DEPARTMENT OF HUMAN SERVICES
DEVELOPMENTAL DISABILITIES
OREGON ADMINISTRATIVE RULES

CHAPTER 411
DIVISION 328

SUPPORTED LIVING SERVICES FOR ADULTS WITH INTELLECTUAL OR DEVELOPMENTAL DISABILITIES

EFFECTIVE DECEMBER 28, 2013

411-328-0550 Statement of Purpose
(Amended 12/28/2013)

(1) The rules in OAR chapter 411, division 328 prescribe standards by which the Department approves service providers that provide supported living services for adults with intellectual or developmental disabilities.

(2) The overall mission of the Department is to provide support services that enhance the quality of life of individuals with intellectual or developmental disabilities.

(a) Supported living services are a key element in the service delivery system and are critical to achieving the Department's mission.

(b) The goal of supported living is to assist individuals to live in their own homes, in their own communities.

(c) The term "supported living" refers to a service that provides the opportunity for adults with intellectual or developmental disabilities to live in the residence of their choice within the community with recognition that needs and preferences may change over time. Levels of support are based upon individual needs and preferences as identified in a functional needs assessment and defined in an Individual Support Plan. Such services may include up to 24 hours per day of paid supports that are provided in a manner that protects individuals' dignity.

(d) The service provider is responsible for developing and implementing policies and procedures that ensure that the requirements of these rules are met.

(e) In addition, the service provider must ensure services comply with all applicable local, state, and federal laws and regulations.

(f) The purpose of these rules is to ensure that the service provider meets basic management, programmatic, health and safety, and human rights regulations for adults receiving supported living services funded by the Department.

Stat. Auth.: ORS 409.050 and 430.662
Stats. Implemented: ORS 430.610, 430.662, and 430.670

411-328-0560 Definitions
(Amended 12/28/2013)

Unless the context indicates otherwise, the following definitions apply to the rules in OAR chapter 411, division 328:

(1) "Abuse" means "abuse of an adult" as defined in OAR 407-045-0260.

(2) "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 in OAR 407-045-0310.

(3) "Activities of Daily Living (ADL)" means basic personal everyday activities, including but not limited to tasks such as eating, using the restroom, grooming, dressing, bathing, and transferring.

(4) "ADL" means "activities of daily living" as defined in this rule.

(5) "Administration of Medication" means the act of placing a medication in or on an individual's body by a staff member who is responsible for the individual's care.

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

(7) "Aid to Physical Functioning" means any special equipment prescribed for an individual by a physician, therapist, or dietician that maintains or enhances the individual's physical functioning.

(8) "Board of Directors" mean the group of persons formed to set policy and give directions to a service provider that provides supported living services. A board of directors includes local advisory boards used by multi-state organizations.

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

(10) "CDDP" means "community developmental disability program" as defined in this rule.

(11) "Certificate" means the document issued by the Department to a service provider that certifies the service provider is eligible under the rules in OAR chapter 411, division 323 to receive state funds for the provision of endorsed supported living services.

(12) "Choice" means an individual's expression of preference, opportunity for, and active role 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 an individual's rights, risks, and personal choices. Individuals are supported in opportunities to make changes when so expressed. Choice may be communicated verbally, through sign language, or by other communication methods.

(13) "Community Developmental Disability Program (CDDP)" means the entity that is responsible for plan authorization, delivery, and monitoring of services for individuals with intellectual or developmental disabilities according to OAR chapter 411, division 320.

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

(15) "Complaint Investigation" means the investigation of any complaint that has been made to a proper authority that is not covered by an abuse investigation.

(16) "Controlled Substance" means any drug classified as Schedules 1 to 5 under the Federal Controlled Substance Act.

(17) "Day" means a calendar day unless otherwise specified in these rules.

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

(19) "Designated Representative" means a parent, family member, guardian, advocate, or other person authorized in writing by an individual to serve as the individual's representative 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.

(20) "Developmental Disability" means a neurological condition that originates in the developmental years, that is likely to continue, and significantly impacts adaptive behavior as diagnosed and measured by a qualified professional as described in OAR 411-320-0080.

(21) "Director" means the director of the Department's Office of Developmental Disability Services or the director's designee.

(22) "Endorsement" means the authorization to provide supported living services issued by the Department to a certified service provider that has met the qualification criteria outlined in these rules and the rules in OAR chapter 411, division 323.

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

(24) "Executive Director" means the person designated by a board of directors or corporate owner that is responsible for the administration of supported living services.

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

(26) "Founded Reports" means the Department's or Law Enforcement Authority's (LEA) determination, 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.

(27) "Functional Needs Assessment' means a comprehensive assessment that documents:

(a) Physical, mental, and social functioning; and

(b) Risk factors, choices and preferences, service and support needs, strengths, and goals.

(28) "Health Care Provider" means the person or health care facility licensed, certified, or otherwise authorized or permitted by Oregon law to administer health care in the ordinary course of business or practice of a profession.

(29) "Home and Community-Based Waiver Services" mean the services approved by the Centers for Medicare and Medicaid Services in accordance with section 1915(c) and 1115 of the Social Security Act.

(30) "IADL" means "instrumental activities of daily living" as defined in this rule.

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

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

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

(34) "Individual Profile" means the written profile that describes an individual entering into supported living services. The profile may consist of materials or assessments generated by a service provider or other related

agencies, consultants, family members, or the individual's legal or designated representative.

