

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

**CHAPTER 411
DIVISION 345**

**EMPLOYMENT AND DAY SUPPORT ACTIVITIES FOR ADULTS WITH
INTELLECTUAL OR DEVELOPMENTAL DISABILITIES**

EFFECTIVE JULY 1, 2014

411-345-0010 Statement of Purpose

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

- (1) These rules, OAR 411-345-0010 through 411-315-0270, effectuate Oregon's Employment First policy under which the employment of individuals with developmental disabilities in fully integrated work settings is the highest priority over unemployment, segregated employment, day support activities, or other non-work day activities.
- (2) For those who successfully achieve the goal of integrated employment, future service planning focuses on maintaining employment or considering additional career or advancement opportunities.
- (3) Employment Services are specifically addressed in the Individual Support Plan (ISP) and are considered and provided using a person-centered approach based on informed choice and consistent with the philosophy of self-determination.
- (4) These rules prescribe service standards and requirements for providing employment services and day support activities, and the qualifications and requirements for eligibility for those services, for adults with intellectual or developmental disabilities. These rules also prescribe the standards and procedures by which the Department endorses agency service providers to provide employment services and day support activities.

Stat. Auth.: ORS 427.007, 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

411-345-0020 Definitions

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

Unless the context indicates otherwise, the following definitions and the definitions in OAR 411-317-0000 apply to the rules in OAR chapter 411, division 345:

- (1) "Abuse" means "abuse of an adult" as defined in OAR 407-045-0260.
- (2) "ADL" means "activities of daily living". ADL are basic personal everyday activities, such as eating, using the restroom, grooming, dressing, bathing, and transferring.
- (3) "Adult" means an individual who is 18 years or older with an intellectual or developmental disability.
- (4) "Agency Service Provider" means a public or private community agency or organization that provides recognized developmental disability services and is certified by the Department to provide services under these rules and is endorsed under these rules or the rules in OAR chapter 411, division 323.
- (5) "Attendant Care" means assistance with ADL, IADL, and health-related tasks through cueing, monitoring, reassurance, redirection, set-up, hands-on, standby assistance, and reminding as described in OAR 411-345-0025.
- (6) "Brokerage" means "brokerage" as defined in OAR 411-340-0020.
- (7) "Career Development Plan" means the part of an ISP that identifies the employment goals and objectives for an individual, the services and supports needed to achieve those goals, the people, agencies, and providers assigned to assist the individual to attain those goals, the obstacles to the individual working in an individualized job in an integrated employment setting, and the services and supports necessary to overcome those obstacles.
- (8) "CDDP" means "community developmental disability program" as defined in OAR 411-320-0020.
- (9) "Certificate" means the document issued by the Department to an agency service provider that certifies the service provider is eligible under

these rules or the rules in OAR chapter 411, division 323 to receive state funds for the provision of endorsed employment services and day support activities.

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

(11) "Collective Bargaining Agreement" means the Collective Bargaining Agreement between the Home Care Commission and the Service Employee's International Union, Local 503, Oregon Public Employees' Union regarding wages, hours, rules, and working conditions.

(12) "Day Supports Activities":

(a) Means an organized set of attendant care, ADL, or IADL skills training activities provided by a provider organization that support an individual to socialize and engage in community integration:

(A) Support with socialization includes assisting an individual in acquiring, retaining, and improving self-awareness and self-control, social responsiveness, social amenities, and interpersonal skills.

(B) Support for community integration includes those supports necessary to allow an individual to engage in recreation or leisure activities. The support includes assisting individuals in acquiring, retaining, and improving skills to use available community resources, facilities, or businesses. Support for community integration does not include the cost of recreation or leisure activities.

(b) Day support activities are available through the Community First Choice state plan amendment.

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

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

(15) "Developmental Disability" means "developmental disability" as defined in OAR 411-320-0020 and described in OAR 411-320-0080.

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

(17) "Discovery and Career Exploration" is a person-centered, comprehensive, employment planning and support service that provides assistance for individuals to obtain, maintain, or advance in a competitive, customized, or self-employment setting.

(18) "Discovery Profile" means a report, meeting requirements established by the Department, produced as an outcome of discovery and career exploration, representing an individual and providing information to better inform employment service planning and job development activities. The discovery profile includes information about the strengths, interests, abilities, skills, experiences, and support needs of the individual as well as information about conditions and settings for the success of the individual.

(19) "Employment Path Services" mean services to provide learning and work experiences, including volunteer opportunities, for an individual to develop general, non-job-task-specific strengths, and skills that contribute to employability in paid employment in integrated community settings.

(20) "Employment Services" mean any services that has the employment of individuals as the primary goal, including individual supported employment (job development or job coaching), small group supported employment, discovery and career exploration, and employment path services. Employment services do not include vocational assessments in sheltered

workshops. Employment services are home and community-based waiver services.

(21) "Employment Specialist" means an employee of an independent provider or an employee of an agency service provider who has specific qualifications and training to provide employment services under these rules, including supported employment - individual employment support (job coaching and job development), supported employment - small group supported employment, employment path, or discovery and career exploration.

(22) "Endorsement" means the authorization to provide employment services and day support activities issued by the Department to a certified service provider agency 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 offered by an agency provider.

(24) "Evidence-Based Practices" means well-defined best practices, which have been demonstrated to be effective by multiple peer-reviewed research studies that are specific to the relevant population or subset of that population.

(25) "Executive Director" means the person designated by a board of directors or corporate owner of an agency service provider who is responsible for the administration of agency provided employment services and day support activities.

(26) "Exit" means termination or discontinuance of a Department-funded developmental disability service offered by an agency provider.

(27) "Functional Needs Assessment":

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

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

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

(b) The functional needs assessment may be the Adult Needs Assessment (ANA), Support Needs Assessment Profile (SNAP), or Supports Intensity Scale (SIS).

(A) The Department incorporates Version B of the ANA dated July 1, 2014 into these rules by this reference. The ANA is maintained by the Department at:
www.dhs.state.or.us/spd/tools/dd/cm/ANA_Adult_In-home.xls.

(B) The Department incorporates the SNAP into these rules by this reference. The SNAP is maintained by the Department at
<http://www.oregon.gov/dhs/dd/rebar/pages/assess-afc.aspx>.

(C) The Department incorporates the SIS into these rules by this reference.

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

(28) "IADL" means "instrumental activities of daily living". IADL include activities other than ADL required to continue independent living such as:

- (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) Participating in the community.

(29) "Important for an Individual" means the areas of the life of an individual that relate to being healthy, safe, and a valued member of the community.

(30) "Important to an Individual" means the perspective of an individual on the people, places, and things the individual likes, personal values, spirituality, and a sense of self. This is learned by listening to what is being said by words or actions. When there is a conflict between words and actions, actions are considered first.

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

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

(33) "Independent Provider" means a person selected by an individual, or as applicable the legal or designated representative of the individual, acting in the role of an independent contractor or self-employed person authorized to provide services for the individual based upon the ISP for the individual. Services provided by an independent provider do not require Department certification and endorsement.

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

(35) "Integrated Employment Setting" means an employment setting that allows an individual to interact with non-disabled people in a typical community work environment, including self-employment or business models. An integrated employment setting may include a group enclave or a mobile crew that allows an individual to interact with non-disabled people in the employment setting. An integrated employment setting does not mean facility-based work in a sheltered workshop or non-work activities.

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

(a) The use by individuals with an 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.

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

(38) "Involuntary Transfer" means an agency service provider has made the decision to transfer an individual to be served at another site and the individual, or as applicable the legal or designated representative of the individual, has not given prior approval.

(39) "ISP" means "Individual Support Plan". An ISP includes the written details of the supports, activities, and resources required for an individual to achieve and maintain personal goals and health and safety. The ISP is developed at least annually to reflect decisions and agreements made during a person-centered process of planning and information gathering. The ISP reflects the services and supports that are important for the individual to meet the needs of the individual identified through a functional needs assessment as well as the preferences of the individual for service providers, delivery, and frequency of services and supports. The ISP is the plan of care for Medicaid purposes and reflects whether services are provided through a waiver, state plan, or natural supports.

