUNDED PROGRAMS.

- (a) The CDDP must authorize all transfers or exits from Department-funded developmental disability services.
- (b) The Department authorizes all transfers or exits from services directly contracted with the Department for children's residential services, CIIS, and the Stabilization and Crisis Unit.

(c) In accordance with ORS 427.121, a services coordinator must present at least three appropriate residential placement setting options, including at least two different types of residential settings, to an adult individual receiving comprehensive services prior to transferring the adult individual from one placement setting to another placement setting. The services coordinator is not required to present the residential placement setting options if:

(A) The services coordinator demonstrates that three appropriate placement settings or two different types of residential settings are not available within the geographic area where the adult individual wishes to reside;

(B) The adult individual selects a placement setting option and waives the right to be presented with other residential placement setting options; or

(C) The adult individual is at imminent risk to health or safety in the current placement setting.

(d) Prior to the transfer or exit date of an individual, the ISP team must meet to review the transfer or exit and to plan and coordinate any services necessary during or following the transfer or exit. The members of the ISP team are determined according to OAR 411-320-0120.

(6) EXIT MEETING. A meeting of the ISP team must precede any decision to exit the individual. Findings of the exit meeting must be recorded in the service record for the individual and include at a minimum:

(a) The name of the individual considered for exit;

(b) The date of the exit meeting;

(c) Documentation of the participants included in the exit meeting;

(d) Documentation of the circumstances leading to the proposed exit;

(e) Documentation of the discussion of the strategies to prevent the exit of the individual from services, unless the individual, or as

applicable the legal or designated representative of the individual, is requesting the exit;

(f) Documentation of the decision regarding the exit of the individual, including verification of the voluntary decision to exit or a copy of the Notice of Involuntary Transfer or Exit; and

(g) The written plan for services for the individual after the exit.

(7) TRANSFER MEETING. A meeting of the ISP team must precede any decision to transfer an individual. Findings of the transfer meeting must be recorded in the service record for the individual and include at a minimum:

(a) The name of the individual considered for transfer;

(b) The date of the transfer meeting;

(c) Documentation of the participants included in the transfer meeting;

(d) Documentation of the circumstances leading to the proposed transfer;

(e) Documentation of the alternatives considered instead of transfer;

(f) Documentation of the reasons any preferences of the individual, or as applicable the legal or designated representative or family members of the individual, may not be honored;

(g) Documentation of the decision regarding the transfer, including verification of the voluntary decision to transfer or a copy of the Notice of Involuntary Transfer or Exit; and

(h) The written plan for services for the individual after transfer.

(8) ENTRY TO SUPPORT SERVICES.

(a) Referrals of eligible individuals to a support services brokerage must be made in accordance with OAR 411-340-0110. Referrals must be made in accordance with Department guidelines and the Department-mandated application and referral form must be used.

(b) The CDDP of the county of origin of an individual may find the individual eligible for support services from a brokerage when:

(A) The individual is an Oregon resident who has been determined eligible for developmental disability services by the CDDP;

(B) The individual is an adult living in his or her own home or family home;

(C) At the time of initial entry to the support services brokerage, the individual is not enrolled in comprehensive services;

(D) At the time of initial entry to the support services brokerage, the individual is not receiving crisis diversion services from the Department because the individual does not meet one or more of the crisis risk factors listed in OAR 411-320-0160; and

(E) The individual or the legal representative of the individual has chosen to use a support service brokerage for assistance with design and management of personal supports.

(c) An eligible individual must be referred into support services within 10 days of requesting support services and selecting an available support services brokerage within the geographic service area of the CDDP unless a later date is mutually agreed upon by the individual, the brokerage, and the CDDP.

(d) The services coordinator must communicate with the support services brokerage staff and provide all relevant information upon request and as needed to assist support services brokerage staff in developing an ISP that best meets the support needs of the individual including:

(A) A current application or referral on the Department-mandated application or referral form;

(B) A completed level of care determination, if present;

- (C) A copy of a current functional needs assessment, if present;
- (D) A copy of the eligibility determination;
- (E) Copies of financial eligibility information;
- (F) Copies of any legal documents, such as guardianship papers, conservatorship, civil commitment status, probation and parole, etc.;
- (G) Copies of relevant progress notes; and
- (H) A copy of any current plans.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-695

#### **411-320-0120 Service Planning**

*(Temporary Effective 07/01/2014 to 12/28/2014)*

(1) PRINCIPLES FOR SERVICE PLANNING. This rule prescribes standards for the development and implementation of the ISP or Annual Plan for an individual. An ISP or Annual Plan must:

(a) Be developed using a person-centered process and in a manner that addresses issues of independence, integration, and productivity;

(b) Enhance the quality of life of the individual with intellectual or developmental disabilities; and

(c) Be consistent with the following principles:

(A) Personal control and family participation. While the service system reflects the value of family member participation in the planning process, adult individuals have the right to make informed choices about the level of family member participation. It is the intent of this rule to fully support the provision of education about personal control and decision-making to individuals who are receiving services.

(B) Choice and preferences. The planning process is critical in determining the preferences of an individual and the family of the individual for services and supports. The preferences of the individual and the family of the individual must serve to guide the ISP team. The active participation of the individual and input must be facilitated throughout the planning process.