(35) "Individual Support Plan (ISP)" means the written details of the supports, activities, and resources required for an individual to achieve and maintain personal outcomes. The ISP is developed at minimum annually to reflect decisions and agreements made during a person-centered process of planning and information gathering. Individual support needs are identified through a functional needs assessment. The manner in which services are delivered, service providers, and the frequency of services are reflected in an ISP. The ISP is the individual's plan of care for Medicaid purposes and reflects whether services are provided through a waiver, state plan, or natural supports.

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

(37) "Instrumental Activities of Daily Living (IADL)" mean the activities other than activities of daily living required to continue independent living, including but not limited to:

(a) Meal planning and preparation;

(b) Budgeting;

(c) Shopping for food, clothing, and other essential items;

(d) Performing essential household chores;

(e) Communicating by phone or other media; and

(f) Traveling around and participating in the community.

(38) "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.

(39) "Intellectual Disability" means "intellectual disability" as defined in OAR 411-320-0020 and described in OAR 411-320-0080.

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

(41) "ISP" means "Individual Support Plan" as defined in this rule.

(42) "K Plan" means "Community First Choice" as defined in this rule.

(43) "Legal Representative" means an attorney at law who has been retained by or for an individual, or a person or agency authorized by a court to make decisions about services for an individual.

(44) "Mandatory Reporter" means any public or private official as defined in OAR 407-045-0260 who, while acting in an official capacity, comes in contact with and has reasonable cause to believe an adult with an intellectual or developmental disability has suffered abuse, or comes in contact with any person whom the official has reasonable cause to believe abused an adult with an intellectual or developmental disability. Nothing contained in ORS 40.225 to 40.295 affects the duty to report imposed by this section of this rule, except that a psychiatrist, psychologist, clergy, or attorney is not required to report if the communication is privileged under ORS 40.225 to 40.295.

(45) "Medicaid Agency Identification Number" means the numeric identifier assigned by the Department to a service provider following the service provider's enrollment as described in OAR chapter 411, division 370.

(46) "Medicaid Performing Provider Number" means the numeric identifier assigned to an entity or person by the Department following enrollment to deliver Medicaid funded services as described in OAR chapter 411, division 370. The Medicaid Performing Provider Number is used by the rendering service provider for identification and billing purposes associated with service authorizations and payments.

(47) "Medication" means any drug, chemical, compound, suspension, or preparation in suitable form for use as a curative or remedial substance taken either internally or externally by any person.

(48) "Natural Supports" means the voluntary resources available to an individual from the individual's relatives, friends, significant others, neighbors, roommates, and the community that are not paid for by the Department.

(49) "Needs Meeting" means a process in which an Individual Support Plan team identifies the services and supports an individual needs to live in his or her own home and makes a determination as to the feasibility of creating such services. The information generated in a needs meeting or discussion is used for completion of the functional needs assessment to develop an individual's Transition Plan.

(50) "OSIP-M" means "Oregon Supplemental Income Program-Medical" as defined in OAR 461-101-0010. OSIP-M is Oregon Medicaid insurance coverage for individuals who meet the eligibility criteria described in OAR chapter 461.

(51) "Person-Centered Planning":

(a) Means a timely and formal or informal process that is driven by an individual with an intellectual or developmental disability that gathers and organizes information that helps an individual:

(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.

(b) The methods for gathering information vary, but all are consistent with the individual's cultural considerations, needs, and preferences.

(52) "Personal Futures Planning" means an optional planning process for determining activities, supports, and resources that best create a desirable future for an individual. The planning process generally occurs around major life transitions, such as moving into a new home, graduation from high school, marriage, etc.

(53) "Plan of Care" means the written plan of Medicaid services an individual needs as required by Medicaid regulation. Oregon's plan of care is the Individual Support Plan.

(54) "Prescription Medication" means any medication that requires a physician's prescription before the medication may be obtained from a pharmacist.

(55) "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.

(56) "Protection" and "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 an individual's person, property, and funds.

(57) "Protective Physical Intervention (PPI)" means any manual physical holding of, or contact with, an individual that restricts the individual's freedom of movement.

(58) "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.

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

(60) "Self-Administration of Medication" means an individual manages and takes his or her own medication, identifies his or her own medication and the times and methods of administration, places the medication internally in or externally on his or her own body without staff assistance upon written order of a physician, and safely maintains the medication without supervision.

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

(62) "Service Provider" means a public or private community agency or organization that provides recognized developmental disability services and is certified and endorsed by the Department to provide these services under these rules and the rules in OAR chapter 411, division 323.

(63) "Services Coordinator" means an employee of a community developmental disability program or other agency that contracts with the county or Department, who is selected to plan, procure, coordinate, and monitor services, and to act as a proponent for individuals with intellectual or developmental disabilities. A services coordinator is an individual's person-centered plan coordinator as defined in the Community First Choice state plan.

(64) "Significant Other" means a person selected by an individual to be the individual's friend.

(65) "Staff" means paid employees responsible for providing services to individuals whose wages are paid in part or in full with funds sub-contracted with the community developmental disability program or contracted directly through the Department.

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

(67) "Support" means the assistance that an individual requires, solely because of the affects of the individual's 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.

(68) "Supported Living" means the endorsed service that provides the opportunity for individuals to live in a residence of their own choice within the community. Supported living is not grounded in the concept of "readiness" or in a "continuum of services model" but rather provides the opportunity for individuals to live where they want, with whom they want, for as long as they desire, with a recognition that needs and desires may change over time.

(69) "These Rules" mean the rules in OAR chapter 411, division 328.

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

(71) "Transition Plan" means the written plan of services and supports for the period of time between an individual's entry into a particular service and the development of the individual's Individual Support Plan (ISP). The Transition Plan is approved by the individual's 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.

(72) "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, or any incident requiring an abuse investigation.

