

**DEPARTMENT OF HUMAN SERVICES  
SENIORS AND PEOPLE WITH DISABILITIES DIVISION  
OREGON ADMINISTRATIVE RULES**

**CHAPTER 411  
DIVISION 341**

**INDIVIDUAL SUPPORT PLAN FOR INDIVIDUALS WITH  
DEVELOPMENTAL DISABILITIES**

**EFFECTIVE FEBRUARY 1, 2011**

**411-341-1300 Statement of Purpose, Mission Statement and Statutory Authority**

*(Renumbered from 309-041-1300 2/1/2011)*

(1) Purpose. These rules prescribe standards for the development and implementation of an Individual Support Plan for individuals with developmental disabilities.

(2) Mission statement. The overall mission of the State of Oregon Seniors and People with Disabilities Division, Office of Developmental Disability Services, is to provide support services that will enhance the quality of life of persons with developmental disabilities.

(a) While the service system reflects the value of family member(s) participation in the ISP process, the Division also recognizes the rights of adults to make informed choices about the level of participation by family members. 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) The ISP process is critical in determining the individual's and the family's preferences for services and supports. The preferences of the individual and family shall serve to guide the team. The individual's active participation and input shall be facilitated throughout the planning process.

(c) The ISP process is designed to identify the types of services and supports necessary to achieve the individual's and family's

preferences, identify the barriers to providing those preferred services and develop strategies for reducing the barriers.

(d) The ISP process should also identify strategies to assist the individual in the exercise of his or her 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 individual's health and safety.

(e) The ISP team assigns responsibility for obtaining or providing services to meet those needs.

(3) Statutory authority. These rules are authorized by ORS 409.050 and 410.070 and carry out the provisions of 430.610 to 430.670 and 427.005 to 427.007.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 430.610 - ORS 430.670 & ORS 427.005 - ORS 427.007

#### **411-341-1310 Definitions**

*(Renumbered from 309-041-1310 2/1/2011)*

As used in these rules:

(1) "Abuse investigation and protective services" means an investigation as required by OAR 407-045-0300 and any subsequent services or supports necessary to prevent further abuse.

(2) "Abuse of an Adult" means:

(a) Any death caused by other than accidental or natural means, or occurring in unusual circumstances;

(b) Any physical injury caused by other than accidental means, or that appears to be at variance with the explanation given of the injury;

(c) Willful infliction of physical pain or injury;

(d) Sexual harassment or exploitation including, but not limited to, any sexual contact between an employee of a community facility or community program, or service provider or other staff and the adult. Sexual exploitation also includes failure of staff to discourage sexual advances towards staff by adults served. For situations other than those involving an employee, service provider, or other staff and an adult, sexual harassment or exploitation means unwelcome verbal or physical sexual contact including requests for sexual favors and other verbal or physical behavior directed toward the adult;

(e) Failure to act/neglect that leads to or is in imminent danger of causing physical injury, through negligent omission, treatment, or maltreatment of an adult, including but not limited to the failure of a service provider or staff to provide an adult with adequate food, clothing, shelter, medical care, supervision, or through condoning or permitting abuse of an adult by any other person. However, no person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment through prayer alone in lieu of medical treatment;

(f) Verbal mistreatment by subjecting an adult to the use of derogatory names, phrases, profanity, ridicule, harassment, coercion or intimidation and threatening injury or withholding of services or supports. However, it is not considered verbal mistreatment in situations where the consequences of non-compliance may result in termination of services if agreed upon by the ISP team, including implied or direct threat of termination of services;

(g) Placing restrictions on an individual's freedom of movement by seclusion in a locked room under any condition, restriction to an area of the residence or from access to ordinarily accessible areas of the residence, unless arranged for and agreed to on the Individual's Support Plan;

(h) Using restraints without written physician's order, or unless an individual's actions present an imminent danger to himself/herself or others and in such circumstances only until other appropriate action is taken by medical, emergency or police personnel or unless arranged for and agreed to on the ISP;

(i) Financial exploitation which may include, but is not limited to, unauthorized rate increases, staff borrowing from or loaning money to individuals, witnessing wills in which the program is beneficiary, adding program's name to individual's bank accounts or other personal property without approval of the individual, his/her legal guardian, and the ISP team; and

(j) Inappropriately expending the individual's personal funds, theft of an individual's personal funds, using an individual's personal funds for staff's own benefit, commingling the individual's funds with program and/or other individuals' funds, or the program becoming guardian or conservator.