(C) Barriers. The planning process is designed to identify the types of services and supports necessary to achieve the preferences of an individual and the family of the individual, identify the barriers to providing those preferred services, and develop strategies for reducing the barriers.

(D) Health and safety. The planning process must also identify strategies to assist an individual in the exercise of the individual's rights. This may create tensions between the freedom of choice and interventions necessary to protect the individual from harm. The ISP team must carefully nurture the individual's exercise of rights while being equally sensitive to protecting the health and safety of the individual.

(E) Children in alternate living situations. When planning for children in 24-hour residential or foster care services, maintaining family connections is an important consideration. The following must apply:

- (i) Unless contraindicated, there must be a goal for family reunification;
- (ii) The number of moves or transfers must be kept to a minimum; and
- (iii) If the placement of a child is distant from the family of the child, the services coordinator must continue to seek a placement that brings the child closer to the family.

## (2) LEVEL OF CARE DETERMINATION

(a) A services coordinator must assure that an individual who will have an ISP that authorizes a comprehensive service has a level of care determination made on using a Department approved form. The ISP must be completed and authorized no later than the end of the month following the month in which the level of care determination was made.

(b) A services coordinator must assure that a level of care determination is reviewed for every individual enrolled in a comprehensive service annually within 60 days of the renewal of the ISP.

(c) A level of care determination may be made by a services coordinator or a personal agent.

(3) **FUNCTIONAL NEEDS ASSESSMENT.** A services coordinator must complete a functional needs assessment initially and at least annually for each individual who has an ISP. The functional needs assessment must be completed:

(a) Prior to the development of an initial ISP;

(b) Within 60 days prior to the annual renewal of an ISP; and

(c) Within 45 days from the date an individual, or as applicable the legal or designated representative of the individual, requests a functional needs assessment.

(4) **INDIVIDUAL SUPPORT PLANS (ISP).** Individuals enrolled in waiver or Community First Choice state plan services must have an ISP.

(a) A services coordinator and ISP team must develop the ISP for an individual within 90 days of the entry of the individual into comprehensive services and at least annually thereafter.

(b) Upon the request for a new functional needs assessment by an individual, or as applicable the legal or designated representative of the individual, a services coordinator must revise the ISP for the individual as needed if a revision of the ISP is requested by the individual or the legal or designated representative of the individual



(as applicable). The revision of the ISP must be completed within 30 days from the new functional needs assessment. The revised ISP must be developed with the individual, the legal or designated representative of the individual (as applicable), and other invited ISP team members.

(c) The CDDP must provide a written copy of the most current ISP to the individual, the legal or designated representative of the individual (as applicable), and others as identified by the individual.

(d) PERSON-CENTERED ISP REQUIREMENTS. The person-centered ISP must reflect the services and supports that are important for the individual to meet the needs of the individual identified through a Department approved assessment, as well as what is important to the individual with regard to preferences for the delivery of such services and supports. Commensurate with the level of need of the individual and the scope of services and supports, the ISP must include:

(A) The name of the individual and the name of the legal or designated representative of the individual (as applicable);

(B) A description of the supports required that is consistent with the support needs identified in the assessment of the individual, including the reason the support is necessary;

(C) The projected dates of when specific supports are to begin and end;

(D) A list of personal, community, and public resources that are available to the individual and how the resources may be applied to provide the required supports. Sources of support may include waiver services, state plan services, state general funds, or natural supports;

(E) The manner in which services are delivered and the frequency of services;

(F) Service provider type for each person responsible for providing services and supports;

(G) The setting in which the individual resides as chosen by the individual;

(H) The strengths and preferences of the individual;

(I) The clinical and support needs as identified through the assessment;

(J) Individually identified goals and desired outcomes;

(K) The services and supports (paid and unpaid) to assist the individual to achieve identified goals and the providers of the services and supports, including voluntarily provided natural supports;

(L) The risk factors and the measures in place to minimize the risk factors, including back up plans;

(M) The identity of the person responsible for case management and monitoring the ISP;

(N) A provision to prevent unnecessary or inappropriate care; and

(O) The alternative settings considered by the individual.

(e) The ISP for an individual must be finalized and agreed to in writing by the individual, the legal or designated representative of the individual (as applicable), and others invited by the individual including, but not limited to, service providers or other family members.

(f) The ISP must be understandable to the individual receiving services and supports and the people important in supporting the individual.

(g) A services coordinator must track the ISP timelines and coordinate the resolution of complaints and conflicts arising from ISP discussions.

(h) An ISP must be developed, implemented, and authorized as follows:

(A) FOSTER CARE AND 24-HOUR RESIDENTIAL SERVICES.

(i) A services coordinator must attend and assure that an annual ISP meeting is held for individuals receiving foster care or 24-hour residential services and any associated employment services or day support activities.

(ii) A services coordinator must conduct the ISP for an individual receiving foster care or 24-hour residential services and any associated employment services or day support activities.

(iii) If a child is in 24-hour residential services directly contracted with the Department, the ISP for the child is coordinated by Department staff.

(iv) A services coordinator must ensure that the ISP for an individual receiving foster care or 24-hour residential services is developed and updated in accordance with Department guidelines.

(B) SUPPORTED LIVING SERVICES. A services coordinator must ensure the development of an annual ISP for an adult receiving supported living services and any associated employment services or day support activities.

(i) The services coordinator must coordinate with the individual, and as applicable the family or legal or designated representative of the individual, in the development of the annual ISP for the individual.