(73) "Variance" means the temporary exception from a regulation or provision of these rules that may be granted by the Department upon written application by a service provider.

(74) "Volunteer" means any person assisting a service provider without pay to support the services and supports provided to an individual.

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

Stat. Auth.: ORS 409.050 and 430.662
Stats. Implemented: ORS 430.610, 430.662, and 430.670

411-328-0570 Program Management
(Amended 12/28/2013)

(1) CERTIFICATION, ENDORSEMENT, AND ENROLLMENT. To provide supported living services, a service provider must have:

(a) A certificate and an endorsement to provide supported living services as set forth in OAR chapter 411, division 323;

(b) A Medicaid Agency Identification Number assigned by the Department as described in OAR chapter 411, division 370; and

(c) For each specific geographic service area where supported living services shall be delivered, a Medicaid Performing Provider Number assigned by the Department as described in OAR chapter 411, division 370.

(2) INSPECTIONS AND INVESTIGATIONS. The service provider must allow inspections and investigations as described in OAR 411-323-0040.

(3) MANAGEMENT AND PERSONNEL PRACTICES. The service provider must comply with the management and personnel practices as described in OAR 411-323-0050.

(4) PERSONNEL FILES AND QUALIFICATION RECORDS. The service provider must maintain written documentation of six hours of pre-service training prior to supervising individuals that includes mandatory abuse reporting training and training on individual profiles, Transition Plans, and ISPs.

(5) CONFIDENTIALITY OF RECORDS. The service provider must ensure all individuals' records are confidential as described in OAR 411-323-0060.

(6) DOCUMENTATION REQUIREMENTS. Unless stated otherwise, all entries required by these rules must:

(a) Be prepared at the time or immediately following the event being recorded;

(b) Be accurate and contain no willful falsifications;

(c) Be legible, dated, and signed by the person making the entry; and

(d) Be maintained for no less than five years.

Stat. Auth.: ORS 409.050 and 430.662
Stats. Implemented: ORS 430.610, 430.662, and 430.670

411-328-0580 Application for Initial Certificate and Certificate Renewal
(Repealed 1/6/2012 – See OAR chapter 411, division 323)

411-328-0590 Certification Expiration, Termination of Operations, Certificate Return
(Repealed 1/6/2012 – See OAR chapter 411, division 323)

411-328-0600 Change of Ownership, Legal Entity, Legal Status, Management Corporation
(Repealed 1/6/2012 – See OAR chapter 411, division 323)

411-328-0610 Inspections and Investigations

(Repealed 1/6/2012 – See OAR 411-323-0040)

411-328-0620 Variances
(Amended 12/28/2013)

(1) The Department may grant a variance to these rules based upon a demonstration by the service provider that an alternative method or different approach provides equal or greater program effectiveness and does not adversely impact the welfare, health, safety, or rights of individuals.

(2) The service provider requesting a variance must submit, in writing, an application to the CDDP that contains the following:

(a) The section of the rule from which the variance is sought;

(b) The reason for the proposed variance;

(c) The alternative practice, service, method, concept, or procedure proposed; and

(d) If the variance applies to an individual's services, evidence that the variance is consistent with an individual's currently authorized ISP.

(3) The CDDP must forward the signed variance request form to the Department within 30 days of receipt of the request indicating the CDDP's position on the proposed variance.

(4) The Department may approve or deny the request for a variance. The Department's decision shall be sent to the service provider, the CDDP, and to all relevant Department programs or offices within 30 calendar days of the receipt of the variance request.

(5) The service provider may appeal the denial of a variance request within 10 working days of the denial by sending a written request for review to the Department's director and a copy of the request to the CDDP. The director's decision is final.

(6) The Department shall determine the duration of the variance.

(7) The service provider may implement a variance only after written approval from the Department.

Stat. Auth.: ORS 409.050 and 430.662
Stats. Implemented: ORS 430.610, 430.662, and 430.670

411-328-0630 Medical Services
(Amended 12/28/2013)

(1) All individuals' medical records must be kept confidential as described in OAR 411-323-0060.

(2) Individuals must receive sufficient oversight and guidance by the service provider to ensure that the individuals' health and medical needs are adequately addressed.

(3) Written health and medical supports must be developed as required for the individual and integrated into the individual's Transition Plan or ISP. The plan must be based on a functional needs assessment of the individual's health and medically related support needs and preferences, and updated annually or as significant changes occur.

(4) The service provider must have and implement written policies and procedures that maintain or improve the physical health of individuals. Policies and procedures must address:

(a) Early detection and prevention of infectious disease;

(b) Emergency medical intervention;

(c) Treatment and documentation of illness and health care concerns; and

(d) Obtaining, administering, storing, and disposing of prescription and non-prescription drugs, including self administration.

(5) The service provider must ensure each individual has a primary physician whom the individual has chosen from among qualified providers.

(6) Provisions must be made for a secondary physician or clinic in the event of an emergency.

(7) The service provider must ensure that an individual has a medical evaluation by a physician no less often than every two years or as recommended by a physician. Evidence of the evaluation must be placed in the individual's record and must address:

(a) Current health status;

(b) Changes in health status;

(c) Recommendations, if any, for further medical intervention;

(d) Any remedial and corrective action required and when such actions were taken;

(e) Statement of restrictions on activities due to medical limitations; and

(f) A review of medications, treatments, special diets, and therapies prescribed.

(8) Before entry, the service provider must obtain the most complete medical profile available including:

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

(b) Results of any dental evaluation;

(c) A record of immunizations;

(d) Status of Hepatitis B screening;

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

(f) A summary of the individual's medical history, including chronic health concerns.