(3) "Adult" means an individual 18 years or older with developmental disabilities for whom services are planned and provided.

(4) "Advocate" means a person other than paid staff who has been selected by the individual or by the individual's legal representative to help the individual understand and make choices in matters relating to identification of needs and choices of services, especially when rights are at risk or have been violated.

(5) "Annual ISP Meeting" means an annual meeting which is attended by the individual served, agency representatives who provide service to the individual, case manager, the guardian, if any, relatives of the individual and/or other persons, such as an advocate, as appropriate. The purpose of the meeting is to determine needs, coordinate services and training, and develop an Individual Support Plan.

(6) "Case Management" means an organized service to assist individuals to select, obtain and utilize resources and services.

(7) "Case Manager" means an employee of the community mental health program or other agency which contracts with the County or Division, who is selected to plan, procure, coordinate, and monitor individual support plan services and to act as a proponent for persons with developmental disabilities.

(8) "Choice" means the individual's expression of preferences of activities and services through verbal, sign language or other communication method.

(9) "Community Mental Health Program" or "CMHP" means the organization of all services for individuals with mental or emotional disturbances, developmental disabilities, or chemical dependency, operated by, or contractually affiliated with, a local mental health authority, operated in a specific geographic area of the state under an intergovernmental agreement or direct contract with the Division.

(10) "Crisis Services" means case management services provided in response to any event that substantially threatens the individual's health, safety or the stability of his/her support system.

(11) "Developmental Disability (DD)" means a disability attributable to mental retardation, autism, cerebral palsy, epilepsy, or other neurological handicapping condition which requires training or support similar to that required by individuals with mental retardation, and the disability:

(a) Originates before the individual attains the age of 22 years, except that in the case of mental retardation the condition must be manifested before the age of 18; and

(b) Has continued, or can be expected to continue, indefinitely; and

(c) Constitutes a substantial handicap to the ability of the person to function in society; or

(d) Results in significant sub-average general intellectual functioning with concurrent deficits in adaptive behavior which are manifested during the developmental period. Individuals of borderline intelligence may be considered to have mental retardation if there is also serious impairment of adaptive behavior. Definitions and classifications shall be consistent with the "Manual of Terminology and Classification in Mental Retardation" by the American Association on Mental Deficiency, 1977 Revision. Mental retardation is synonymous with mental deficiency.

(12) "Developmental Disability Program Manager" means an employee of the community mental health program, or other agency which contracts with the county or Division, who is responsible for DD programs within the county.

(13) "Division" means the Seniors and People with Disabilities Division.

(14) "Entry" means admission to a Division-funded service.

(15) "Exit" means either termination or transfer from one Division-funded program to another. Exit from a program does not include transfer within a service provider's program.

(16) "Generic Services" means community resources that are provided to the citizenry at large.

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

(18) "Independence" is defined as the extent to which persons with mental retardation or developmental disabilities, with or without staff assistance, exert control and choice over their own lives.

(19) "Individual" means a person with developmental disabilities for whom services are planned and provided.

(20) "Individual Support Plan" or "ISP" means a written plan of support and training services for an individual covering a 12-month period which addresses an individual's support needs and each service provider's program plan.

(21) "Individual Support Plan Team" or "ISP Team" means a team composed of the individual, representatives of all current service providers, case manager, the individual's legal guardian if any, advocate, and others determined appropriate by the individual receiving services. If the individual is unable or does not express a preference, other appropriate team membership shall be determined by the ISP team members.

(22) "Integration" means the use by persons with mental retardation or other developmental disabilities of the same community resources that are

used by and available to other persons in the community and participation in the same community activities in which persons without a disability participate, together with regular contact with persons without a disability.