(40) "ISP Action Plan" means the written documentation of the commitment of an ISP team in supporting an individual to resolve or improve particular aspects of the life of the individual. An ISP Action Plan identifies the necessary measurable steps to be taken, who is accountable for assuring implementation, and timelines for completion.

(41) "ISP Meeting" means an annual meeting facilitated by a services coordinator or personal agent and attended by the ISP team. The purpose of the ISP meeting is to determine the needs of an individual, coordinate services and training, and develop the ISP for the individual.

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

(43) "Job Coaching" means initial and on-going identification and delivery of services and support for individuals working in an individualized job in an integrated setting and earning or working toward earning minimum wage. Job coaching may also include identification and delivery of services and supports that assist the individual in maintaining self-employment.

(44) "Job Development" means support for an individual to obtain job placement in an integrated setting in the general workforce or support for an individual to identify potential self-employment business opportunities.

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

(46) "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 an adult with an intellectual or developmental disability and has reasonable cause to believe the adult has suffered abuse, or comes in contact with any person whom the public or private official has reasonable cause to believe abused the adult. Nothing contained in ORS 40.225 to 40.295 affects the duty to report imposed by this definition, 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.

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

(48) "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.

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

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

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

(52) "Person-Centered Planning":

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

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

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

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

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

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

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

(54) "Personal Support Worker" means "personal support worker" as defined in OAR 411-375-0010.

(55) "PRN" means the administration of medication to an individual on an 'as needed' basis (pro re nata).

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

(a) Regular engagement in income producing work, preferably competitive employment with supports and accommodations to the extent necessary, by an individual with an intellectual or developmental disability, which is measured through improvements in income level, employment status, or job advancement; or

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

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

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

(59) "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.

(60) "Self-Determination" means a philosophy and process by which an individual is empowered to gain control over the selection of services that

meets the needs of the individual. The basic principles of self-determination are:

(a) Freedom. The ability for an individual, together with freely chosen family, friends, and professionals, to plan for employment beyond the parameters of a predefined program;

(b) Authority. The ability for an individual, together with the ISP team, to declare a chosen employment path and to plan supports accordingly;

(c) Autonomy. Planning for and accessing resources that support an individual to seek employment; and

(d) Responsibility. The acceptance of a valued role of an individual in the community through employment, organizational affiliations, personal development, and general caring for others in the community, as well as accountability for spending public dollars in ways that are life-enhancing for the individual.

(61) "Service Provider" means:

(a) An agency service provider as defined by these rules;

(b) An independent provider, as defined by these rules, qualified to provide services under these rules; or

(c) A personal support worker as defined in OAR 411-375-0010, qualified to provide services under these rules.

(62) "Services Coordinator" means "services coordinator" as defined in OAR 411-320-0020.

(63) "Sheltered Workshop" means a facility-based service that congregates more than eight adults with intellectual or developmental disabilities. Sheltered workshops are operated by service provider entities. In general, a sheltered workshop employs only individuals with intellectual or developmental disabilities except for service support staff.

(64) "Situational Assessment" means an assessment that maintains the qualities of a vocational assessment but is administered on-site in an integrated employment setting, where an individual is evaluated in the performance of work activities typical to the setting where the assessment is administered.

(65) "Skills Training" means the activities described in OAR 411-345-0025 that are intended to maximize the independence of an individual through training, coaching, and prompting the individual to accomplish ADL and IADL.

(66) "Staff" means paid employees of agencies responsible for providing supports or services to individuals for which payment is made through the Department.

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

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

(69) "Supported Employment - Individual Employment Support" means services for individuals who need on-going support to obtain and maintain a job in an integrated competitive, customized, or self-employment (including home-based) setting in the general workforce.

(70) "Supported Employment - Small Group Employment Support" means services and training activities provided in regular business, industry, and community settings for groups of two to eight individuals with disabilities. Examples include mobile crews and other business-based workgroups. Supported employment - small group employment support is provided in a manner that promotes integration into the workplace and interaction between participants and people without disabilities in those workplaces.

(71) "These Rules" mean the rules in OAR chapter 411, division 345.

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

(73) "Transition Plan" means the written plan of services and supports for the period of time between the entry of an individual into a particular service and the development of the ISP for the individual. The Transition Plan is approved by the services coordinator or personal agent 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.

(74) "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.

(75) "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.

(76) "Vocational Assessment" means an assessment administered to provide employment related information essential to the development of, or revision of, the employment related planning documents for an individual including, but not limited to, the ISP and Career Development Plan.

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Stats. Implemented: ORS 430.610, 430.662, 430.670

411-345-0025 Services Provided

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

(1) Employment is the preferred activity for individuals receiving services under these rules. Employment in fully integrated work settings is the highest priority over unemployment, segregated or sheltered employment, or other non-work day activities.

(2) The delivery of employment services provided under these rules presumes all individuals eligible for services are capable of working in an integrated employment setting and earning at least minimum wage.

(3) Consistent with the person-centered approach to these services, individuals accessing employment services under these rules must be encouraged, on an ongoing basis, to explore their interests, strengths, and abilities relating to employment or career advancement.

(4) Employment services have an optimal and expected outcome of sustained paid employment and work experience leading to further career development and individual integrated employment for which an individual is compensated at or above the state's minimum wage, with a goal of not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities.

(5) Employment services are provided under these rules in accordance with the State of Oregon Executive Order No. 13-04 and Oregon Administrative Rules 407-025-0000 to 407-025-0120.

(6) Employment services must be evidence-based where evidence-based practices have been identified.

(7) Employment services must be:

(a) Offered to eligible adult individuals in accordance with OAR 411-345-0140;

(b) Provided to eligible adult individuals under the authorization of an ISP in accordance with OAR 411-345-0160;

(c) Offered in accordance with OAR 411-345-0140, when services are provided by an agency service provider;

(d) Provided in a non-residential setting, unless an individual is operating a home-based business;

(e) Provided in the most integrated employment setting appropriate to the individual's needs, consistent with the choice of the individuals regarding services, providers, and goals; and

(f) Designed to:

- (A) Increase an individual's independence, integration, and productivity;
- (B) Promote an individual's integration into the workforce and workplace;
- (C) Promote interaction with people without disabilities; and
- (D) Support successful employment outcomes consistent with the individual's personal and career goals.

(8) Employment services do not include:

- (a) Services available to an individual under the Rehabilitation Act of 1973;
- (b) Services available to an individual under P.L. 94-142 (Individuals with Disabilities Education Act); or
- (c) Vocational assessments in a sheltered workshop.

(9) Employment service providers operating under these rules must provide one or more of the following employment services:

(a) Supported Employment - Individual Employment Support includes:

(A) Job coaching:

(i) To assist an individual to maintain individualized employment in an integrated competitive or customized setting in the general workforce and optimally earning, or working toward earning, minimum wage; or

(ii) To assist an individual to maintain self-employment. This service cannot be provided to defray the operational expenses of the business; or

(B) Job development;

(i) To assist an individual to obtain individualized job placement in an integrated competitive or customized setting in the general workforce, and optimally earning or working toward earning, minimum wage; or

(ii) To assist an individual to identify and pursue self-employment business opportunities, including:

(I) Assist an individual to access business financial resources for self-employment; or

(II) Assist an individual to develop and launch a business.

(b) Supported Employment - Small Group Employment Support:

(A) To provide services and training activities in regular business, industry and community settings;

(B) For groups of two to eight individuals working as a mobile crew, enclave, or other business-based workgroup; and

(C) Must be provided in a manner that promotes integration into the work place and interaction with people without disabilities in those work places.

