

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

**CHAPTER 411
DIVISION 345**

**EMPLOYMENT SERVICES FOR INDIVIDUALS WITH INTELLECTUAL
OR DEVELOPMENTAL DISABILITIES**

EFFECTIVE JUNE 29, 2016

411-345-0010 Statement of Purpose

(Amended 06/29/2016)

- (1) The rules in OAR chapter 411, division 345, effectuate Oregon's Employment First policy under which the employment of individuals with intellectual or developmental disabilities in competitive integrated employment is the highest priority over unemployment, segregated employment, or other non-work day activities.
- (2) For individuals who successfully achieve the goal of competitive integrated employment, future person-centered service planning focuses on maintaining employment, maximizing the number of hours an individual works, consistent with his or her preferences and interests, and considering additional career or advancement opportunities.
- (3) Employment services are considered and provided on an individualized basis using a person-centered approach based on informed choice and consistent with the philosophy of self-determination.
- (4) These rules --
 - (a) Prescribe service standards and requirements for providers of home and community-based services in settings where employment services are provided;
 - (b) Prescribe the standards and procedures by which the Department endorses a provider agency to deliver employment services;

(c) Prescribe service eligibility requirements for individuals with intellectual or developmental disabilities to receive employment services; and

(d) Incorporate the provisions for home and community-based services and settings and person-centered service planning set forth in OAR chapter 411, division 004 to ensure individuals with intellectual or developmental disabilities receive services in settings that are integrated in and support the same degree of access to the greater community as people not receiving home and community-based services.

(5) Employment services are provided in accordance with these rules, Oregon's Employment First policy as described in the State of Oregon Executive Order No. 15-01, and OAR chapter 407, division 025 (Integrated Employment Services to Individuals with Intellectual and Developmental Disabilities).

Stat. Auth.: ORS 409.050, 427.007, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

411-345-0020 Definitions and Acronyms

(Amended 06/29/2016)

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

(2) "Competitive Integrated Employment" means work that is performed on a full-time or part-time basis (including self-employment):

(a) For which an individual:

(A) Is compensated at a rate that:

(i) Is not less than the higher of the rate specified in federal, state, or local minimum wage law, and also is not less than the customary rate paid by the employer for the

same or similar work performed by other employees who are not individuals with disabilities, and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills; or

(ii) In the case of an individual who is self-employed, yields an income that is comparable to the income received by other individuals who are not individuals with disabilities, and who are self-employed in similar occupations or on similar tasks and who have similar training, experience, and skills; and

(B) Is eligible for the level of benefits provided to other employees.

(b) That is at a location where the employee interacts with other persons who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that individuals who are not individuals with disabilities and who are in comparable positions interact with other persons; and

(c) That, as appropriate, presents opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions.

(3) "Customized Employment" means competitive integrated employment for an individual with a disability that is based on an individualized determination of the strengths, needs, and interests of the individual, is designed to meet the specific abilities of the individual and the business needs of the employer.

(4) "Discovery" is a time-limited comprehensive, person-centered, and community-based employment planning support service to better inform an individual seeking an individualized job in a competitive integrated employment setting and to create a Discovery Profile. Discovery includes a series of work or volunteer related activities to inform the individual and the job developer about the strengths, interests, abilities, skills, experiences, and support needs of the individual, as well as identify the conditions and employment settings in which the individual will be successful. Discovery is

also an opportunity for the individual to begin active pursuit of competitive integrated employment.

(5) "Discovery Profile" is a comprehensive and person-centered report produced as an outcome of discovery, 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 employment settings for the success of the individual.

(6) "Employment Path Services" means 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 an individual job in a competitive integrated employment setting in the general workforce.

(7) "Employment Professional" means an employee of a provider agency or an independent provider who has the qualifications and training to provide employment services under these rules, including individual employment support, small group employment support, discovery, or employment path services.

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

(9) "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.

(10) "Executive Director" means the person designated by a board of directors or corporate owner of a provider agency who is responsible for the administration of agency provided employment services.

(11) "Functional Needs Assessment":

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

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

(B) Identifies risk factors and support needs; and

(C) Determines the service level.

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

(A) The Department incorporates Version C of the ANA and CNA into these rules by this reference. The ANA and CNA is maintained by the Department at:

<http://www.dhs.state.or.us/spd/tools/dd/cm>.

(B) The Department incorporates the SNAP into these rules by this reference. The SNAP is maintained by the Department at

<https://www.oregon.gov/DHS/SENIORS-DISABILITIES/DD/PROVIDERS-PARTNERS/Pages/rebar-assessments.aspx>.