(23) "Legal Representative" means the parent if the individual is under age 18, unless the court appoints another individual or agency to act as guardian. For those individuals over the age of 18, a legal representative means an attorney at law who has been retained by or for the adult, or a person who is authorized by a court to make decisions about services for the individual.

(24) "Local Mental Health Authority" or "LMHA" means the county court or board of county commissioners of one or more counties who chose to operate a CMHP; or, if the county declines to operate or contract for all or part of a CMHP, the board of directors of a public or private corporation which contracts with the Division to operate a CMHP for that county.

(25) "Monitoring" means the periodic review of the implementation of services identified in the ISP and the quality of services delivered by other organizations.

(26) "Office of Developmental Disability Services" or "DD Office" means the Office of Developmental Disability Services of the Division.

(27) "Priority Population" means individuals possessing one or more of the following characteristics:

(a) The individual has a medical condition that is serious and could be life threatening. Examples include but are not limited to:

(A) Brittle diabetes or diabetes not controlled through medical or physical interventions;

(B) Aspiration or significant risk of choking;

(C) Physical, intellectual, or mental limitations that render the individual totally dependent on others for access to food or fluids;

(D) Mental health or alcohol or drug problems that are not responsive to treatment interventions;

(E) A terminal illness requiring hospice care; and

(F) Condition(s) permitting appointment of a health care representative authorized under OAR chapter 411, division 365, Health Care Representative.

(b) The individual exhibits behavior that poses a significant danger to the individual. Examples include but are not limited to:

(A) Acts or history of acts which have caused injury to self or others requiring medical attention;

(B) Use of fire or items to threaten injury to persons or damage to property;

(C) Acts that cause significant damage to homes, vehicles, or other property;

(D) Actively searching for opportunities to act out thoughts that involve harm to others.

(c) The ISP team determines that implementation of the Individual's Support Plan developed to address conditions such as those described in (a) or (b) above shall be monitored monthly by the case manager to assure protection of the individual's health and safety. If monthly monitoring by the case manager is not necessary, an individual is not considered part of the priority population.

(28) "Productivity" means engagement in income-producing work by a person with mental retardation or other developmental disabilities which is measured through improvements in income level, employment status or job advancement or engagement by a person with mental retardation or other developmental disabilities in work contributing to a household or community.

(29) "Service Provider" means a public or private community agency or organization that provides a recognized mental health or developmental



disability services services and is approved by the Division or other appropriate agency to provide the service.

(30) "Support" means those services that assist an individual in maintaining or increasing his or her functional independence, achieving community presence and participation, enhancing productivity, and enjoying a satisfying lifestyle. Support services can include training, i.e. the systematic, planned maintenance, development and enhancement of self-care, social or independent living skills; or the planned sequence of systematic interactions, activities, structured learning situations, or educational experiences designed to meet each individual's specified needs in the areas of integration and independence.

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

(32) "Transition Plan" means a written plan for the period of time between an individual's entry into a particular service and the time when the individual's ISP is developed and approved by the ISP team. The plan shall include 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/or consultations necessary for the ISP development.

(33) "Unusual Incident" means those incidents involving serious illness or accidents, death of an individual, injury or illness of an individual requiring inpatient or emergency hospitalization, suicide attempts, a fire requiring the services of a fire department, or any incident requiring an abuse investigation.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 430.610 - ORS 430.670 & ORS 427.005 - ORS 427.007

**411-341-1320 Community Mental Health Program Responsibilities for Individual Support Plan, Entry/Exit/Transfer Plans**  
*(Renumbered from 309-041-1320 2/1/2011)*

(1) Individuals in Division-funded residential and/or employment services. The CMHP shall assure that all individuals in Division-funded residential and/or employment services have an annual Individual Support Plan (ISP).

An Individual Support Plan shall be developed and reviewed in accordance with OAR 411-341-1330 and 411-341-1360. The case manager shall participate in the development of an Individual Support Plan for individuals who fall within the priority population. The case manager shall, to the extent resources are available and within the priorities established in OAR chapter 411, division 320, participate in the development of Individual Support Plans for other individuals.