(c) Discovery - Career Exploration:

(A) To provide a person-centered, comprehensive employment planning and support service that provides assistance for individuals to obtain, maintain, or advance in a competitive, customized, or self-employment setting;

(B) Includes activities to discover interests, strengths, abilities, transferable skills, and conditions for success, both generally and related to employment. May also include job and task analysis activities, assessment for use of assistive technology, job shadowing, informational interviewing, employment preparation, resume development, and volunteerism to identify transferable skills and job or career interests;

(C) Must be completed within a three month period. A three month extension may be authorized if there is a legitimate cause;

(D) Must have an outcome of a discovery profile. The discovery profile must meet requirements established by the Department; and

(E) May include a referral to vocational rehabilitation services.

(d) Employment Path Services:

(A) To provide learning and work experiences, including volunteer work, where an individual can develop general, non-job-task-specific strengths and skills that contribute to employability in integrated community settings;

(B) Are expected to occur over a defined period of time with specific outcomes to be achieved, as determined by the individual and his or her service and supports planning team through an ongoing person-centered planning process; and

(C) Requires that an individual have an employment-related goal in his or her ISP. General habilitation activities accessed through employment path services must be designed to support such employment goals.

(10) Day support activities must be:

(a) Provided to eligible adult individuals under the authorization of an ISP;

(b) Offered in accordance with OAR 411-345-0140, when services are provided by an agency service provider;

(c) Designed to:

(A) Increase an individual's independence, integration, and productivity;

(B) Support successful outcomes consistent with the individual's personal goals and personal choices;

(C) Foster the acquisition of skills, building positive social behavior and interpersonal competence;

(D) Be consistent with the individual's person-centered plan;

(E) Coordinate with any needed therapies in the individual's person-centered services and supports plan.

(11) Day support activities do not include:

(a) Services available to an individual under the Rehabilitation Act of 1973; or

(b) Services available to an individual under P.L. 94-142 (Individuals with Disabilities Education Act).

(12) Day support activities providers operating under these rules must provide one or more of the following day program services:

(a) Attendant care services that facilitate socialization and community integration. Attendant care includes:

(A) ADL services include but are not limited to:

(i) Toileting, bowel, and bladder care -- assisting to and from the bathroom, on and off toilet, commode, bedpan, urinal, or other assistive device used for toileting, changing incontinence supplies, following a toileting schedule, managing menses, cleansing an individual or adjusting clothing related to toileting, emptying a catheter drainage bag or assistive device, ostomy care, or bowel care;

(ii) Mobility, transfers, and repositioning -- assisting with ambulation or transfers with or without assistive devices, turning an individual or adjusting padding for physical comfort or pressure relief, or encouraging or assisting with range-of-motion exercises;

(iii) Nutrition -- assisting with food intake (feeding), monitoring to prevent choking or aspiration, assisting with adaptive utensils, cutting food, and placing food, dishes, and utensils within reach for eating;

(v) Medication and medical equipment -- monitoring an individual for choking while taking medications and assisting with the administration of medications; and

(vi) Delegated nursing tasks.

(B) IADL services include but are not limited to:

(i) First aid and handling emergencies, including addressing medical incidents related to conditions such as seizures, aspiration, constipation, or dehydration or responding to an individual's call for help during an emergent situation or for unscheduled needs requiring immediate response;

(ii) Cognitive assistance or emotional support provided to an individual due to an intellectual or developmental disability, including helping the individual cope with change and assisting the individual with decision-making, reassurance, orientation, memory, or other cognitive functions; and

(iii) Support in the community around socialization, recreation and leisure, communication, and participation in the community.

(I) Support with socialization includes assisting participants in acquiring, retaining, and improving self-awareness and self-control, social responsiveness, social amenities, and interpersonal skills.

(II) Support with community participation, recreation, or leisure includes assisting individuals in acquiring, retaining, and improving skills to use available community resources, facilities, or businesses.

(iv) Support with communication provided to assist includes assisting individuals in acquiring, retaining, and improving expressive and receptive skills in verbal and non-verbal language and the functional application of acquired reading and writing skills.

(b) Skills training specifically tied to the functional needs assessment and ISP as a means for an individual to acquire, maintain, or enhance independence in supports related to socialization or community integration that would otherwise be provided through state plan.

(A) Skills training may be applied to the use and care of assistive devices and technologies. Skills training is authorized when:

(i) The anticipated outcome of the skills training, as documented in the ISP, is measurable;

(ii) Timelines for measuring progress towards the anticipated outcome are established in the ISP; and

(iii) Progress towards the anticipated outcome are measured and the measurements are evaluated by a personal agent no less frequently than every six months, based on the start date of the initiation of the skills training.

(B) When anticipated outcomes are not achieved, the services coordinator or personal agent must reassess the use of skills training with the individual.

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Stats. Implemented: ORS 430.610, 430.662, 430.670

411-345-0027 Qualification for Services

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

(1) To receive employment services or day support activities an individual must meet criteria identified below.

(a) Be an Oregon resident;

(b) Be 18 years of age or older;

(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;

(d) Meet the Level of Care as defined in OAR 411-320-0020; and

(e) Have services under these rules authorized in an ISP by the CDDP or Brokerage providing case management services.

(2) To be eligible for employment services, an individual must:

(a) Meet the criteria in section (1) of this rule;

(b) Be eligible for OSIP-M benefits; and

(c) Have an employment related goal in their ISP.

(3) To be eligible for day support activities, an individual must meet the criteria in section (1) of this rule and must:

(a) Be eligible for OHP Plus;

(b) Effective October 1, 2014, an individual receiving medical benefits under OAR 410-200 requesting Medicaid coverage for services in a nonstandard living arrangement (see OAR 461-001-0000) is subject to the rules regarding transfer of assets (see OAR 461-140-0210 to 461-140-0300) in the same manner as if they were requesting these services under OSIP-M.

(A) This includes, but is not limited to, the following assets:

(i) An annuity is evaluated according to OAR 461-145-0022;

(ii) A transfer of property when an individual retains a life estate is evaluated according to OAR 461-145-0310;

(iii) A loan made by an individual is evaluated according to OAR 461-145-0330;

(iv) An Irrevocable trust is evaluated according to OAR 461-145-0540;

(B) When an individual will be disqualified for a transfer of assets they must receive a notice meeting the requirements of OAR 461-175-0310 in the same manner as if they were requesting services under OSIP-M.

(C) An individual found to have transferred assets is not eligible for Community First Choice Services.

(c) Have an assessed need for attendant care services based upon a Functional Needs Assessment; and

(d) Have day support activities identified as a service in their ISP.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

411-345-0030 Service Provider Requirements

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

(1) PROVIDER REQUIREMENTS. Employment services must be provided by an Employment Specialist.

(a) EMPLOYMENT SPECIALIST REQUIREMENTS. All Employment Specialists are required to:

(A) Provide services designed to support successful employment outcomes consistent with the individual's personal and career goals, including goals identified in an individual's ISP and Career Development Plan;

(B) Ensure all individuals' records are confidential as described in OAR 411-323-0060; and

(C) Perform the duties as a mandatory reporter when appropriate and as required by law.

(b) INDEPENDENT PROVIDER REQUIREMENTS. An independent provider, who is not a personal support worker, and who is an Employment Specialist and selected to provide at least one of the services and supports in OAR 411-345-0020 is required to:

(A) Be at least 18 years of age.

(B) Have approval to work based on current Department policy and a background check completed by the Department in accordance with OAR 407-007-0200 to 407-007-0370. Additionally:

(i) A subject individual as defined in OAR 407-007-0210 may be approved for one position to work with multiple individuals statewide when the subject individual is working in the same employment role; and

(ii) The Department's Background Check Request form must be completed by the subject individual to show intent to work statewide;

(C) Effective July 28, 2009, not have been convicted of any of the disqualifying crimes listed in OAR 407-007-0275. This does not apply to employees of individuals, individuals' legal or designated representatives, employees of general business providers, or employees of provider organizations, who were hired prior to July 28, 2009, that remain in the current position for which the employee was hired.