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

http://aaidd.org/sis#.VvwgeaPn_Dc.

(c) A printed copy of a blank functional needs assessment may be obtained by calling (503) 945-6398 or writing the Department of Human Services, Developmental Disabilities, ATTN: Rules Coordinator, 500 Summer Street NE, E-48, Salem, OR 97301.

(12) "Individual Employment Support" means job coaching or job development services to obtain, maintain, or advance in an individual job in a competitive integrated employment setting in the general workforce, including customized employment or self-employment.

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

(14) "Job Coaching" means support for an individual to maintain or advance in an individual job in a competitive integrated employment setting

in the general workforce, including customized employment or self-employment.

(15) "Job Development" means support for an individual to obtain an individual job in a competitive integrated employment setting in the general workforce, including customized employment or self-employment.

(16) "OSIPM" means "Oregon Supplemental Income Program-Medical".

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

(18) "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. 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.

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

(20) "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.

Stat. Auth.: ORS 409.050 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

411-345-0025 Services Provided

(Amended 06/29/2016)

(1) The delivery of employment services provided under these rules presumes all individuals eligible for services can succeed in a job and career in an integrated employment setting in the general workforce and earn minimum wage or better.

(2) Employment is the preferred activity for individuals receiving services under these rules. Competitive integrated employment is the highest priority over unemployment, segregated or sheltered employment, small group employment support, or non-work day activities.

(3) Employment services must be individually planned based on person-centered planning principles. 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) All employment services have an optimal and expected outcome of sustained paid employment at the maximum number of hours, consistent with individual preferences, and work experience leading to further career development, maximizing hours, and competitive integrated employment for which an individual is compensated at or above 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) A provider initially certified and endorsed on or after January 1, 2016 must meet the requirements in OAR chapter 411, division 004 prior to being certified and endorsed. A provider certified and endorsed prior to January 1, 2016 must make measurable progress toward compliance with the rules in OAR chapter 411, division 004 and be in full compliance by September 1, 2018

(6) Employment services are provided under these rules in accordance with the State of Oregon Executive Order No. 15-01 and OAR chapter 407, division 025 (Integrated Employment Services to Individuals with Intellectual and Developmental Disabilities).

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

(8) Employment services must be:

(a) Offered to eligible individuals in accordance with the exit, entry, and transfer requirements described in OAR 411-345-0140;

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

- (c) Offered in accordance with these rules;
- (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 needs of an individual, and consistent with the choice of the individual regarding services, providers, and goals; and
- (f) Designed to:
 - (A) Increase independence, integration, and regular engagement in income producing work, preferably competitive integrated employment, by an individual that is measured through improvements in income level, employment status, or job advancement, or engagement by an individual with an intellectual or developmental disability in work contributing to a household or community;
 - (B) Promote integration into the workforce and workplace;
 - (C) Promote interaction with people without disabilities; and
 - (D) Support successful employment outcomes consistent with personal and career goals.

(9) Employment services do not include:

- (a) Services available to an individual under Vocational Rehabilitation and Other Services, 29 U.S.C. § 701-796l, as amended;
- (b) Services available to an individual under the Individuals with Disabilities Education Act, 20 U.S.C §1400, as amended;
- (c) Vocational assessments in a sheltered workshop; or
- (d) Services used for support to work in a sheltered workshop setting for individuals who did not enter or use services for support in a sheltered workshop setting on or before June 30, 2015.

(10) Employment services include the following:

(a) SUPPORTED EMPLOYMENT.

(A) INDIVIDUAL EMPLOYMENT SUPPORT:

(i) JOB COACHING - Support to maintain or advance in an individualized job in a competitive integrated employment setting in the general workforce, including customized employment or self-employment. This also includes support for maximizing hours, pay, benefits, and other opportunities for career advancement.

(I) Personal care or attendant care provided as an incidental part of job coaching is considered a component part of the employment service.

(II) Job coaching does not include support in volunteer work.

(III) Individuals utilizing job coaching must be compensated at a rate that is not less than the higher of the rate specified in federal, state, or local minimum wage law and also is not less than the customary rate and benefits paid by the employer for the same or similar work performed by other employees who are not individuals with disabilities, and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills.

(IV) Direct and indirect job coaching support must be provided, at minimum, for the number of hours identified in an ISP or Service Agreement.

(V) Transportation provided within the course of job coaching is a component part of the employment service.