(2) Individuals not in Division-funded residential or employment services. Individuals not in Division-funded residential or employment services are not required to have an ISP. These individuals shall have an Annual Contact and Summary of Support Needs developed and reviewed in accordance with OAR chapter 411, division 320.

(3) Entry/exit/transfer plans for individuals in Division-funded residential or employment services.

(a) Entry to program services shall be authorized in accordance with OAR chapter 411, division 320.

(b) Exit from program services shall be in accordance with OAR chapter 411, division 320.

(c) Transfer between program services shall be in accordance with OAR chapter 411, division 320.

(4) Crisis services for all individuals. Crisis services shall be assessed, identified, planned, monitored and evaluated by the case manager in accordance with OAR 411-320-0160, Diversion/Crisis Services.

(5) Monitoring of individual support plans.

(a) Services identified in the ISP shall be monitored for individuals receiving Division-funded residential and/or employment services in accordance with OAR chapter 411, division 320.

(b) The case manager shall monitor the ISP for individuals who fall within the priority population. The case manager shall, to the extent resources are available and within the priorities established in the Case Management Rule, monitor the ISP for other individuals.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 430.610 - ORS 430.670 & ORS 427.005 - ORS 427.007

### **411-341-1330 Standards for the Development of the Individual Support Plan (ISP)**

*(Renumbered from 309-041-1330 2/1/2011)*

(1) Priority population determination. The ISP team shall make an initial determination whether or not an individual falls within the priority population and notify the case manager. The case manager shall confirm that the individual falls within the priority population.

(2) ISP team membership. The ISP shall be developed through a team approach and the membership of the team may vary, depending on the unique needs of the individual and the services being provided. Each member shall have equal participation in discussion and decision making. No one member shall have the authority to make decisions for the team. Representatives from service provider(s), families, the CMHP, or advocacy agencies shall be considered as one member for the purpose of reaching majority agreement.

(a) The ISP team shall at a minimum, include the individual, individual's legal guardian, and service provider representatives. The case manager shall be part of the ISP team for individuals who fall within the priority population. The case manager may participate in the ISP meeting for other individuals to the extent case management resources are available and within the priorities set forth for case management services in OAR chapter 411, division 320.

(b) The individual may suggest additional participants. Typically, family members, advocates or other professionals involved in providing service to the individual are appropriate ISP team members.

(c) The individual may raise objection to participation by a particular person. When an individual raises objections to participation by a particular individual, the team shall attempt to accommodate the individual's objection while allowing participation by team members.

(3) Initial and annual ISP timelines.

(a) An ISP shall be completed within 60 calendar days following entry into Division-funded residential or employment services and at least annually thereafter. All ISPs shall be sent to the CMHP for placement in the individual's file. If the individual has not been identified as a member of the priority population and a case manager believes otherwise, the case manager may reconvene the ISP team. If the case manager does not believe the ISP meets the requirements specified in these rules, the case manager may reconvene the ISP team.

(b) When a service provider's individual planning process (including the outcome system) requires more than annual team meetings, a copy of the plan shall be sent to the CMHP within 30 days of completion for placement in the individual's file. The case manager shall review the plan and provide any comments to the ISP team.

(4) Changes in the ISP. If significant needs or changes or crisis situations arise between scheduled ISP meetings, such as the necessity to develop a new behavior intervention program, reports indicating changes in the health status or functioning level, new evaluations containing substantial recommendations or changes, the report of an unusual incident or any other significant situation which may require prompt action, the case manager or ISP team leader shall be contacted to facilitate a discussion between the ISP team members regarding the ISP changes proposed and assess the need to reconvene as a team. Any ISP team member may contact the case manager regarding changes in the ISP. The case manager or facilitator shall document the team discussion and any subsequent recommendations and distribute to these team members.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 430.610 - ORS 430.670 & ORS 427.005 - ORS 427.007

**411-341-1340 ISP Meeting Process**  
(Renumbered from 309-041-1340 2/1/2011)

(1) ISP Meetings. The case manager shall initiate the ISP meeting for individuals who fall within the priority population. For other individuals, when the case manager is not present, the ISP team shall select a team leader for the meeting. The team leader shall be responsible for assuring that the ISP meeting is scheduled and participants notified.