(9) The service provider must ensure that all medications, treatments, and therapies:

(a) Have a written order or copy of the written order signed by a physician or physician designee before any medication, prescription, or non-prescription is administered to, or self-administered by, the individual unless otherwise indicated by the individual's ISP team in the written health and medical support section of the individual's ISP or Transition Plan; and

(b) Be followed per written orders.

(10) PRN orders are not allowed for psychotropic medication.

(11) The drug regimen of each individual on prescription medication must be reviewed and evaluated by a physician or physician designee no less often than every 180 days, unless otherwise indicated by the individual's ISP team in the written health and medical support section of the individual's ISP or Transition Plan.

(12) All prescribed medications and treatments must be self-administered unless contraindicated by the individual's ISP team or physician. For individuals who require assistance in the administration of their own medications, the following must be required:

(a) The individual's ISP team has recommended that the individual be assisted with taking their medication;

(b) There is a written training program for the self-administration of medication unless contraindicated by the individual's ISP team; and

(c) There is a written record of medications and treatments that document physician's orders are being followed.

(13) For individuals who independently self-administer medications, there must be a plan for the periodic monitoring or review of medications on each individual's ISP.

(14) The service provider must assist individuals with the use of prosthetic devices as ordered.

Stat. Auth.: ORS 409.050 and 430.662
Stats. Implemented: ORS 430.610, 430.662, and 430.670

411-328-0640 Dietary
(Amended 12/28/2013)

(1) The service provider is responsible for identifying the amount of support and guidance required to ensure that individuals are provided access to a nutritionally adequate diet.

(2) Written dietary supports must be developed as required by the individual's ISP team and integrated into the individual's Transition Plan or ISP. The plan must be based on a review and identification of the individual's dietary service needs and preferences, and updated annually or as significant changes occur.

(3) The service provider must have and implement policies and procedures related to maintaining adequate food supplies, meal planning, preparation, service, and storage.

Stat. Auth.: ORS 409.050 and 430.662
Stats. Implemented: ORS 430.610, 430.662, and 430.670

411-328-0650 Physical Environment
(Amended 12/28/2013)

(1) All floors, walls, ceilings, windows, furniture, and fixtures must be maintained.

(2) The water supply and sewage disposal must meet the requirements of the current rules of the Oregon Public Health Division governing domestic water supply.

(3) Each residence must have:

(a) A kitchen area for the preparation of hot meals; and

(b) A bathroom containing a properly operating toilet, handwashing sink, and a bathtub or shower.

(4) Each residence must be adequately heated and ventilated.

Stat. Auth.: ORS 409.050 and 430.662
Stats. Implemented: ORS 430.610, 430.662, and 430.670

411-328-0660 General Safety
(Amended 12/28/2013)

(1) The service provider must employ means for protecting individuals' health and safety which:

(a) Are not unduly restrictive;

(b) May include risks but do not inordinately affect individuals' health, safety and welfare; and

(c) Are used by other individuals in the community.

(2) Written safety supports must be developed as required by the individual's ISP team and integrated into the individual's Transition Plan or ISP. The plan must:

(a) Be based on a review and identification of the individual's safety needs and preferences;

(b) Be updated annually or as significant changes occur; and

(c) Identify how the individual evacuates his or her residence, specifying at a minimum routes to be used and the level of assistance needed.

(3) The service provider must have and implement policies and procedures that provide for the safety of individuals and for responses to emergencies and disasters.

(4) An operable smoke alarm must be available in each bedroom and in a central location on each floor.

(5) An operable class 2A10BC fire extinguisher must be easily accessible in each residence.

(6) First aid supplies must be available in each residence.

(7) The need for emergency evacuation procedures and documentation thereof must be assessed and determined by an individual's ISP team.

(8) An operable flashlight must be available in each residence.

(9) The service provider must provide necessary adaptations to ensure fire safety for sensory and physically impaired individuals.

(10) Bedrooms must meet minimum space requirements (single 60 square feet, double 120 square feet with beds located three feet apart).

(11) Sleeping rooms must have at least one window that opens from the inside without special tools and provides a clear opening through which the individual may exit.

(12) Emergency telephone numbers must be available at each individual's residence as follows:

(a) The telephone numbers of the local fire, police department, and ambulance service, if not served by a 911 emergency service; and

(b) The telephone number of the service provider's executive director or the executive director's designee, emergency physician, and other people to be contacted in case of an emergency.

Stat. Auth.: ORS 409.050 and 430.662
Stats. Implemented: ORS 430.610, 430.662, and 430.670

411-328-0670 Safety: Personnel
(Repealed 1/6/2012 – See OAR 411-323-0050)

411-328-0680 Staffing Requirements
(Amended 12/28/2013)

(1) The service provider must provide responsible people or an agency, on-call and available to individuals by telephone at all times.

(2) The service provider must provide staff appropriate to the number and needs of individuals served as specified in each individual's ISP.

(3) Each service provider must meet all requirements for staff ratios as specified by contract requirements.

Stat. Auth.: ORS 409.050 and 430.662
Stats. Implemented: ORS 430.610, 430.662, and 430.670

411-328-0690 Individual Summary Sheets
(Amended 12/28/2013)

A current record must be maintained by the service provider for each individual receiving services. The record must include:

(1) The individual's name, current address, home phone number, date of entry into services, date of birth, sex, marital status, social security number, social security beneficiary account number, religious preference, preferred hospital, and where applicable, the number of the Disability Services Office (DSO) or the Multi-Service Office (MSO) of the Department and guardianship status; and

(2) The name, address, and telephone number of:

(a) The individual's legal or designated representative and family (as applicable);

(b) The individual's preferred physician, secondary physician, and clinic;

(c) The individual's preferred dentist;

(d) The individual's day program or employer, if any;

(e) The individual's services coordinator; and

(f) Other agency representatives providing services to the individual.