(ii) The ISP for an adult receiving supported living services and any associated employment services or day support activities must include the information described in subsection (d) of this section.

(C) COMPREHENSIVE IN-HOME SUPPORTS FOR ADULTS. A services coordinator must ensure the development of an annual ISP for an individual receiving comprehensive in-home supports.

(i) The services coordinator must coordinate with the individual, and as applicable the family or legal or designated representative of the individual, in the development of the annual ISP for the individual.

(ii) The ISP for an individual receiving comprehensive in-home supports must be in accordance with OAR 411-330-0050.

(i) As of July 1, 2014, a Career Development Plan must be attached to the ISP of an adult in accordance with OAR 411-345-0160.

(5) ANNUAL PLANS. Individuals enrolled in developmental disability services not accessing waiver or state plan services must have an Annual Plan.

(a) A services coordinator must complete an Annual Plan within 60 days of the enrollment of an individual into case management services, and annually thereafter if the individual is not enrolled in any waiver or state plan services.

(b) An Annual Plan must be developed as follows:

(A) For an adult, a written Annual Plan must be documented as an Annual Plan or as a comprehensive progress note in the service record for the individual and consist of:

(i) A review of the current living situation of the individual;

(ii) A review of any personal health, safety, or behavioral concerns;

(iii) A summary of the support needs of the individual; and

(iv) Actions to be taken by the services coordinator and others.

(B) For a child receiving family support services, a services coordinator must coordinate with the child and the family or guardian of the child in the development of the Annual Plan for the child. The Annual Plan for a child receiving family support services must be in accordance with OAR 411-305-0080.

(6) PLANS FOR IN-HOME SUPPORTS FOR CHILDREN. For a child receiving in-home supports, a services coordinator must coordinate with the child and the family or guardian of the child in the development of the ISP or Annual Plan for the child. The ISP or Annual Plan for a child receiving in-home supports must be in accordance with OAR chapter 411, division 308 and sections (3) and (4) of this rule, as applicable.

(7) PLAN FORMATS. An ISP or Annual Plan developed at an annual or update meeting must be conducted in a manner specified by the Department and on forms required by the Department. In the absence of a Department-mandated form, the CDDP with the affected service providers may develop an ISP format that conforms to the rules for the service provider and provides for an integrated plan across the funded developmental disability service settings.

(8) PLAN UPDATES. An ISP or Annual Plan must be kept current. A services coordinator, the residential services coordinator for the Department for children in 24-hour residential services directly contracted with the Department, and CIIS services coordinators for children served through the CIIS waiver must ensure that a current ISP or Annual Plan is authorized and maintained for each individual receiving services.

(a) The ISP or Annual Plan must be kept in the service record for an individual.

(b) ISP or Annual Plan updates must occur as required by this rule and any rules governing the operation of the service.

(c) When there is a significant change, the ISP or Annual Plan must be updated.

(9) PLAN REVIEWS. The ISP must be reviewed and revised:

(a) No more than 30 days following a new functional needs assessment;

(b) At least every 12 months;

(c) When the circumstances or needs of an individual change significantly; and

(d) At the request of an individual or the legal or designated representative of the individual (as applicable).

(10) TEAM PROCESS IN SERVICE AND SUPPORT PLANNING. This section applies to an ISP developed for an individual in comprehensive services by the individual and the ISP team for the individual.

(a) An ISP for an individual in comprehensive services is developed at least by the individual, the legal or designated representative of the individual (as applicable), and the services coordinator. Others may be included as a part of the ISP team at the invitation of the individual or the legal or designated representative of the individual (as applicable). The ISP team assigns responsibility for obtaining or providing services to meet the identified needs of the individual.

(A) Membership on the ISP team must at least conform to this rule and any relevant service provider rules. An individual, or as applicable the legal or designated representative of the individual, may include additional participants, friends, or significant others on the ISP team.

(B) The individual may raise an objection to the inclusion of a particular person or service provider on the ISP team. When the individual raises objections to a person, the ISP team must respect the request of the individual. In order to assure adequate planning, service provider representatives are necessary informants to the ISP team.

(b) An ISP developed by an ISP team must respect and honor individual choice in the development of a meaningful plan.

(c) In circumstances where an individual is unable to express his or her opinion or choice using words, behaviors, or other means of communication and the individual does not have a legal or designated representative, the ISP team is empowered to make a decision on behalf of the individual.

(d) No one member of an ISP team has the authority to make decisions for the ISP team.

(e) Consensus amongst ISP team members is prioritized. When consensus may not be reached, majority agreement is used. For purposes of reaching a majority agreement, a service provider, family member, CDDP, or designated representative are considered as one member of the ISP team.

(f) Any objections to decisions of the ISP team by a member of the ISP team must be documented in the ISP.

(g) The legal or designated representative of an individual directing services for the individual (as applicable) may not also be a paid service provider for the individual.

(h) An ISP is authorized by a services coordinator using a person-centered planning process and with agreement by the individual and the legal or designated representative of the individual (as applicable).

(i) An individual or the legal representative of the individual retains the right to consent to treatment and training and to note any specific areas of the ISP that they object to and wish to file a complaint.