(2) Case manager or team leader role in the development of the ISP. At the ISP meeting, the case manager or designated team leader shall:

(a) Initiate the discussion of the individual, individual's legal representative's, family's, or other team member's preferences;

(b) Initiate a discussion that the individual and/or legal representative have the right to request that information not be shared across service providers unless the preference is likely to create the situation detrimental to the individual's health and safety as determined by the ISP team.

(c) Initiate discussion of and document the need for evaluations in the areas of medical, dental, vision, hearing; and any other evaluations based on the specialized needs of the individual (such as, but not limited to, neurological evaluations for individuals with seizure disorders, augmentative communication evaluations for individuals with limited speech, physical therapy and equipment evaluations for individuals in wheelchairs, psychiatric or psychological evaluations for individuals who are dually-diagnosed or nutritional evaluations for individuals with metabolic disorders);

(d) Initiate and document discussion of specialized health care needs and health maintenance services (such as, but not limited to, required periodic lab work), including what services are needed and the individual or provider who is responsible for assuring that they are provided;

(e) Determine with the ISP team whether home visits, vacations and other community or family-based activities are considered to be community-based experiences preferred by the individual. If so, then these activities must be considered part of the individual's overall ISP and shall be documented as such through the ISP process;

- (f) Initiate the review of and discussion regarding outcome of any previous plan;
- (g) Initiate discussion of proposed service provider plans and assist the team to make any needed modifications emphasizing health, safety, and rights;
- (h) Determine the extent to which the ISP reflects the individual's choice and preferences in his/her daily activities which are defined in the ISP;
- (i) Make efforts to build consensus among the members regarding services and supports included in the ISP, giving the most weight to the preference of the individual receiving services, unless the individual's preference is likely to create a situation detrimental to his/her health and safety as determined by the ISP team;
- (j) ISP team decisions shall be made by majority agreement.

(3) ISP document. The ISP document shall include:

- (a) Each service provider's program plan, with team modifications;
- (b) Documentation of the need for additional evaluations or other services to be obtained and the person or provider responsible for assuring that these evaluations or services are obtained;
- (c) Documentation of the specialized health care needs, health maintenance services and the person or provider responsible for assuring that these services are provided;
- (d) Documentation of the individual's safety skills including the level of support necessary for the individual to evacuate a building (when warned by a signal device), the individual's ability to adjust water temperature, and the amount of time an individual can be without supervision before the missing notification protocol is implemented;
- (e) Documentation of the reason(s) any preferences of the individual, legal representative and/or family members cannot be honored; and

(f) Documentation of the role and responsibilities of each participant in implementing the ISP plan, with specific ISP team member concerns, if any, noted.

(4) Distribution of the ISP document. The case manager or the team leader shall assure the distribution of a copy of the Individual Support Plan to all ISP team members within 30 calendar days of the ISP team meeting.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 430.610 - ORS 430.670 & ORS 427.005 - ORS 427.007

**411-341-1350 ISP Team Responsibilities for Entry/Exit/Transfer**  
(Renumbered from 309-041-1350 2/1/2011)

(1) Entry staffing. Prior to an individual's date of entry into a Division-funded program, the ISP team shall meet to review referral material in order to determine appropriateness of placement. For purposes for entry staffings, a case manager must attend the staffing and authorize the placement. The team shall determine date of entry and develop a transition plan. The transition plan shall include:

- (a) The name of the individual considered for entry;
- (b) The date of the meeting;
- (c) Documentation of the participants included in the meeting;
- (d) Documentation of the circumstances leading to the proposed entry;
- (e) Documentation of the alternatives considered instead of entry;
- (f) Documentation of the reason(s) any preferences of the individual, the individual's legal representative, family or other team member cannot be honored;
- (g) Documentation of majority agreement of the participants in the meeting with the decision;

- (h) The written plan for services to the individual;
- (i) Documentation of decisions regarding the proposed placement;  
and
- (j) Findings of the ISP team and the signatures of all participants.