Stat. Auth.: ORS 409.050 and 430.662
Stats. Implemented: ORS 430.610, 430.662, and 430.670

411-328-0700 Incident Reports and Emergency Notifications
(Amended 12/28/2013)

(1) A written report that describes any injury, accident, act of physical aggression, or unusual incident involving an individual must be placed in the individual's record. Such description must include:

(a) Conditions prior to, or leading to, the incident;

(b) A description of the incident;

(c) Staff response at the time; and

(d) Administrative review and follow-up to be taken to prevent a recurrence of the injury, accident, physical aggression, or unusual incident.

(2) Copies of incident reports for all unusual incident s(as defined by OAR 411-328-0560) must be sent to the individual's services coordinator within five working days of the incident.

(3) The service provider must notify the CDDP immediately of an incident or allegation of abuse falling within the scope of OAR 411-328-0560(1). When an abuse investigation has been initiated, the CDDP must ensure that either the services coordinator or the service provider also immediately notifies the individual's legal or designated representative (as applicable). The individual's parent, next of kin, or other significant person may also be notified unless the individual requests the parent, next of kin, or other significant person not be notified about the abuse investigation or protective services, or notification has been specifically prohibited by law.

(4) In the case of a serious illness, injury, or death of an individual, the service provider must immediately notify:

(a) The individual's legal or designated representative, parent, next of kin, and other significant person (as applicable);

(b) The Community Developmental Disability Program; and

(c) Any other agency responsible for the individual.

(5) In the case of an individual who is missing beyond the timeframes established by the individual's ISP team, the service provider must immediately notify:

(a) The individual's designated representative;

(b) The individual's legal representative, if any, or nearest responsible relative;

(c) The local police department; and

(d) The Community Developmental Disability Program.

Stat. Auth.: ORS 409.050 and 430.662
Stats. Implemented: ORS 430.610, 430.662, and 430.670

411-328-0710 Vehicles and Drivers
(Amended 12/28/2013)

(1) A service provider that owns or operates a vehicle that transports individuals must:

(a) Maintain the vehicle in safe operating condition;

(b) Comply with Driver and Motor Vehicle Services Division laws;

(c) Maintain insurance coverage on the vehicle and all authorized drivers; and

(d) Carry a fire extinguisher and first aid kit in the vehicle.

(2) A driver operating a vehicle to transport individuals must meet applicable Driver and Motor Vehicle Services Division requirements.

Stat. Auth.: ORS 409.050 and 430.662
Stats. Implemented: ORS 430.610, 430.662, and 430.670

411-328-0715 Financial Rights
(Amended 12/28/2013)

(1) Written individual financial supports must be developed as required by the individual's ISP team and integrated into the individual's Transition Plan or ISP. The plan must be based on a review and identification of the individual's financial support needs and preferences, and be updated annually or as significant changes occur.

(2) The service provider must have and implement written policies and procedures related to the oversight of the individual's financial resources.

(3) The service provider must reimburse to the individual any funds that are missing due to theft or mismanagement on the part of any staff of the service provider, or of any funds within the custody of the service provider that are missing. Such reimbursement must be made within 10 working days of the verification that funds are missing.

Stat. Auth.: ORS 409.050 and 430.662
Stats. Implemented: ORS 430.610, 430.662, and 430.670

411-328-0720 General Rights
(Amended 12/28/2013)

(1) Any adult or any individual as defined at OAR 411-328-0560 shall not be abused nor shall abuse be condoned by an employee, staff, or volunteer of the service provider.

(2) The service provider must have and implement written policies and procedures that protect individuals' rights and encourage and assist individuals to understand and exercise these rights. These policies and procedures must at a minimum provide for:

> (a) Assurance that each individual has the same civil and human rights accorded to other citizens;

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

(c) Visits to and from family members, friends, legal or designated representatives (as applicable), and when necessary legal and medical professionals;

(d) Private communication, including personal mail and telephone;

(e) Personal property and fostering of personal control and freedom regarding that property;

(f) Privacy;

(g) Protection from abuse and neglect, including freedom from unauthorized training, treatment, and chemical or mechanical restraints;

(h) Freedom from unauthorized protective physical intervention;

(i) Freedom to choose whether or not to participate in religious activity;

(j) The opportunity to vote and training in the voting process if desired;

(k) Expression of sexuality, to marry, and to have children;

(l) Access to community resources, including recreation, agency services, employment and alternatives to employment services, educational opportunities, and health care resources;

(m) Transfer within a program;

(n) Individual choice that enables control and ownership of personal affairs;

(o) Appropriate services that promote independence, dignity, and self-esteem and are also appropriate to the age and preferences of the individual;

(p) Individual choice to consent to or refuse treatment; and

(q) Individual choice to participate in community activities.

(3) At entry to services and as changes occur, the service provider must inform each individual, and as applicable the individual's legal or designated representative, orally and in writing of the service provider's rights policy and procedures and a description of how to exercise them.

Stat. Auth.: ORS 409.050 and 430.662
Stats. Implemented: ORS 430.610, 430.662, and 430.670

411-328-0730 Rights: Confidentiality of Records
(Repealed 1/6/2012 – See OAR 411-323-0060)

411-328-0740 Grievances
(Amended 12/28/2013)

(1) The service provider must implement written policies and procedures for individuals' grievances as required by OAR 411-323-0060.