(D) Be legally eligible to work in the United States;

(E) Not be the spouse of an individual receiving services;

(F) Hold a current, valid and unrestricted appropriate professional license or certification where services and supervision requires specific professional education, training, and skill;

(G) Understand requirements of maintaining confidentiality and safeguarding individual information;

(H) Not be on the Office of Inspector General's list of excluded or debarred providers (<http://exclusions.oig.hhs.gov/>);

(I) If providing transportation, have a valid driver's license and proof of insurance, as well as any other license or certification that may be required under state and local law, depending on the nature and scope of the transportation service;

(J) Sign a Medicaid provider agreement and be enrolled as a Medicaid provider prior to delivery of any services.

(c) AGENCY SERVICE PROVIDER REQUIREMENTS. Agencies providing Employment Services or Day Support Activities must have a certificate as set forth in OAR 411-340 or must comply with the following:

(A) CERTIFICATION, ENDORSEMENT, AND ENROLLMENT. To provide Employment Services or Day Support Activities, an agency service provider:

(i) Must have a certificate and an endorsement to provide employment and day support activities as set forth in OAR chapter 411, division 323;

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

(iii) For each specific geographic service area where Employment Services and Day Support Activities shall be delivered, a Medicaid Performing Provider Number assigned by the Department as described in OAR chapter 411, division 370.

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

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

(D) PERSONNEL FILES AND QUALIFICATION RECORDS. The agency service provider must maintain written documentation of six hours of pre-service training prior to staff providing services or supports to individuals, including mandatory abuse reporting training, training to work with individuals with developmental disabilities, and training on the support needs of the individual to whom they will provide support;

(E) STAFFING REQUIREMENTS.

(i) Each agency service provider must provide direct service staff appropriate to the number and level of individuals served, to ensure individual rights, basic health, and safety are met;

(ii) Staff must have approval to work based on current Department policy and procedures for background checks in OAR 411-323-0050(6);

(iii) When individuals are present at an agency site, the service provider must provide and document there are staff trained in the following areas:

(I) At least one staff member on duty with CPR certification at all times;

(II) At least one staff member on duty with current First Aid certification at all times;

(III) At least one staff member on duty with training to meet other specific medical needs as determined through ISP processes; and

(IV) At least one staff member on duty with training to meet other specific behavior intervention needs as determined through ISP processes.

(2) PROVIDER QUALIFICATIONS.

(a) Employment Specialists must possess and demonstrate the following qualifications:

(A) Demonstrate knowledge of developmental disability services;

(B) Demonstrate knowledge of the rules governing Employment Services;

(C) Ability to provide skills training for individuals to increase employability;

(D) Ability to support individuals to maintain and be successful in employment; and

(E) Demonstrate by background, education, references, skills and abilities that he or she is capable of safely and adequately performing the tasks to support an individual's ISP and CDP, with such demonstration confirmed in writing by the individual, or as applicable, the individual's legal or designated representative, and including:

(i) Ability and sufficient education to follow oral and written instructions and keep any records required;

(ii) Responsibility, maturity, and reputable character exercising sound judgment;

(iii) Ability to communicate with the individual; and

(iv) Training of a nature and type sufficient to ensure that the provider has knowledge of emergency procedures specific to the individual receiving services.

(b) A provider of Job Development services must also possess and demonstrate the following qualifications:

(A) Possess knowledge of best practice methodologies for Job Development; and

(B) Be able to demonstrate the core competencies of a Job Developer including those pertaining to skills assessment, job matching, job customization, job carving, community building, mapping and networking, analyzing labor trends, identifying patterns in job markets, identifying incentives for businesses, and mentoring job seekers.

(c) A provider of Job Coaching services must also possess and demonstrate the following qualifications:

(A) Knowledge of best practice methodologies for Job Coaching; and

(B) Be able to demonstrate the core competencies of a Job Coach including skills to recognize and adapt supports to

individual learning styles and needs, conduct task design and accommodations, train instructional and schedule procedures, and collaborate with employee, employer, co-workers and support team.

(d) A provider of Discovery/Career Exploration services must also possess and demonstrate the following qualifications:

(A) Knowledge of best practice methodologies for conducting Discovery/Career Exploration; and

(B) Be able to demonstrate the core competencies of a Discovery/Career Exploration provider including skills to facilitate the discovery/career exploration process, apply person-centered planning techniques, develop an employment portfolio, identify a job seekers strengths, interests, and talents, and integrate all pertinent information required by the Department into a Discovery Profile.

(e) A provider of Employment Path services provider must also possess and demonstrate the following qualifications:

(A) Knowledge of best practice methodologies for providing Employment Path Services; and

(B) Be able to demonstrate the core competencies of an Employment Path skills provider to provide learning and work experiences to teach general, non-job-task-specific strengths and skills.

(f) PERSONAL SUPPORT WORKER QUALIFICATIONS. Each personal support worker must meet the qualifications described in OAR chapter 411, division 375. Personal Support Workers must not provide services for the following:

(A) Individual Employment Support - Job Development

(B) Small Group Employment Support

(C) Employment Path

(D) Discovery/Career Exploration

(3) PROVIDER TRAINING.

(a) Employment Specialists employed by an agency must complete the following training:

(A) A review of the Department's rules governing Employment Services and Day Support Activities;

(B) CPR and First Aid by a recognized training agency and within 90 days of hire;

(C) Six hours of pre-service training including:

(i) Mandatory abuse reporting training;

(ii) Training to work with individuals with developmental disabilities, and

(iii) Training on the employment service and support needs of the individual to whom they will provide support.

(b) The agency service provider must keep documentation of required training in the personnel files of the Employment Specialist.

(c) All Employment Specialists must complete the following training by January 1, 2015:

(A) Job Coaches must complete a minimum of one Department approved training for Job Coaching.

(B) Job Developers must complete a minimum of one Department approved training for Job Development.

(C) Employment Path providers must complete a minimum of one Department approved training for Employment Path Services.

(D) Discovery/ Career Exploration providers must complete a minimum of one Department approved training for Discovery/Career Exploration.

(4) PROVIDER DUTIES. An Employment Specialist must have a job description with clearly stated job responsibilities. The job description must be current, signed by the Employment Specialist, and dated. The job description must also include duties specific to the area of specialization, including Job Coach, Job Developer, Discovery/Career Exploration provider, or Employment Path Services provider.

(5) DISQUALIFICATION. Employment Specialists must self-report any potentially disqualifying condition as described in OAR 407-007-0280 and OAR 407-007-0290. The Employment Specialists must notify the Department or the Department's designee within 24 hours.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

411-345-0040 Application for Initial Certificate and Certificate Renewal
(Repealed 7/1/2011 – Language moved to OAR 411-345-0030)

411-345-0050 Reciprocal Compliance for Agency Providers
(Temporary Effective 07/01/2014 to 12/28/2014)

(1) The Department may accept compliance with other formally recognized standards as assurance of compliance with all or part of these rules.

(2) An employment service provider seeking an endorsement based on compliance with other standards must provide the Department with a copy of the complete detailed report from the reviewing group. Where there are differences between other standards and Oregon Administrative Rules, the Oregon Administrative Rules shall take precedence.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

411-345-0060 Certification Expiration, Termination of Operations, Certificate Return
(Repealed 7/1/2011 – Language moved to OAR 411-345-0030)

411-345-0070 Change of Ownership, Legal Entity, Legal Status, Management Corporation

(Repealed 7/1/2011 – Language moved to OAR 411-345-0030)

411-345-0080 Inspections and Investigations

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

411-345-0085 Reports and Recordkeeping

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

(1) For each individual supported, service providers being paid for Job Development services must report activity at least monthly to the individual's services coordinator or personal agent.