(2) Crisis services. For a period not to exceed 30 days, OAR 411-320-0160 does not apply if an individual is temporarily admitted to a program for crisis services.

(3) Exit from Division-funded programs. All exits from Division-funded programs shall be authorized by the CMHP. Prior to an individual's exit date, the ISP team shall meet to review the appropriateness of the move and to coordinate any services necessary during or following the transition. For purposes for exit staffings, a case manager must attend the staffing and authorize the exit.

(4) Exit staffing. Findings of the exit meeting shall be distributed to all ISP team members. The exit plan shall include:

- (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 alternatives considered instead of exit;
- (f) Documentation of the reason(s) any preferences of the individual, the individual's legal representative, family or other team member cannot be honored;
- (g) Documentation of majority agreement of the participants in the meeting with the decision; and
- (h) The written plan for services to the individual.



(5) Transfer meeting. All transfers must be authorized by the CMHP. Transfer of an individual shall be preceded by a meeting of the ISP team before any decision to transfer is made. This meeting may occur by phone with all ISP team participants to expedite the transfer if so warranted. Findings of such a meeting shall 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;
- (c) Documentation of the participants included in the meeting;
- (d) Documentation of the circumstances leading to the proposed transfer;
- (e) Documentation of the alternatives considered instead of transfer;
- (f) Documentation of the reason(s) any preferences of the individual, individual's legal representative and/or family members cannot be honored;
- (g) Documentation of majority agreement of the participants with the decision; and
- (h) The written plan for services to the individual after transfer.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 430.610 - ORS 430.670 & ORS 427.005 - ORS 427.007

### **411-341-1360 Standards for Monitoring Individual Support Plans for Individuals**

*(Renumbered from 309-041-1360 2/1/2011)*

(1) Case manager responsibility for monitoring services for individuals. The case manager shall determine whether services are being provided in accordance with the ISP; that personal, civil, and legal rights of the individual are protected in accordance with this rule; that the satisfaction and desires of the individual, the individual's legal representative or family

are addressed; that the services provided continue to meet the needs of the individual; and that the services result in the individual's achievement of goals and objectives identified in the ISP. The case manager shall monitor the ISP for individuals who fall within the priority population. The case manager shall, to the extent resources are available, monitor the ISP of other individuals.

(2) Frequency of monitoring. The frequency of the monitoring will be determined by the needs of the individual. However, the case manager shall meet at least monthly, in addition to the annual ISP meeting, with an individual who falls within the priority population. Arrangements shall be made to meet with the individual in a mutually acceptable location. Communication for the purpose of monitoring may also be done with provider(s) and family members. Should an individual refuse, after being duly informed as to the purpose and nature of the visit, to have the case manager visit, then such a refusal shall be documented in the individual's case record.

(3) Purpose of monitoring. The purpose of the visit is to assure that supports are being provided as defined in the ISP. Monitoring shall include:

(a) Review and documentation of the individual's outcome data, if applicable.

(b) Review of any incident and unusual incident reports.

(c) Review of the process by which an individual accesses and utilizes funds according to standards specified in OAR chapter 411, division 320.

(d) Review of the ISP document to determine if the goals and objectives or actions to be taken by the case manager or others have been implemented:

(A) Address the individual's participation in activities that will increase integration, independence, and/or productivity;

(B) Address the anticipated outcomes which reflect the preferences and needs of the individual to the extent possible,

while at the same time reflect similar interests and activities of persons without disabilities of a similar age; and

(C) Define the behavior, conditions and criterion for achieving the objectives and are consistent with the residential or employment outcome system as set forth in the Interagency Agreement between the Division and the CMHP.

(4) Monitoring follow-up. If the case manager determines that services are not being delivered as agreed, or that an individual's service needs have changed since the last review, the CMHP shall determine the need for technical assistance and/or referral to the DD program manager for consultation or corrective action.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 430.610 - ORS 430.670 & ORS 427.005 - ORS 427.007

#### **411-341-1370 Grievance Procedures**

*(Renumbered from 309-041-1370 2/1/2011)*

(1) Grievances.