(2) The service provider must send a copy of the grievance to the services coordinator within 15 working days of initial receipt of the grievance.

(3) At entry to service and as changes occur, the service provider must inform each individual, and as applicable the individual's legal or designated representative, orally and in writing of the service provider's grievance policy and procedures and a description of how to utilize them.

Stat. Auth.: ORS 409.050 and 430.662
Stats. Implemented: ORS 430.610, 430.662, and 430.670

411-328-0750 Personalized Plans
(Amended 12/28/2013)

(1) The decision to support an individual so that the individual may live in and maintain his or her own home requires significant involvement from the individual and the individual's ISP team. In supported living, this process is characterized by a functional needs assessment and a series of team

meetings or discussions to determine what personalized supports the individual needs to live in his or her own home, a determination as to the feasibility of creating such supports, and the development of a written plan that describes services the individual must receive upon entry into supported living.

(2) NEEDS MEETING. Prior to an individual moving into his or her own home or receiving supported living services, the individual's ISP team must meet to discuss the individual's projected service needs in a needs meeting. This meeting must:

(a) Review information related to the individual's health and medical, safety, dietary, financial, social, leisure, staff, mental health, and behavioral support needs and preferences;

(b) Include any potential service providers, the individual, and other ISP team members;

(c) As part of a functional needs assessment activity, identify the supports required for the individual to live in his or her own home; and

(d) Discuss the selection of potential service providers based on the list of support and services needed.

(3) TRANSITION PLAN. The service provider must spend time getting to know the individual personally before the development of the individual's Transition Plan. The individual, service provider, and other ISP team members must participate in an entry meeting prior to the initiation of services. The outcome of the entry meeting must be a written Transition Plan that takes effect upon entry. The Transition Plan must:

(a) Address the individual's health and medical, safety, dietary, financial, staffing, mental health, and behavioral support needs and preferences as required by the individual's ISP team;

(b) Indicate who is responsible for providing the supports described in the individual's Transition Plan;

(c) Be based on the list of supports identified in the functional needs assessment and consultation required by the individual's ISP team; and

(d) Be in effect and available at the site until the individual's ISP is developed and approved by the individual's ISP team.

(4) INDIVIDUAL SUPPORT PLAN.

(a) An ISP must be developed and approved by an individual's ISP team, be available at the individual's home within 30 days of development and approval, and updated at least annually or as changes occur.

(b) The ISP must address all the support needs identified in a functional needs assessment. The ISP or attached documents must include:

(A) The individual's name and the name of the individual's legal or designated representative (as applicable);

(B) A description of the supports required that is consistent with the individual's functional needs assessment, 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) The setting in which the individual resides as chosen by the individual;

(G) The individual's strengths and preferences;

(H) The clinical and support needs as identified through a functional needs assessment;

(I) Individually identified goals and desired outcomes;

(J) 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;

(K) The risk factors and the measures in place to minimize the risk factors, including back up plans;

(L) The identity of the person responsible for case management and monitoring the ISP;

(M) A provision to prevent unnecessary or inappropriate care;

(N) The alternative settings considered by the individual;

(O) Schedule of ISP reviews; and

(P) Any changes in support needs identified in a functional needs assessment.

(c) The services coordinator must distribute a copy of the ISP to all ISP team members within 30 calendar days of the ISP team meeting.

(5) INDIVIDUAL PROFILE.

(a) The service provider must develop a written profile that describes the individual. This information is used in training new staff. The profile must be completed within 90 days of entry. The profile must include information related to the individual's history or personal highlights, lifestyle and activity choices and preferences, social network and significant relationships, and other information that helps describe the individual.

(b) The profile must be composed of written information generated by the service provider. The profile may include:

(A) Reports of assessments or consultations;

(B) Historical or current materials developed by the CDDP, training center, or nursing facility;

(C) Material and pictures from the individual's family and friends;

(D) Newspaper articles; and

(E) Other relevant information.

(c) The profile must be maintained at the service site and updated as significant changes occur.

Stat. Auth.: ORS 409.050 and 430.662
Stats. Implemented: ORS 430.610, 430.662, and 430.670

411-328-0760 Behavior Intervention
(Amended 12/28/2013)

(1) The service provider must have and implement a written policy concerning behavior intervention procedures. At the time of entry and as changes occur, the service provider must inform the individual, and as applicable the individual's legal or designated representative, of the behavior intervention policy and procedures.

(2) A decision to implement behavior intervention to alter an individual's behavior must be made by the individual's ISP team and the behavior intervention must be described fully in the individual's ISP. The behavior intervention must:

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

(b) Use the least intervention possible;

(c) Ensure that abusive or demeaning intervention is never used; and

(d) Be evaluated by the service provider through timely review of specific data on the progress and effectiveness of the behavior intervention.

(3) Documentation regarding the behavior intervention must include:

(a) Documentation that the individual, the individual's legal or designated representative (as applicable), and ISP team are fully aware of, and consent to, the behavior intervention in accordance with the ISP process as described in OAR 411-320-0120;

(b) Documentation of all prior interventions used to develop an alternative behavior; and

(c) A functional analysis of the behavior by a trained staff member or consultant that is completed prior to developing the behavior intervention. This written record must include:

(A) A clear, measurable description of the behavior, including frequency, duration, intensity, and severity of the behavior;

(B) A clear description of the need to alter the behavior;

(C) An assessment of the meaning of the behavior, which includes the possibility that the behavior is:

(i) An effort to communicate;

(ii) The result of medical conditions;

(iii) The result of environmental causes; or

(iv) The result of other factors;

(d) A description of the conditions which precede the behavior in question;

(e) A description of what appears to reinforce and maintain the behavior; and

(f) Clear and measurable behavior interventions used to alter the behavior and develop the functional alternative behavior.