(j) ISP team members must inform the services coordinator whenever there are significant needs or changes or there is a crisis or potential for a crisis. The services coordinator must reconvene the ISP team if ISP adjustments are required due to a significant change in the support needs or desired goals of an individual.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-695

### **411-320-0130 Case Management Contact, Site Visits, and Monitoring of Services**

*(Temporary Effective 07/01/2014 to 12/28/2014)*

(1) CASE MANAGEMENT CONTACT. Every individual who has an ISP must have a case management contact no less than once every three months. Individuals with significant health and safety risks must have more frequent case management contact. At least one case management contact per year must be face to face. If an individual agrees, other case management contacts may be made by telephone or by other interactive methods. The outcome of the case management contact must be recorded in the progress note for an individual. The purpose of the case management contact is:

- (a) To assure known health and safety risks are adequately addressed;
- (b) To assure that the support needs of the individual have not significantly changed; and
- (c) To assure that the individual is satisfied with the current supports.

(2) SITE VISITS.

(a) The CDDP must ensure that site visits are conducted at each child or adult foster home, each 24-hour residential program, and each site for employment services and day support activities licensed or certified and endorsed (as applicable) by the Department to serve individuals with intellectual or developmental disabilities.

(b) The CDDP must establish a quarterly schedule for site visits to each child or adult foster home and each 24-hour residential program.

(c) The CDDP must establish an annual schedule for site visits to each employment services or day support activities site. If a visit to



an integrated employment site disrupts the work occurring, a mutually agreed upon location for the site visit must be arranged.

(d) The CDDP must establish an annual schedule for visits with individuals receiving supported living services. If an individual opposes a visit to his or her home, a mutually agreed upon location for the visit must be arranged.

(e) Site visits may be increased for any of the following reasons, including but not limited to:

(A) Increased certified and licensed capacity;

(B) New individuals receiving services;

(C) Newly licensed or certified and endorsed provider;

(D) An abuse investigation;

(E) A serious event;

(F) A change in the management or staff of the licensed or certified and endorsed provider;

(G) An ISP team request;

(H) Individuals receiving services are also receiving crisis diversion services; or

(I) Significant change in the functioning of an individual who receives services at the site.

(f) The CDDP must develop a procedure for the conduct of the visits to these sites.

(g) The CDDP must document site visits and provide information concerning the site visits to the Department upon request.

(h) If there are no Department-funded individuals at the site, a visit by the CDDP is not required.

(i) When a service provider is a Department-contracted and licensed, certified, and endorsed 24-hour residential program for children and the children's residential services coordinator for the Department is assigned to monitor services, the children's residential services coordinator and the CDDP shall coordinate the site visit. If the site visit is made by Department staff, Department staff shall provide the results of the site visit to the local services coordinator.

(j) The Department may conduct site visits on a more frequent basis than described in this section based on program needs.

(3) MONITORING OF SERVICES: A services coordinator must conduct monitoring activities using the framework described in this section.

(a) For all individuals with an authorized ISP, an ongoing review of the ISP for the individual must determine whether the actions identified by the ISP team are being implemented by the service providers and others. The review of an ISP must include an assessment of the following:

(A) Are services being provided as described in the ISP and do the services result in the achievement of the identified action plans?

(B) Are the personal, civil, and legal rights of the individual protected in accordance with these rules?

(C) Are the personal desires of the individual, and as applicable the legal or designated representative or family of the individual, addressed?

(D) Do the services provided for in the ISP continue to meet what is important to, and for, the individual?

(E) Do identified goals remain relevant and are the goals supported and being met?

(b) For an individual residing in 24-hour residential services, supported living, foster care, or receiving employment services or day

support activities, the monitoring of services may be combined with the site visits described in section (1) of this rule. In addition:

(A) During a one year period, the services coordinator must review, at least once, services specific to health, safety, and behavior using questions established by the Department.

(B) A semi-annual review of the process by which an individual accesses and utilizes funds must occur using questions established by the Department. The services coordinator must determine whether financial records, bank statements, and personal spending funds are correctly reconciled and accounted for.

(i) The financial review standards for 24-hour residential services are described in OAR 411-325-0380.

(ii) The financial review standards for adult foster home services are described in OAR 411-360-0170.

(iii) Any misuse of funds must be reported to the CDDP and the Department. The Department determines whether a referral to the Medicaid Fraud Control Unit is warranted.

(C) The services coordinator must monitor reports of serious and unusual incidents.

(c) For an individual receiving employment services, the services coordinator must also assess the progress of the individual toward a path to employment.

(d) The frequency of service monitoring must be determined by the needs of an individual. Events identified in section (1)(d) of this rule provide indicators that may potentially increase the need for service monitoring.

(e) For an individual receiving only case management services and not enrolled in any other funded developmental disability services, the services coordinator must make contact with the individual at least once annually.

(A) Whenever possible, annual contact must be made in person. If annual contact is not made in person, a progress note in the service record for the individual must document how contact was achieved.

(B) The services coordinator must document annual contact in the Annual Plan for the individual as described in OAR 411-320-0120.

(C) If the individual has any identified high-risk medical issue including, but not limited to, risk of death due to aspiration, seizures, constipation, dehydration, diabetes, or significant behavioral issues, the services coordinator must maintain contact in accordance with planned actions as described in the Annual Plan for the individual.

(D) Any follow-up activities must be documented in a progress note.