(2) For each individual supported, service providers being paid for Discovery and Career Exploration services must complete a Discovery Profile and submit it to the individual's services coordinator or personal agent.

(3) All documentation required by these rules, unless stated otherwise, 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, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

411-345-0090 Variances for Agency Providers

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

(1) The Department may grant a variance to these rules based upon a demonstration by an agency 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 agency 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 for variance indicating the CDDP's position on the proposed variance.

(4) The Department shall approve or deny the request for a variance.

(5) 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.

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

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

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

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

411-345-0095 Service and Payment Limitations

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

(1) Effective service rates as authorized in Department payment and reporting systems for individuals enrolled in employment and day support activities and paid to service providers for delivering employment or day support activities, as described in these rules, shall be based upon collective bargaining agreement or an agency fee schedule published by the Department.

(2) Only one service may be billed per individual per hour. Payments based on an outcome are not in conflict with payments made based on direct service delivery.

(3) Employment Services and payment for employment service are limited to:

(a) 25 hours per week or 108.3 hours per month, on average, for any combination of Job Coaching, Small Group Employment Support, and Employment Path services;

(b) Forty (40) hours in any one week for Job Coaching; and

(c) If an individual is utilizing less than 25 hours of Job Coaching in any one week, Employment Services may be combined with Small Group Employment Support and Employment Path Services so long as the combination of services does not exceed 25 hours per week or 108.3 hours per month on average.

(4) Exceptions to the service and payment limitations may be considered by the Department based upon applicable Department policy.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

411-345-0100 Staffing Requirements

Suspended 07/01/2014

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

411-345-0110 Individuals' Rights

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

- (1) The agency must have and implement written policies and procedures that protect the individual rights described in subsection (4) of this section.
- (2) Upon enrollment, request, and annually thereafter, the individual rights described in subsection (4) of this section must be provided to an individual and the legal or designated representative of an individual.
- (3) The individual rights described in this rule apply to all individuals eligible for or receiving developmental disability services. A parent or guardian may place reasonable limitations on the rights of a child.
- (4) While receiving developmental disability services, an individual has the right to:
 - (a) Be free and protected from abuse or neglect and to report any incident of abuse or neglect without being subject to retaliation;
 - (b) Be free from seclusion, unauthorized training or treatment, protective physical intervention, chemical restraint, or mechanical restraint and assured that medication is administered only for the clinical needs of the individual as prescribed by a health care provider, unless an imminent risk of physical harm to the individual or others exists and only for as long as the imminent risk continues;
 - (c) Individual choice for an adult to consent to or refuse treatment, unless incapable and then an alternative decision maker must be allowed to consent to or refuse treatment for the adult. For a child, the parent or guardian of the child must be allowed to consent to or refuse treatment, except as described in ORS 109.610 or limited by court order;
 - (d) Informed, voluntary, written consent prior to receiving services, except in a medical emergency or as otherwise permitted by law;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

411-345-0120 Rights: Confidentiality of Records

(Repealed 7/1/2011 – Language moved to OAR 411-345-0110)

411-345-0130 Complaints, Notification of Planned Action, and Hearings

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

(1) INDIVIDUAL COMPLAINTS.

(a) The service provider must have and implement written policies and procedures for individual complaints in accordance with OAR 411-318-0015.

(b) Complaints by or on behalf of individuals must be addressed in accordance with OAR 411-318-0015.

(c) Upon entry, request, and annually thereafter, the policy and procedures for complaints as described in OAR 411-318-0015 must be explained and provided to an individual and the legal or designated representative of the individual (as applicable).

(2) NOTIFICATION OF PLANNED ACTION. In the event developmental disability services are involuntarily denied, reduced, suspended, or terminated or voluntarily reduced, suspended, or terminated, a written advance Notification of Planned Action (form SDS 0947) must be provided as described in OAR 411-318-0020.

(3) HEARINGS.

(a) Hearings must be addressed in accordance with ORS chapter 183 and OAR 411-318-0025.

(b) An individual, or as applicable the legal or designated representative of the individual, may request a hearing as provided in ORS chapter 183 and OAR 411-318-0025 for involuntary denials, reductions, suspensions, or terminations or OAR 411-318-0030 for involuntary transfers or exits.

(c) Upon entry, request, and annually thereafter, a notice of hearing rights and the policy and procedures for hearings as described in OAR chapter 411, division 318 must be explained and provided to an individual and the legal or designated representative of the individual (as applicable).

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

411-345-0140 Entry, Exit, and Transfer Requirements for Agency Service Providers

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

(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) ENTRY. For individuals who receive case management from a CDDP an entry ISP team meeting must be conducted prior to the initiation of services for an individual.

(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;

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

(D) Documentation of the individual's current physical condition, including any physical limitations that may affect employment;

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

(F) A copy of the individual's most recent ISP (if applicable) and CDP (if applicable).

(b) 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 as required by OAR 411-345-0190 and 411-345-0200;

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

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

(H) Documentation of the type of employment or day support activities service the individual is to receive; and

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

(3) VOLUNTARY TRANSFERS AND EXITS.

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

(b) A service provider must notify an individual's services coordinator or personal agent 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.

(d) Before a transfer, an individual must be presented with at least three appropriate placement setting options, including at least two different types of settings, as described in OAR 411-320-0110.

(4) INVOLUNTARY TRANSFERS AND EXITS.

(a) An agency 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. An agency 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 or personal agent, 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) An agency 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 or personal agent immediately upon determination of the need for a transfer or exit.

(d) HEARING RIGHTS. An individual must be given the opportunity for a hearing under ORS chapter 183 to dispute an involuntary transfer or exit as described in OAR 411-318-0030. If an individual or the legal or designated representative of the individual (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 advance written notice of a transfer or exit as described in subsection (c) of this section and the individual or the legal or designated representative of the individual (as applicable) has requested a hearing, the service provider must reserve service availability for the individual until receipt of the final order.

(5) EXIT MEETING.

(a) An individual's ISP team must meet before any decision is made to exit services. 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.

(6) TRANSFER MEETING. An individual's ISP team must meet to discuss any proposed transfer of an individual from one agency site to another 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, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

411-345-0150 Entry, Exit and Transfer: Appeal Process

(Repealed 7/1/2011 – Language moved to OAR 411-345-0140)

411-345-0160 Individual Support Plan

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

(1) An individual has the right to participate in his or her ISP meeting and must be afforded every opportunity to develop and direct his or her ISP.

(2) In order to receive Employment Services, an individual must have an employment related goal in his or her ISP.

(3) A Career Development Plan (CDP) and informal vocational assessment must be developed and implemented with the ISP as follows:

(a) The CDP must:

(A) Focus on the strengths of the individual;

(B) Prioritize employment in integrated settings;

(C) Be based on person-centered planning principles;

(D) Include a current and accurate vocational assessment; and

(E) Be completed with the goal of maximizing the number of hours spent working consistent with an individual's interests, abilities, and choices.

(b) The following individuals must develop a CDP as a part of the annual ISP process:

(A) All working age individuals who work in Sheltered Workshops;

(B) Transition aged youth no later than one year after departure from the Oregon public schools; and

(C) All other individuals who request a Career Development Plan.

(c) Effective January 1, 2015, all individuals receiving services under these rules must develop a Career Development Plan as a part of the annual ISP.

(4) For agency provided services, the ISP must be implemented, including a Career Development Plan (CDP), where applicable, and a copy of each individual's ISP must be available at the service site within 60 days of entry and updated at least annually or as changes occur.

(5) Agency service providers must:

(a) Assign a staff member to participate as a team member in the development of an individual's ISP and CDP when invited by the individual or the individual's legal or designated representative (as applicable);

(b) Follow any required process and format as described in this rule;

(c) Train staff to understand each individual's ISP, CDP, and supporting documents and to provide individual services; and

(d) Comply with Department rules and policies regarding the ISP and CDP.