Stat. Auth.: ORS 409.050 and 430.662
Stats. Implemented: ORS 430.610, 430.662, and 430.670

411-328-0770 Protective Physical Intervention
(Amended 12/28/2013)

(1) The service provider must only employ protective physical intervention:

(a) As part of an individual's ISP that meets OAR 411-328-0760;

(b) As an emergency measure but only if absolutely necessary to protect the individual or others from immediate injury; or

(c) As a health-related protection prescribed by a physician but only if necessary for individual protection during the time that a medical condition exists.

(2) Staff members who need to apply protective physical intervention as part of an individual's ongoing training program must be trained by a Department-approved trainer. Documentation verifying such training must be maintained in the staff member's personnel file.

(3) Protective physical intervention in emergency situations must:

(a) Be only used until the individual is no longer a threat to self or others;

(b) Be authorized by the service provider's executive director or the executive director's designee, or physician;

(c) Be authorized within one hour of the application of protective physical intervention;

(d) Result in the immediate notification of the individual's services coordinator or CDDP designee; and

(e) Prompt an ISP meeting initiated by the service provider if used more than three times in a six month period.

(4) Protective physical intervention must be designed to avoid physical injury to the individual or others and to minimize physical and psychological discomfort.

(5) All use of protective physical intervention must be documented in an incident report. The incident report must include:

(a) The name of the individual to whom the protective physical intervention is applied;

(b) The date, type, and length of time of protective physical intervention application;

(c) The name and position of the person authorizing the use of the protective physical intervention;

(d) The name of the staff member applying the protective physical intervention; and

(e) Description of the incident.

(6) A copy of the incident report must be forwarded within five working days of the incident to the CDDP.

Stat. Auth.: ORS 409.050 and 430.662
Stats. Implemented: ORS 430.610, 430.662, and 430.670

411-328-0780 Psychotropic Medications and Medications for Behavior
(Amended 12/28/2013)

(1) Psychotropic medications and medications for behavior must be:

(a) Prescribed by a physician through a written order; and

(b) Included in the individual's ISP.

(2) The use of psychotropic medications and medications for behavior must be based on a physician's decision that the harmful effects without the medication clearly outweigh the potentially harmful effects of the medication. Service providers must present the physician with a full and clear written description of the behavior and symptoms to be addressed, as well as any side effects observed, to enable the physician to make this decision.

(3) Psychotropic medications and medications for behavior must be:

(a) Monitored by the prescribing physician, ISP team, and service provider for desired responses and adverse consequences; and

(b) Reviewed to determine the continued need and lowest effective dosage in a carefully monitored program.

Stat. Auth.: ORS 409.050 and 430.662
Stats. Implemented: ORS 430.610, 430.662, and 430.670

411-328-0790 Entry, Exit, and Transfer
(Amended 12/28/2013)

(1) NON-DISCRIMINATION. An individual considered for Department-funded services may not be discriminated against because of race, color, creed, age, disability, national origin, gender, religion, duration of Oregon residence, method of payment, or other forms of discrimination under applicable state or Federal law.

(2) QUALIFICATIONS FOR DEPARTMENT-FUNDED SERVICES. An individual who enters supported living services is subject to eligibility as described in this section.

(a) To be eligible for home and community-based waiver services or Community First Choice state plan services, an individual must:

(A) Be an Oregon resident;

(B) Be eligible for OSIP-M;

(C) Be determined eligible for developmental disability services by the CDDP of the individual's county of residence as described in OAR 411-320-0080; and

(D) After completion of an assessment, meet the level of care defined in OAR 411-320-0020.

(b) To be eligible for supported living services, an individual must:

(A) Be an Oregon resident;

(B) Be determined eligible for developmental disability services by the CDDP of the individual's county of residence as described in OAR 411-320-0080;

(C) Be an individual who is not receiving other Department-funded in-home or community living support;

(D) Have access to the financial resources to pay for food, utilities, and housing expenses; and

(E) Be eligible for home and community-based waiver services or Community First Choice state plan services as described in subsection (a) of this section;

(3) ENTRY.

(a) A service provider must acquire the following information prior to or upon an individual's entry ISP team meeting:

(A) A copy of the individual's eligibility determination document;

(B) A statement indicating the individual's safety skills, including the individual's ability 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 the individual's medical conditions or behavioral challenges (if any), including supervision and support needs;

(D) Information related to the individual's lifestyle, activities, and other choices and preferences;

(E) Documentation of the individual's financial resources;

(F) Documentation from a physician of the individual's current physical condition, including a written record of any current or recommended medications, treatments, diets, and aids to physical functioning;

(G) Documentation of any guardianship or conservatorship, health care representation, or any other legal restriction on the rights of the individual (if applicable); and

(H) A copy of the individual's most recent ISP (if applicable).

(b) ENTRY MEETING. An entry ISP team meeting must be conducted prior to the onset of services to an individual. The findings of the entry meeting must be recorded in the individual's file and include at a minimum:

(A) The name of the individual proposed for services;

(B) The date of the meeting;

(C) The date determined to be the individual's date of entry;

(D) Documentation of the participants included in the meeting;

(E) Documentation of the pre-entry information required by subsection (a) of this section;

(F) Documentation of the proposed Transition Plan for services to be provided; and

(G) Documentation of the decision to serve the individual requesting services.

(4) VOLUNTARY TRANSFERS AND EXITS.