(4) MONITORING FOLLOW-UP. A services coordinator and the CDDP are responsible for ensuring the appropriate follow-up to monitoring of services, except in the instance of children in 24-hour residential services directly contracted with the Department when the Department conducts the follow-up.

(a) If the services coordinator determines that comprehensive services are not being delivered as agreed in the ISP or Annual Plan for an individual or that the service needs of an individual have changed since the last review, the services coordinator must initiate action to update the ISP or Annual Plan of the individual.

(b) If there are concerns regarding the ability of a service provider to provide services, the CDDP in consultation with the services coordinator must determine the need for technical assistance or other follow-up activities such as coordination or provision of technical assistance, referral to the CDDP manager for consultation or corrective action, requesting assistance from the Department for licensing or other administrative support, or meeting with the executive director or board of directors of the service provider.

(5) DEPARTMENT NOTIFICATION. In addition to conducting abuse or other investigations as necessary, the CDDP must notify the Department when:

(a) A service provider demonstrates substantial failure to comply with any applicable licensing, certification, or endorsement rules for Department-funded programs;

(b) The CDDP finds a serious and current threat endangering the health, safety, or welfare of individuals in a program for which an immediate action by the Department is required; or

(c) Any individual receiving Department-funded developmental disability services dies. Notification must be made to the Director of the Department within one working day of the death. Entry must be made into the Serious Event Review System according to Department guidelines.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-695

#### **411-320-0140 Abuse Investigations and Protective Services**

*(Amended 12/28/2013)*

(1) GENERAL DUTIES. For the purpose of conducting abuse investigations and provision of protective services for adults, the CDDP is the designee of the Department. Each CDDP must conduct abuse investigations and provide protective services or arrange for the conduct of abuse investigations and the provision of protective services through cooperation and coordination with other CDDPs and when applicable, support services brokerages.

(a) Investigations must be done in accordance with OAR 407-045-0290.

(b) If determined necessary or appropriate, the Department may conduct an investigation itself rather than allow the CDDP to investigate the alleged abuse or the Department may conduct an

investigation in addition to the investigation by the CDDP. Under such circumstances, the CDDP must receive authorization from the Department before conducting any separate investigation.

(2) ELIGIBILITY. Unless otherwise directed by the Department, the CDDP must investigate allegations of abuse of individuals with intellectual or developmental disabilities who are:

- (a) Eighteen years of age or older; and
- (b) Receiving case management services; or
- (c) Receiving any Department-funded services for individuals; or
- (d) Previously determined eligible for developmental disability services and voluntarily terminated from services in accordance with OAR 411-320-0100.

(3) ABUSE INVESTIGATIONS. The CDDP must have and implement written protocols that describe the conduct of an abuse investigation, a risk assessment, implementation of any actions, and the report writing process. Abuse investigations must be conducted in accordance with OAR 407-045-0250 to 407-045-0360.

(4) COORDINATION WITH OTHER AGENCIES. The CDDP must cooperate and coordinate investigations and protective services with other agencies that have authority to investigate allegations of abuse for adults or children.

(5) INITIAL COMPLAINTS. Initial complaints must immediately be submitted electronically, using the Department's system for reporting serious events.

(6) CONFLICT OF INTEREST. The CDDP may not investigate allegations of abuse made against employees of the CDDP. Abuse investigations of CDDP staff are conducted by the Department or a CDDP not subject to an actual or potential conflict of interest.

(7) NOTIFICATION. Upon the initiation and completion of an abuse investigation, the CDDP must comply with the notification requirements as described in OAR 407-045-0290 and OAR 407-045-0320.

(8) REPORTS. The CDDP must complete an abuse investigation and protective service report according to OAR 407-045-0320. A copy of the final abuse investigation and protective services report must be provided to the Department within five working days of the report's completion and approval by OAAPI. Abuse investigation and protective service reports must be maintained by the CDDP in accordance with OAR 407-045-0320.

(9) DISCLOSURE. The CDDP must disclose an abuse investigation and protective services report and related documents as described in OAR 407-045-0330.

Stat. Auth.: ORS 409.050 and 430.662

Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, and 430.662 to 430.695

#### **411-320-0150 Specialized Services in a Nursing Facility** (Amended 12/28/2013)

An individual residing in a nursing facility determined to require specialized services, as described in OAR 411-070-0043, must have an annual plan for specialized services incorporated with a plan of care by the nursing facility.

(1) A services coordinator must coordinate with the individual, the individual's legal representative, the staff of the nursing facility, and other service providers, as appropriate, to provide or arrange the specialized services. The plan for specialized services must include:

- (a) The name of the service provider;
- (b) A description of the specialized services to be provided;
- (c) The number of hours of service per month;
- (d) A description of how the services must be tracked; and

(e) A description of the process of communication between the specialized service provider and the nursing facility in the event of unusual incidents, illness, absence, and emergencies.

(2) A services coordinator must complete an annual review of the plan for specialized services or when there has been a significant change in the individual's level of functioning. The review must conform to OAR 411-320-0130(2)(b).

Stat. Auth.: ORS 409.050 and 430.662

Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, and 430.662 to 430.695

### **411-320-0160 Crisis Diversion Services**

*(Amended 12/28/2013)*

(1) CRISIS DIVERSION SERVICES. The CDDP must, in conjunction with the CDDP's regional partners, provide crisis diversion services for adults and children with intellectual or developmental disabilities who are enrolled in developmental disability services and are eligible for crisis diversion services as described in section (3) of this rule and experiencing a crisis risk factor.