(6) Agency providers must participate in a face-to-face meeting annually with an individual's ISP team. An exception is made when:

(a) The individual chooses not to participate in the meeting or the individual's legal representative objects to the individual's participation in the face-to-face meeting. The individual must receive a copy of the ISP and CDP related to the necessary delivery of services; or

(b) The individual, or as applicable the individual's legal or designated representative, objects to the participation of a service provider during the face-to-face meeting.

(7) In preparation for the ISP meeting, the agency service provider must:

- (a) Gather person-centered information regarding preferences, interests, and desires of the individual supported;
- (b) Review the individual's current ISP and CDP to determine the ongoing appropriateness and adequacy of the services and supports identified in the ISP and CDP; and
- (c) Share all materials drafted in preparation for the ISP meeting with the ISP team one week in advance of the ISP meeting.

(8) The service provider must receive a copy of the ISP and CDP, or at least portions thereof, related to the necessary delivery of services.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

411-345-0170 Behavior Support

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

For an agency certified by the Department to provide services under these rules and endorsed under the rules in OAR chapter 411, division 323:

(1) Agency service providers must have and implement a written policy for behavior support utilizing individualized positive support techniques and prohibiting abusive practices.

(2) The agency service provider must inform the individual, and as applicable the individual's legal or designated representative, of the behavior support policy and any applicable procedures at the time of entry to services and as changes to the behavior policy occur.

(3) Prior to the development of a Behavior Support Plan, the agency service provider must conduct a functional behavioral assessment of the behavior, which must be based upon information provided by one or more people who know the individual. The functional behavioral assessment must include:

- (a) A clear, measurable description of the behavior that includes (as applicable) frequency, duration, and intensity of the behavior;

(b) A clear description and justification of the need to alter the behavior;

(c) An assessment of the meaning of the behavior that includes the possibility that the behavior is one or more of the following:

(A) An effort to communicate;

(B) The result of a medical condition;

(C) The result of a psychiatric condition; or

(D) The result of environmental causes or other factors.

(d) A description of the context in which the behavior occurs; and

(e) A description of what currently maintains the behavior.

(4) A Behavior Support Plan must include:

(a) An individualized summary of the individual's needs, preferences, and relationships;

(b) A summary of the functions of the behavior as derived from the functional behavioral assessment;

(c) Strategies that are related to the functions of the behavior and are expected to be effective in reducing problem behaviors;

(d) Prevention strategies, including environmental modifications and arrangements;

(e) Early warning signals or predictors that may indicate a potential behavioral episode and a clearly defined plan of response;

(f) A general crisis response plan that is consistent with OIS;

(g) A plan to address post crisis issues;

- (h) A procedure for evaluating the effectiveness of the Behavior Support Plan that includes a method of collecting and reviewing data on frequency, duration, and intensity of the behavior;
- (i) Specific instructions for staff who provide support to follow regarding the implementation of the Behavior Support Plan; and
- (j) Positive behavior supports that includes the least intrusive intervention possible.

(5) Agency service providers must maintain the following additional documentation for implementation of Behavior Support Plans:

- (a) Written evidence that the individual, the individual's legal or designated representative (as applicable), and the ISP team are aware of the development of the Behavior Support Plan and any objections or concerns;
- (b) Written evidence of the ISP team decision for approval of the implementation of the Behavior Support Plan; and
- (c) Written evidence of all informal and positive strategies used to develop an alternative behavior.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

411-345-0180 Protective Physical Intervention for Agency Providers
(Temporary Effective 07/01/2014 to 12/28/2014)

For an agency certified by the Department to provide services under these rules and endorsed under the rules in OAR chapter 411, division 323:

(1) The service provider must only employ protective physical intervention techniques that are included in the approved OIS curriculum or as approved by the OIS Steering Committee. Protective physical intervention techniques must only be applied:

- (a) When the health and safety of the individual and others are at risk and the ISP team has authorized the procedures in a documented

ISP team decision that is included in the ISP and uses procedures that are intended to lead to less restrictive intervention strategies;

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

(c) As a health related protection ordered by a physician if absolutely necessary during the conduct of a specific medical or surgical procedure, or for the individual's protection during the time that a medical condition exists.

(2) Staff supporting an individual must be trained and certified in OIS when the individual has a history of behavior requiring protective physical intervention and the ISP team has determined there is probable cause for future application of protective physical intervention. Documentation verifying current OIS certification of staff must be maintained in the staff person's personnel file and be available for review by the Department or the Department's designee.

(3) The service provider must obtain the approval of the OIS Steering Committee for any modification of standard OIS protective physical intervention techniques. The request for modification of protective physical intervention techniques must be submitted to the OIS Steering Committee and must be approved in writing by the OIS Steering Committee prior to the implementation of the modification. Documentation of the approval must be maintained in the individual's record.

(4) Use of protective physical intervention techniques in emergency situations that are not part of an approved Behavior Support Plan must:

(a) Be reviewed by the service provider's executive director or the executive director's designee within one hour of application;

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

(c) Be documented as an incident report and submitted to the services coordinator, personal agent, or other Department designee (if applicable) and the individual's legal representative (if applicable), no later than one working day after the incident has occurred; and

(d) Prompt an ISP team meeting if an emergency intervention is used more than three times in a six-month period.

(5) Any use of protective physical intervention must be documented in an incident report, excluding circumstances as described in section (8) of this rule. The incident report must include:

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

(b) The date, type, and length of time the protective physical intervention was applied;

(c) A description of the incident precipitating the need for the use of the protective physical intervention;

(d) Documentation of any injury;

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

(f) The name and position of the staff witnessing the protective physical intervention;

(g) The name and position of the person providing the initial review of the use of the protective physical intervention; and

(h) Documentation of an administrative review by the service provider's executive director or the executive director's designee who is knowledgeable in OIS as evident by a job description that reflects this responsibility, which includes the follow-up to be taken to prevent a recurrence of the incident.

(6) The service provider must forward a copy of the incident report within five working days of the incident to the services coordinator or personal agent and the individual's legal representative (if applicable).

(a) The services coordinator, personal agent, or the Department designee (if applicable) must receive a complete copy of the incident report.

(b) A copy of an incident report may not be provided to an individual's legal representative or other service provider when the report is part of an abuse or neglect investigation.

(c) A copy of an incident report provided to an individual's legal representative or other service provider must have confidential information about other individuals removed or redacted as required by federal and state privacy laws.

(7) All protective physical interventions resulting in injuries must be documented in an incident report and forwarded to the services coordinator, personal agent, or other Department designee (if applicable), within one working day of the incident.

(8) The service provider may substitute a behavior data summary in lieu of individual incident reports when:

(a) There is no injury to the individual or others;

(b) The intervention utilized is not a protective physical intervention;

(c) There is a formal written functional behavioral assessment and a written Behavior Support Plan;

(d) The individual's Behavior Support Plan defines and documents the parameters of the baseline level of behavior;

(e) The protective physical intervention techniques and the behaviors for which the protective physical intervention techniques are applied remain within the parameters outlined in the individual's Behavior Support Plan and the OIS curriculum;

(f) The behavior data collection system for recording observation, intervention, and other support information critical to the analysis of the efficacy of the Behavior Support Plan is also designed to record items as required in section (5) of this rule; and

(g) There is written documentation of an ISP team decision that a behavior data summary had been authorized for substitution in lieu of incident reports.

(9) A copy of the behavior data summary must be forwarded every 30 days to the services coordinator, personal agent, or other Department designee (if applicable) and the individual's legal representative (if applicable).

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

411-345-0190 Medical Services

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

For an agency certified by the Department to provide services under these rules and endorsed under the rules in OAR chapter 411, division 323:

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

(2) Agency service providers must have and implement written policies and procedures that describe the medical management system, including medication administration, early detection and prevention of infectious disease, self-administration of medication, drug disposal, emergency medical procedures including the handling of bodily fluids, and confidentiality of medical records.