(a) A service provider must promptly notify an individual's services coordinator if an individual, or as applicable the individual's legal or designated representative, gives notice of the individual's intent to exit or the individual abruptly exits services.

(b) A service provider must notify an individual's services coordinator prior to an individual's voluntary transfer or exit from services.

(c) Notification and authorization of an individual's voluntary transfer or exit must be documented in the individual's record.

(5) INVOLUNTARY TRANSFERS AND EXITS.

(a) A service provider must only transfer or exit an individual involuntarily for one or more of the following reasons:

(A) The individual’s behavior poses an imminent risk of danger to self or others;

(B) The individual experiences a medical emergency;

(C) The individual's service needs exceed the ability of the service provider;

(D) The individual fails to pay for services; or

(E) The service provider’s certification or endorsement described in OAR chapter 411, division 323 is suspended, revoked, not renewed, or voluntarily surrendered.

(b) NOTICE OF INVOLUNTARY TRANSFER OR EXIT. A service provider must not transfer or exit an individual involuntarily without 30 days advance written notice to the individual, the individual's legal or designated representative (as applicable), and the services coordinator, except in the case of a medical emergency or when an

individual is engaging in behavior that poses an imminent danger to self or others as described in subsection (c) of this section.

(A) The written notice must be provided on the Notice of Involuntary Transfer or Exit form approved by the Department and include:

(i) The reason for the transfer or exit; and

(ii) The individual's right to a hearing as described in subsection (d) of this section.

(B) A notice is not required when an individual, or as applicable the individual’s legal or designated representative, requests a transfer or exit.

(c) A service provider may give less than 30 days advanced written notice only in a medical emergency or when an individual is engaging in behavior that poses an imminent danger to self or others. The notice must be provided to the individual, the individual’s legal or designated representative (as applicable), and the services coordinator immediately upon determination of the need for a transfer or exit.

(d) HEARING RIGHTS. An individual must be given the opportunity for a contested case hearing under ORS chapter 183 to dispute an involuntary transfer or exit. If an individual or the individual’s legal or designated representative (as applicable) requests a hearing, the individual must receive the same services until the hearing is resolved. When an individual has been given less than 30 days advanced written notice of a transfer or exit as described in subsection (c) of this section and the individual or the individual’s legal or designated representative (as applicable) has requested a hearing, the service provider must reserve service availability for the individual until receipt of the final order.

(6) EXIT.

(a) An individual's ISP team must meet before any decision to exit is made. Findings of such a meeting must be recorded in the individual's file and include at a minimum:

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

(B) The date of the meeting;

(C) Documentation of the participants included in the meeting;

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

(E) Documentation of the discussion of the strategies to prevent the individual's exit from services (unless the individual, or as applicable the individual's legal or designated representative, is requesting the exit);

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

(G) Documentation of the proposed plan for services for the individual after the exit.

(b) Requirements for an exit meeting may be waived if an individual is immediately removed from services under the following conditions:

(A) The individual, or as applicable the individual's legal or designated representative, requests an immediate removal from services; or

(B) The individual is removed by legal authority acting pursuant to civil or criminal proceedings.

(7) TRANSFER. An individual's ISP team must meet to discuss any proposed transfer of an individual before any decision to transfer is made. Findings of such a meeting must be recorded in the individual's file and include at a minimum:

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

(b) The date of the meeting or telephone call;

(c) Documentation of the participants included in the meeting or telephone call;

(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 individual's legal or designated representative or family members, cannot be honored;

(g) Documentation of the voluntary decision to transfer or exit or a copy of the Notice of Involuntary Transfer or Exit; and

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

Stat. Auth.: ORS 409.050 and 430.662
Stats. Implemented: ORS 430.610, 430.662, and 430.670

411-328-0800 Entry, Exit, and Transfer: Appeal Process
(Amended 12/28/2013)

(1) Any member of the ISP team may file an appeal in cases where an individual, or as applicable the individual's legal or designated representative, objects to an entry refusal, a request to exit the service, or a transfer within a service.

(2) All appeals must be made in writing to the CDDP director or the CDDP director's designee for decision using the CDDP's appeal process. The CDDP director or the CDDP director's designee must make a decision within 30 working days of receipt of the appeal and notify the appellant of the decision in writing.

(3) The decision of the CDDP director may be appealed by the individual, the individual's legal or designated representative (as applicable), or the

service provider by notifying the Department in writing within 10 working days of receipt of the CDDP's decision.

(a) The Department's director shall appoint a committee composed of a Department representative, a service representative, and a services coordinator.

(b) In case of a conflict of interest, as determined by the Department's director, alternative representatives may be temporarily appointed to the committee by the director.

(c) The committee must review the appealed decision and make a written recommendation to the Department's director within 45 working days of receipt of the notice of appeal.

(d) The Department's director shall make a decision on the appeal within 10 working days after receipt of the recommendation from the committee.

(e) If the decision is for admission or continued placement and the service provider refuses admission or continued placement, the funding for that unit of service may be withdrawn by the contractor.

Stat. Auth.: ORS 409.050 and 430.662
Stats. Implemented: ORS 430.610, 430.662, and 430.670

411-328-0805 Individual/Family Involvement
(Repealed 1/6/2012 – See OAR 411-323-0060)

411-328-0810 Program Management
(Repealed 1/6/2012 – See OAR 411-323-0050)

411-328-0820 Certificate Denial, Suspension, Revocation, Refusal to Renew
(Repealed 1/6/2012 – See OAR chapter 411, division 323)

411-328-0830 Hearings
(Repealed 1/6/2012 – See OAR chapter 411, division 323)