(2) CRISIS RISK FACTORS. An individual is in crisis when one or more of the following risk factors are present:

(a) An individual is not receiving necessary supports to address life-threatening safety skill deficits;

(b) An individual is not receiving necessary supports to address life-threatening issues resulting from behavioral or medical conditions;

(c) An individual currently engages in self-injurious behavior serious enough to cause injury that requires professional medical attention;

(d) An individual undergoes, or is at imminent risk of undergoing, loss of caregiver due to caregiver inability to provide supports;

(e) An individual experiences a loss of home due to a protective service action; or



(f) An individual is not receiving the necessary supports to address significant safety risks to others, including but not limited to:

(A) A pattern of physical aggression serious enough to cause injury;

(B) Fire-setting behaviors; or

(C) Sexually aggressive behaviors or a pattern of sexually inappropriate behaviors.

(3) ELIGIBILITY FOR CRISIS DIVERSION SERVICES. The CDDP must ensure the determination of the eligibility of individuals to receive crisis diversion services and must ensure eligibility information is made available to ISP team members upon request and to regional crisis diversion programs upon each referral. An individual is eligible for crisis diversion services when:

(a) The individual is enrolled in developmental disability services;

(b) A crisis exists as described in section (2) of this rule;

(c) There are no appropriate alternative resources available;

(d) The crisis is not primarily related to a significant mental or emotional disorder or substance abuse; and

(e) The individual meets at least one of the following criteria:

(A) The adult is court committed to the Department under ORS 427.215 through 427.306.

(B) The adult meets one of the crisis risk factors as described in section (2) of this rule.

(C) The child with intellectual or developmental disabilities is at imminent risk of out of home placement.

(D) The child with intellectual or developmental disabilities is in need of out of home placement.

(E) The child with intellectual or developmental disabilities requires supports to return home from out of home placement.

#### (4) FUNDS FOR CRISIS DIVERSION SERVICES.

(a) Funds for crisis diversion services must not supplant existing funding.

(b) Purchased goods or services must only be those necessary to resolve the crisis.

(c) Crisis diversion services must only be used when no appropriate alternative resources are available to resolve the crisis situation. The CDDP or the regional crisis diversion program administering the crisis diversion service, in consultation with the individual ISP team, must determine the appropriateness of alternative resources based on consideration of individual support needs, proximity to the individual's actively involved family members, access to other necessary resources, and cost effectiveness.

#### (5) ALLOWABLE SHORT-TERM EXPENDITURES. Allowable crisis diversion services include but are not limited to:

(a) Professional consultation, assessment, or evaluation;

(b) Adaptive equipment;

(c) Respite;

(d) Adaptations to the eligible individual's residence to increase accessibility or security;

(e) Short-term residential or vocational services;

(f) Added staff supervision; or

(g) Crisis diversion rates for direct care staff, respite providers, and professional consultants. Crisis diversion rates are paid within the Department's wage and rate guidelines.

(6) SERVICE LIMITATIONS. The following must not be purchased with crisis diversion services funds:

(a) Household appliances;

(b) Services covered under existing service provider contracts with the CDDP or Department;

(c) Health care services covered by Medicaid, Medicare, or private medical insurance; and

(d) Services provided by the parent of a child or the spouse of an adult.

(7) SERVICE AUTHORIZATION. The CDDP or regional crisis diversion program must authorize the utilization of crisis diversion services.

(a) To assure that crisis diversion services are utilized only when no appropriate alternative resources are available, the CDDP or the regional crisis diversion program must document the individual's eligibility for crisis diversion services, the alternative resources considered, and why those resources were not appropriate or available, prior to initiating any crisis diversion services.

(b) For services that exceed 90 days duration, authorization must be made by the CDDP or the regional crisis diversion program and must be documented in writing within the individual's service record.

(c) For services that exceed \$5,000 for adaptation or alteration of fixed property, authorization must be made by the Department based upon the recommendation of the CDDP or the regional crisis diversion program.

(d) The Department may, at its discretion, exercise authority under ORS 427.300 to direct any individual who is court committed to the Department under ORS 427.290 to the facility best able to treat and

train the individual. The Department shall consult with any CDDP, the regional crisis diversion program, or service provider affected by this decision, prior to placement of the individual.

(8) ADMINISTRATION OF CRISIS DIVERSION SERVICES. The CDDP and the regional crisis diversion program must operate under policies and procedures that assure internal management control of expenditures. Policies and procedures must be written and include at least the following:

- (a) Identification of people or positions within the organization authorized to approve expenditures;
- (b) Description of limits on those authorities and procedures for management reviews; and
- (c) Description of procedures to disburse and account for funds.

(9) MONITORING OF CRISIS DIVERSION SERVICES.

(a) The CDDP must monitor the delivery of crisis diversion services as specified in the crisis plan and the individual's plan of care. Monitoring must be done through contact with the individual, any service providers, and the individual's family. The monitoring contact must include the collection of information regarding supports provided and progress toward outcomes that are identified in the crisis plan. Monitoring must be documented in the individual's service record.

(b) The CDDP must coordinate with service providers or other ISP team members to evaluate the impact of crisis diversion services upon the individual and must ensure needed changes are recommended to the individual's ISP team.