(a) Mediation of grievances. Individuals, their legal representatives, family members or advocates may file a grievance concerning a determination regarding the appropriateness of services proposed or provided as set forth in these rules.

(b) Grievances shall be submitted in writing to the CMHP. The CMHP upon request shall assist individuals requiring assistance in preparing a written grievance.

(c) Informal procedures. Grievances concerning the appropriateness of services should, if possible, be resolved through the use of informal procedures. However, the grievant may elect not to utilize informal procedures, and to proceed directly to the county formal mediation committee.

(A) Informal procedures may include one or more of the following:

- (i) Meeting with the individual, legal representative, family member(s) and/or advocates;
- (ii) Meeting with the CMHP administrative staff;
- (iii) Meeting with the ISP team;
- (iv) Meeting with program administrative staff; and
- (v) Meeting with local agency(ies); and
- (vi) Voluntary mediation with a neutral mediator mutually agreed upon by the parties.

(B) Informal procedures shall result in a decision on the grievance no later than 30 days from the date the grievance is filed.

(C) The 30 day period for informal resolution of grievances may be extended by mutual agreement of the grievant and the CMHP to extend the informal process. Such agreement shall be in writing and must extend the process for a specified duration. A copy of the agreement to extend the time for informal resolution shall be sent to the CMHP and the Division within five working days of its signing by the parties involved.

(D) The grievant shall receive written notice of the grievance decision or outcome. The CMHP shall send a copy of this notice to the Division within five working days of issuance of notice to the grievant.

(d) CMHP formal mediation. When informal procedures cannot resolve the dispute, the interested party(ies) may submit to the CMHP a written request for a formal mediation of the disagreement using the CMHP's mediation procedures. The CMHP Director or designee shall make a decision within 30 working days of receipt of the request and notify the appellant of the decision in writing.

(e) Division review process. If the CMHP formal mediation decision is not acceptable to all the parties, decisions can be reviewed using the following formal procedure:

(A) The party requesting review shall submit in writing a request for a formal review to the Division within five working days of receipt of the CMHP's decision:

(i) A grievance review committee shall be appointed by the Administrator of the Division or designee, in the Office of Developmental Disability Services of the Division, every two years, and shall be composed of Division representative, a local service provider program representative, a case management representative, and a representative of the Division's Office of Client Rights;

(ii) In case of a conflict of interest, as determined by the Administrator or designee, alternative representatives will temporarily be appointed to the committee by the Administrator or designee.

(B) Upon receipt of the request for formal review, the Division shall:

(i) Schedule a grievance committee review meeting within 30 days of written request by the requesting party for a formal review of the decision; and

(ii) Notify in writing, each party involved in the disagreement of the date, time, and location of the committee review meeting, allowing at least 15 days from the meeting notification to the scheduled meeting time; and

(iii) Record the review committee meeting.

(C) Individual rights. The grievance review committee shall afford individuals the following rights:

(i) The opportunity to review documents and other evidence relied upon in reaching the decision being appealed; and

(ii) The opportunity to be heard in person and to be represented; and

(iii) The opportunity to present witnesses or documents to support their position and to question witnesses presented by other parties.

(D) Within 15 days after the conclusion of the meeting, the grievance review committee shall provide written recommendations to the Administrator or designee. The Administrator or designee shall make a decision and send written notification of the recommendations and implementation process to all grievance review committee meeting participants within 15 days of receipt of the recommendations.

(E) The decision of the Administrator or designee shall be final.

## (2) Appeals.

(a) Appeals of entry, exit or transfer decisions within residential services may only be initiated according to the "24-Hour Residential Services" (OAR chapter 411, division 325) and the "Supported Living Services" (OAR chapter 411, division 328) rules;

(b) Appeals of entry, exit or transfer decisions within employment services may only be initiated according to the "Employment and Alternatives to Employment Services" (OAR chapter 411, division 345) rule.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 430.610 - ORS 430.670 & ORS 427.005 - ORS 427.007