(3) Individuals must receive care that promotes their health and well-being as follows:

(a) The service provider must observe the health and physical condition of an individual and take action in a timely manner in response to identified changes in condition that may lead to deterioration or harm;

(b) The service provider must assist an individual with the use and maintenance of prosthetic devices as necessary for the activities of the service;

(c) The service provider, with the individual's knowledge, must share information regarding medical conditions with the individual's residential contact (if applicable) and the services coordinator or personal agent; and

(d) The service provider must provide rest and lunch periods at least as required by applicable law unless the individual's needs dictate additional time.

(4) Agency service providers must maintain records on each individual to aid physicians, medical professionals, and the service provider in understanding the individual's medical history and current treatment program. These records must be kept current and organized in a manner that permits a staff and medical person to easily follow the individual's course of treatment. Such documentation must include:

(a) A medical history obtained prior to entry to services including where available:

(A) A copy of a record of immunizations; and

(B) A list of known communicable diseases and allergies.

(b) A record of the individual's current medical condition including:

(A) A copy of all current orders for medication administered and maintained at the service provider's site;

(B) A list of all current medications; and

(C) A record of visits to medical professionals, consultants, or therapists if facilitated or provided by the service provider.

(5) The administration of medication at the service site must be avoided whenever possible. When medications, treatments, equipment, or special diets must be administered or monitored for self-administration, the service provider must:

(a) Obtain a copy of a written order signed by a physician, physician's designee, or medical practitioner prescribing the medication, treatment, special diet, equipment, or other medical service; and

(b) Follow written orders.

(6) PRN orders are not accepted for psychotropic medication.

(7) All medications administered or monitored in the case of self-administration must be:

(a) Kept in their original containers;

(b) Labeled by the dispensing pharmacy, product manufacturer, or physician, as specified per the physician's or licensed health care practitioner's written order;

(c) Kept in a secured locked container and stored as indicated by the product manufacturer; and

(d) Recorded on an individualized Medication Administration Record (MAR), including treatments and PRN orders.

(8) The MAR must include:

(a) The name of the individual;

(b) The brand or generic name of the medication, including the prescribed dosage and frequency of administration as contained on the physician's order and medication;

(c) For topical medications and basic first aid treatments utilized without a physician's order, a transcription of the printed instructions from the package or the description of the basic first aid treatment provided;

(d) Times and dates of administration or self-administration of the medication;

- (e) The signature of the staff administering the medication or monitoring the self-administration of the medication;
- (f) Method of administration;
- (g) Documentation of any known allergies or adverse reactions to a medication;
- (h) Documentation and an explanation of why a PRN medication was administered and the results of such administration; and
- (i) An explanation of any medication administration irregularity with documentation of administrative review by the service provider's executive director or the executive director's designee.

(9) Safeguards to prevent adverse medication reactions must be utilized to include:

- (a) Maintaining information about each prescribed medication's effects and side-effects;
- (b) Communicating any concerns regarding any medication usage, effectiveness, or effects to the residential contact (if applicable) and the services coordinator or personal agent; and
- (c) Prohibiting the use of one individual's medications by another.

(10) The service site or service provider may not keep unused, discontinued, outdated, or recalled medication, or medication containers with worn, illegible, or missing labels. All unused, discontinued, outdated, or recalled medication or medication containers with worn, illegible, or missing labels must be promptly disposed of in a manner consistent with federal statutes and designed to prevent illegal diversion of the substances into the possession of people other than for whom the medication was prescribed. The service provider must maintain a written record of all disposed medications that includes:

- (a) Date of disposal;
- (b) A description of the medication, including amount;

- (c) The name of the individual for whom the medication was prescribed;
- (d) The reason for disposal;
- (e) The method of disposal;
- (f) Signature of staff disposing; and
- (g) For controlled medications, the signature of a witness to the disposal.

(11) For any individual who is self-administering medication while receiving services from an agency provider, the service provider must:

- (a) Have documentation that a training program was initiated with approval of the individual's ISP team or that training for the individual is unnecessary;
- (b) If necessary, have a training program that is consistent with the self-administration training program in place at the individual's residence;
- (c) If necessary, have a training program that provides for retraining when there is a change in dosage, medication, or time of delivery;
- (d) Have specific supports identified and documented for the individual when training has been deemed unnecessary; and
- (e) Provide for an annual review, at a minimum, as part of the ISP process, upon completion of the training program or when training for the individual has been deemed necessary by the individual's ISP team.

(12) The service provider must ensure that individuals able to self-administer medications keep the medications secured, unavailable to any other person, and stored as recommended by the product manufacturer.

(13) The service provider must immediately contact the services coordinator or personal agent when an individual's medical, behavioral, or physical needs change to a point that the individual's needs may not be met by the service provider. The ISP team may determine alternative service providers or may arrange other services if necessary.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

411-345-0200 Individual Summary Sheets and Emergency Information for Agency Providers

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

For an agency certified by the Department to provide services under these rules and endorsed under the rules in OAR chapter 411, division 323:

(1) A current one to two page summary sheet record must be maintained at the agency service provider's primary place of business for each individual receiving services. The record must include:

(a) The individual's name, current address, telephone number, date of entry into services, date of birth, gender, preferred hospital, medical prime and private insurance number (if applicable), and guardianship status; and

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

(A) The individual's legal or designated representative, family, and other significant person (as applicable);

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

(C) The individual's preferred dentist;

(D) The individual's services coordinator or personal agent; and

(E) Other agencies and representatives providing services and supports to the individual.

(2) A service provider must maintain emergency information for each individual receiving supports and services from the service provider in addition to an individual summary sheet identified in section (1) of this rule. The emergency information must be kept current and must include:

- (a) The individual's name;
- (b) The service provider's name, address, and telephone number;
- (c) The address and telephone number of the residence where the individual lives;
- (d) The individual's physical description, which may include a picture and the date the picture was taken, and identification of:
 - (A) The individual's race, gender, height, weight range, hair, and eye color; and
 - (B) Any other identifying characteristics that may assist in identifying the individual may the need arise, such as marks or scars, tattoos, or body piercing.
- (e) Information on the individual's abilities and characteristics including:
 - (A) How the individual communicates;
 - (B) The language the individual uses or understands;
 - (C) The ability of the individual to know and take care of bodily functions; and
 - (D) Any additional information that may assist a person not familiar with the individual to understand what the individual may do for him or herself.
- (f) The individual's health support needs including:
 - (A) Diagnosis;

(B) Allergies or adverse drug reactions;

(C) Health issues that a person needs to know when taking care of the individual;

(D) Special dietary or nutritional needs, such as requirements around the textures or consistency of foods and fluids;

(E) Food or fluid limitations due to allergies, diagnosis, or medications the individual is taking that may be an aspiration risk or other risk for the individual;

(F) Additional special requirements the individual has related to eating or drinking, such as special positional needs or a specific way foods or fluids are given to the individual;

(G) Physical limitations that may affect the individual's ability to communicate, respond to instructions, or follow directions; and

(H) Specialized equipment needed for mobility, positioning, or other health related needs.

(g) The individual's emotional and behavioral support needs including:

(A) Mental health or behavioral diagnosis and the behaviors displayed by the individual; and

(B) Approaches to use when dealing with the individual to minimize emotional and physical outbursts.

(h) Any court ordered or legal representative authorized contacts or limitations;

(i) The individual's supervision requirements and why; and

(j) Any additional pertinent information the service provider has that may assist in the care and support of the individual in the event of a natural or man-made disaster.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

411-345-0210 Health and Safety: Personnel

(Repealed 7/1/2011 – Language moved to OAR 411-345-0100)

411-345-0220 Health and Safety: Staffing Requirements

(Repealed 7/1/2011 – Language moved to OAR 411-345-0100)

411-345-0230 Incident Reports and Emergency Notifications by Agency Providers

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

For an agency certified by the Department to provide services under these rules and endorsed under the rules in OAR chapter 411, division 323:

(1) A written incident report describing any injury, accident, act of physical aggression, or unusual incident involving an individual must be placed in the individual's record. The incident report 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 incidents (as defined by OAR 411-345-0020) must be sent to the services coordinator or personal agent within five working days of the unusual incident.