(c) The Department may monitor crisis diversion services through reports received pursuant to sections (10) and (11) of this rule and OAR 411-320-0180.

(10) RECORD KEEPING AND REPORTING PROCEDURES.

(a) The CDDP or the regional crisis diversion program must ensure the crisis plan is developed in partnership with the individual's ISP

team and the following written information is maintained within the crisis plan:

(A) Identifying information about the individual, including name, address, age, and name of parent or legal representative (as applicable);

(B) Description of the circumstances for which crisis diversion services were requested to clearly specify how the individual is eligible to receive crisis diversion services;

(C) Description of resources used or alternatives considered prior to the request for crisis funds and why the resources or alternatives were not appropriate or were not available in meeting the individual's needs in addressing the crisis;

(D) Description of the goods and services requested to be purchased or provided specific to addressing the crisis, including:

(i) The frequency of the provision or purchase of goods or services;

(ii) The duration of the provision or purchase of goods or services; and

(iii) The costs of the goods or services to be provided or purchased.

(E) Description of the outcome to be achieved, including identification of benchmarks that may be used to determine whether the outcome has been achieved and maintained.

(b) The CDDP must ensure the documentation of the ISP team approved modifications to the individual's ISP that outline how the crisis is to be addressed through the use of crisis diversion services.

(c) The CDDP must ensure the documentation of monitoring contacts described in section (9)(a) of this rule.

(d) The CDDP must maintain a current copy of the level of care determination when an individual eligible for crisis diversion services is receiving home and community-based waiver or state plan services, or as otherwise instructed by the Department.

(11) **REPORTING REQUIREMENTS.** The CDDP or regional crisis diversion program must report, using the accepted Department payment and reporting systems, the following information to the Department by the tenth working day the month following each month in which crisis diversion services were provided and paid:

- (a) Individuals for whom crisis diversion services were provided;
- (b) Individual services provided and paid; and
- (c) Total cost by type of service.

Stat. Auth.: ORS 409.050 and 430.662

Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, and 430.662 to 430.695

#### **411-320-0170 Contractor Disputes**

*(Temporary Effective 07/01/2014 to 12/28/2014)*

(1) When a dispute exists between a CDDP and a subcontracted service provider regarding the terms of their contract or the interpretation of administrative rule and local dispute resolution efforts have been unsuccessful, either party may request assistance from the Department in mediating the dispute.

(a) The parties must demonstrate a spirit of cooperation, mutual respect, and good faith in all aspects of the mediation process. Mediation must be conducted as follows:

(A) The party requesting mediation must send a written request to the Director of the Department, the CDDP Director, and the Executive Director of the service provider, unless other people are named as official contact people in the specific rule or contract under dispute. The request must describe the nature of

the dispute and identify the specific rule or contract provisions that are central to the dispute.

(B) Department staff shall arrange the first meeting of the parties at the earliest possible date. The agenda for the first meeting shall include:

(i) Consideration of the need for services of an outside mediator. If the services of an unbiased mediator are desired, agreement shall be made on arrangements for obtaining these services;

(ii) Development of rules and procedures that shall be followed by all parties during the mediation; and

(iii) Agreement on a date by which mediation shall be completed unless extended by mutual agreement.

(C) Unless otherwise agreed to by all parties:

(i) Each party shall be responsible for the compensation and expenses of their own employees and representatives; and

(ii) Costs that benefit the group, such as services of a mediator, rental of meeting space, purchase of snack food and beverage, etc. shall be shared equally by all parties.

(b) A written statement documenting the outcome of the mediation must be prepared. This statement must consist of a brief written statement signed by all parties or separate statements from each party declaring their position on the dispute at the conclusion of the mediation process. In the absence of written statements from other parties, the Department shall prepare the final report. A final report on each mediation must be retained on file at the Department.

(2) A service provider may appeal the imposition of a disputed term or condition in the contract if the service provider believes that the contract offered by the CDDP contains terms or conditions that are not substantially

similar to those established by the Department in the model contract. The appeal of the imposition of the disputed terms or conditions must be in writing and sent to the Director of the Department within 30 calendar days after the effective date of the contract requirement.

(a) A copy of the notice of appeal must be sent to the CDDP. The notice of appeal must include:

(A) A copy of the contract and any pertinent contract amendments;

(B) Identification of the specific terms that are in dispute; and

(C) A complete written explanation of the dissimilarity between terms.

(b) Upon receipt of the notice of appeal, the CDDP must suspend enforcement of compliance with any contract requirement under appeal by the service provider until the appeal process is concluded.

(c) The Director of the Department must offer to mediate a solution in accordance with the procedure outlined in sections (1)(a) and (1)(b) of this rule.

(A) If a solution cannot be mediated, the Director of the Department shall declare an impasse through written notification to all parties and immediately appoint a panel to consider arguments from both parties. The panel must include at a minimum:

(i) A representative from the Department;

(ii) A representative from another CDDP; and

(iii) A representative from another service provider organization.

(B) The panel must meet with the parties, consider the respective arguments, and send written recommendations to the Director of the Department within 45 business days after an



impasse is declared, unless the Director of the Department grants an extension.

(C) If an appeal requiring panel consideration has been received from more than one contractor, the Department may organize materials and discussion in any manner deemed necessary, including combining appeals from multiple contractors, to assist the panel in understanding the issues and operating efficiently.

(D) The Director of the Department must notify all parties of his or her decision within 15 business days from the receipt of the recommendations of the panel. The decision of the Department is final. The CDDP must take immediate action to amend contracts as needed to comply with the decision.

(E) Notwithstanding section (2)(c) of this rule, the Director of the Department has the right to deny the appeal or a portion of the appeal if, upon receipt and review of the notice of appeal, the Director of the Department finds that the contract language being contested is identical to the current language in the county financial assistance agreement with the Department.

(d) The CDDP or the contractor may request an expedited appeal process that provides a temporary resolution if it can be shown that the time needed to follow procedures to reach a final resolution would cause imminent risk of serious harm to individuals or organizations.

(A) The request must be made in writing to the Director of the Department. The request must describe the potential harm and level of risk that shall be incurred by following the appeal process.

(B) The Department must notify all parties of the decision to approve an expedited appeal process within two business days.

(C) If an expedited process is approved, the Department shall notify all parties of the decision concerning the dispute within three additional business days. The decision resulting from an expedited appeal process shall be binding, but temporary,

pending completion of the appeal process. All parties must act according to the temporary decision until notified of a final decision.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-695

### **411-320-0175 Individual Complaints, Notification of Planned Action, and Hearings**

*(Temporary Effective 07/01/2014 to 12/28/2014)*

#### **(1) INDIVIDUAL COMPLAINTS.**

(a) The CDDP must have and implement written policies and procedures for individual complaints in accordance with OAR 411-318-0015.

(b) Complaints by or on behalf of individuals must be addressed in accordance with OAR 411-318-0015.

(c) Upon entry, request, and annually thereafter, the policy and procedures for complaints as described in OAR 411-318-0015 must be explained and provided to an individual and the legal or designated representative of the individual (as applicable).

(2) NOTIFICATION OF PLANNED ACTION. In the event developmental disability services are involuntarily denied, reduced, suspended, or terminated or voluntarily reduced, suspended, or terminated, a written advance Notification of Planned Action (form SDS 0947) must be provided as described in OAR 411-318-0020.

#### **(3) HEARINGS.**

(a) Hearings must be addressed in accordance with ORS chapter 183 and OAR 411-318-0025.

(b) An individual, or as applicable the legal or designated representative of the individual, may request a hearing as provided in ORS chapter 183 and OAR 411-318-0025 for involuntary denials,

reductions, suspensions, or terminations or OAR 411-318-0030 for involuntary transfers or exits.

(c) Upon entry, request, and annually thereafter, a notice of hearing rights and the policy and procedures for hearings as described in OAR chapter 411, division 318 must be explained and provided to an individual and the legal or designated representative of the individual (as applicable).

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-695

### **411-320-0180 Inspections and Investigations**

*(Amended 12/28/2013)*

(1) All services covered by these rules must allow the following types of investigations and inspections:

- (a) Quality assurance, certification, and on-site inspections;
- (b) Complaint investigations; and
- (c) Abuse investigations.

(2) The Department, the Department's designee, or proper authority must perform all inspections and investigations.

(3) Any inspection or investigation may be unannounced.

(4) A plan of correction must be submitted to the Department for any non-compliance found during an inspection under this rule.

Stat. Auth.: ORS 409.050 and 430.662

Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, and 430.662 to 430.695

### **411-320-0190 Program Review**

*(Amended 12/28/2013)*

(1) The Department may review the CDDP implementation of these rules as provided in OAR 411-320-0180 at least every five years or more frequently as needed to ensure compliance.

(2) Following a Department review, the Department shall issue a report to the CDDP identifying areas of compliance and areas in need of improvement.

(3) If, following a review, the CDDP or services coordinator is not in substantial compliance with these rules, the Department may offer technical assistance or request a plan of improvement. The CDDP must perform the necessary improvement measures required by and in the time specified by the Department. The Department may conduct additional reviews as necessary to ensure improvement measures have been achieved.

Stat. Auth.: ORS 409.050 and 430.662

Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, and 430.662 to 430.695

#### **411-320-0200 Variances**

*(Amended 12/28/2013)*

(1) A variance that does not jeopardize individuals' health or safety may be granted to the CDDP if there is a lack of resources to meet the standards required in these rules and the alternative services, methods, concepts, or procedures proposed would result in services or systems that meet or exceed the standards. All variances must be submitted to and approved by the Department prior to implementation.

(2) The CDDP requesting a variance must submit, in writing, an application to the Department that contains the following:

(a) The section of the rule from which the variance is sought;

(b) The reason for the proposed variance;

(c) A description of the alternative practice, service, method, concept, or procedure proposed, including how the health and safety of

individuals receiving services shall be protected to the extent required by these rules;

(d) A plan and timetable for compliance with the section of the rule from which the variance is sought; and

(e) Signed documentation from the CDDP reflecting the justification for the proposed variance.

(3) The Department's director must approve or deny the request for a variance.

(4) The Department shall notify the CDDP of the decision within 45 days of the receipt of the request by the Department.

(5) Appeal of the denial of a variance request must be made in writing to the Department's director whose decision is final.

(6) The CDDP may implement a variance only after written approval from the Department. The intergovernmental agreement is amended to the extent that the variance changes a term in that agreement.

Stat. Auth.: ORS 409.050 and 430.662

Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, and 430.662 to 430.695