(3) The service provider must immediately notify the CDDP or Brokerage of an incident or allegation of abuse falling within the scope of OAR 407-045-0260(1).

(4) In the case of an unusual incident requiring emergency response, the service provider must immediately notify:

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

(b) The CDDP or Brokerage;

(c) The individual's residential contact; and

(d) Any other agency responsible for the individual.

(5) In the case of an individual who is missing or absent without supervision beyond the time frames established by the ISP team, the service provider must immediately notify:

(a) The individual's designated representative (if applicable);

(b) The individual's legal representative or nearest responsible relative (as applicable);

(c) The individual's residential contact;

(d) The local police department; and

(e) The CDDP or Brokerage.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

411-345-0240 Emergency Plan and Safety Review for Agency Providers

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

For an agency certified by the Department to provide services under these rules and endorsed under the rules in OAR chapter 411, division 323:

(1) Agency service providers must develop, keep current, and implement a written emergency plan for the protection of all individuals in the event of an emergency or disaster. The emergency plan must:

- (a) Be practiced at least annually;
- (b) Consider the needs of the individuals being supported and address all natural and human-caused events identified as a potential significant risk to the individuals, such as a pandemic or an earthquake;
- (c) Coordinate with each residential provider or residential contact to address the possibility of emergency or disaster resulting in the following:
 - (A) Extended utility outage;
 - (B) No running water;
 - (C) Inability to provide food or supplies; and
 - (D) Staff unable to report as scheduled.
- (d) Include provisions for evacuation and relocation that identifies:
 - (A) The duties of staff during evacuation, transport, and housing of individuals;
 - (B) The requirement for staff to notify the Department and the local CDDP and Brokerage offices of the plan to evacuate or the evacuation of the facility, as soon as the emergency or disaster reasonably allows;
 - (C) The method and source of transportation;
 - (D) Planned relocation sites that are reasonably anticipated to meet the needs of the individuals;

(E) A method that provides a person unknown to the individual the ability to identify the individual by the individual's name and to identify the name of the individual's service provider; and

(F) A method for tracking and reporting to the Department, local CDDP and Brokerage offices, or designee, the physical location of each individual until a different entity resumes responsibility for the individual.

(e) Address the needs of the individual, including medical needs; and

(f) Be submitted to the Department as a summary, per Department format, at least annually and upon revision and change of ownership.

(2) Agency service providers must post the following emergency telephone numbers in close proximity to all phones used by staff:

(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 and additional people to be contacted in the case of an emergency.

(3) If an individual regularly accesses the community independently, the service provider must provide the individual information about appropriate steps to take in an emergency, such as emergency contact telephone numbers, contacting police or fire personnel, or other strategies to obtain assistance.

(4) A documented safety review must be conducted quarterly to ensure the service site is free of hazards. The service provider must keep the quarterly safety review reports for five years and must make them available upon request by the CDDP, Brokerage, or the Department.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

411-345-0250 Evacuation

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

For an agency certified by the Department to provide services under these rules and endorsed under the rules in OAR chapter 411, division 323:

(1) The service provider must train all individuals immediately upon entry to each service site to leave the site in response to an alarm or other emergency signal.

(2) The service provider must document the level of assistance needed by each individual to safely evacuate and such documentation must be maintained in the individual's entry records.

(3) The service provider must provide, or assure provision of, necessary adaptations or accommodations to ensure evacuation safety for individuals with sensory and physical impairments.

(4) Site-based agency service providers must:

(a) Conduct unannounced evacuation drills one per quarter each year when individuals are present, unless required more often by the Oregon Occupational Safety and Health Division.

(A) Drills must occur at different times of the day.

(B) Routes to leave the site for the drill must vary based on the location of a simulated emergency.

(C) Any individual failing to evacuate the service site unassisted within three minutes, or an amount of time set by the local fire authority for the site, must be provided specialized training and support in evacuation procedures.

(b) Make written documentation at the time of each drill and keep the documentation for at least two years following the drill.

Documentation must include:

(A) The date and time of the drill;

(B) The location of the simulated emergency and route of evacuation;

(C) The last names of all individuals and staff present in the service area at the time of the drill;

(D) The type of evacuation assistance provided by staff to individuals' that need more than three minutes to evacuate as specified in an individual's safety plan;

(E) The amount of time required by each individual to evacuate if the individual needs more than three minutes to evacuate;

(F) The amount of time for all individuals to evacuate exclusive of individuals with specialized support as described in section (3)(c) of this rule; and

(G) The signature of the staff conducting the drill.

(c) Develop a written safety plan for individuals who are unable to evacuate the site within the required evacuation time or who, with concurrence of the ISP team, request not to participate in evacuation drills. The safety plan must include:

(A) Documentation of the risk to the individual's medical, physical condition, and behavioral status;

(B) Identification of how the individual must evacuate the site, including level of support needed;

(C) The routes to be used to evacuate the individual to a point of safety;

(D) Identification of assistive devices required for evacuation;

(E) The frequency the plan must be practiced and reviewed by the individual and staff;

(F) The alternative practices;

(G) Approval of the plan by the individual's legal representative, services coordinator or personal agent, and the service provider's executive director; and

(H) A plan to encourage future participation in evacuation drills.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

411-345-0260 Physical Environment

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

For an agency certified by the Department to provide services under these rules and endorsed under the rules in OAR chapter 411, division 323:

(1) All employment and day support activities providers must ensure that the service site has no known health or safety hazards in the immediate environment and that individuals are trained to avoid recognizable hazards.

(2) Agency service providers must:

(a) assure that at least once every five years a health and safety inspection is conducted of owned, leased, or rented buildings and property.

(A) The inspection must cover all areas and buildings where services are delivered to individuals, administrative offices, and storage areas.

(B) The inspection may be performed by:

(i) Oregon Occupational Safety and Health Division;

(ii) The service provider's workers compensation insurance carrier;

(iii) An appropriate expert, such as a licensed safety engineer or consultant approved by the Department; or

(iv) The Oregon Public Health Division, when necessary.

(C) The inspection must cover:

- (i) Hazardous material handling and storage;
- (ii) Machinery and equipment used by the service provider;
- (iii) Safety equipment;
- (iv) Physical environment; and
- (v) Food handling, when necessary.

(D) The documented results of the inspection, including recommended modifications or changes, and documentation of any resulting action taken must be kept by the service provider for five years.

(b) Ensure buildings and property at each owned, leased, or rented service site has annual fire and life safety inspections performed by the local fire authority or a Deputy State Fire Marshal. The documented results of the inspection, including documentation of recommended modifications or changes, and documentation of any resulting action taken must be kept by the service provider for five years.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

411-345-0270 Vehicles and Drivers

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

For an agency certified by the Department to provide services under these rules and endorsed under the rules in OAR 411-323:

(1) Service providers that own or operate vehicles that transport individuals must:

- (a) Maintain the vehicles in safe operating condition;

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

(c) Maintain insurance coverage; and

(d) Carry a first-aid kit in the vehicles.

(2) Drivers operating vehicles to transport individuals must meet applicable Oregon Driver and Motor Vehicle Services Division requirements.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

411-345-0280 Individual/Family Involvement

(Repealed 7/1/2011 – Language moved to OAR 411-345-0100)

411-345-0290 Certificate Denial, Suspension, Revocation, Refusal to Renew

(Repealed 7/1/2011 – Language moved to OAR 411-345-0030)

411-345-0300 Hearings

(Repealed 7/1/2011 – Language moved to OAR 411-345-0030)