(ii) Job coaching support to maintain self-employment requires the following in addition to the requirements outlined under (i):

(I) Ongoing assistance, counseling, and guidance after a business has been launched.

(II) Support to maintain self-employment may not be provided to defray the operational expenses of the business.

(III) The self-employment must yield an income that is comparable to the income received by other people who are not individuals with disabilities, and who are self-employed in similar occupations or in similar tasks and who have similar training, experience, and skills.

(IV) Evidence of the self-employment must be documented and reviewed by the services coordinator or personal agent on an annual basis. Documentation may include, but is not limited to, business filings with the Secretary of State, tax records submitted to the Internal Revenue Service, and an annual business plan.

(iii) JOB DEVELOPMENT - Support to obtain an individual job in a competitive integrated employment setting in the general workforce, including customized employment or self-employment.

(I) Personal care or attendant care provided as an incidental part of job development is considered a component part of the employment service.

(II) The job developed must provide compensation at a rate that is not less than the higher of the rate specified in federal, state, or local minimum wage law and also is not less than the customary rate and benefits paid by the employer for the same or

similar work performed by other employees who are not individuals with disabilities, and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills.

(III) The job developed must meet criteria established in a Career Development Plan or Individual Plan for Employment (IPE) including, but not limited to, criteria regarding the number of hours the individual shall work in the job. The Career Development Plan must document either a goal or discussion regarding opportunities for maximizing work hours and other career advancement opportunities. The recommended standard for planning job coaching and job development is the opportunity to work at least 20 hours per week. Individualized planning should ultimately be based on person-centered planning principles, including individual choice, preferences, and circumstances, and recognize that some individuals may choose to pursue working full time, part time, or another goal identified by the individual.

(IV) Job development may be authorized in the limited circumstances where the service is not available through Vocational Rehabilitation and the Department has approved authorization.

(V) Transportation provided within the course of job development is a component part of the employment service.

(B) SMALL GROUP EMPLOYMENT SUPPORT - Services and training activities in regular business, industry, and community settings.

(i) Small group employment support may be provided in groups of two to eight individuals.

(ii) Small group employment support must be provided in a manner that promotes integration into the work place and interaction with people without disabilities in those work places.

(iii) Small group employment support does not include vocational services provided in a provider owned, operated, or controlled setting, or a facility-based work setting.

(iv) Small group employment support does not include support in volunteer work.

(v) Individuals utilizing small group employment support must be compensated at a rate that is not less than the higher of the rate specified in federal, state, or local minimum wage law and also is not less than the customary rate and benefits paid by the employer for the same or similar work performed by other employees who are not individuals with disabilities, and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills.

(vi) Personal care or attendant care provided as an incidental part of small group employment support is considered a component part of the employment service.

(vii) Transportation provided within the course of small group employment support is a component part of the employment service.

(b) DISCOVERY - A comprehensive and person-centered employment planning support service to better inform an individual seeking competitive integrated employment in the general workforce and develop a Discovery Profile.

(A) Discovery must include a series of work or volunteer related activities, completed in competitive integrated employment settings, to inform the individual and the job developer about the strengths, interests, abilities, skills, experiences, and

support needs of the individual. Discovery must include analyzing detailed information from novel and past experiences in order to identify the conditions or integrated employment settings in which the individual shall be most successful.

(B) Discovery may 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) Discovery must be completed within a three month period. A three month extension may be authorized if the individual and the services coordinator or personal agent determines there is a legitimate reason. Legitimate reasons may include, but are not limited to:

(i) The individual had a medical event that delayed completing discovery;

(ii) The individual had a medical event that significantly changed his or her strengths, interests, and abilities; or

(iii) An opportunity to participate in particular work trials or volunteer positions may only be scheduled outside of the three month period.

(D) Discovery must have an outcome of a Discovery Profile. The Discovery Profile must meet requirements established by the Department.

(E) Discovery most often results in a referral to vocational rehabilitation services.

(F) Personal care or attendant care provided as an incidental part of discovery is considered a component part of the employment service.

(G) Transportation provided within the course of discovery is a component part of the employment service.

(c) EMPLOYMENT PATH SERVICES - Support to obtain experience and develop general skills that contribute to employability in competitive integrated employment settings in the general workforce.

(A) Personal care or attendant care provided as an incidental part of employment path services is considered a component part of the employment service.

(B) Producing goods or services may be incidental to employment path services but the primary purpose must be to develop general employment skills that may be used in an individual integrated job.

(C) Employment path services are time-limited based on the ISP. These services 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.

(i) Prior to beginning employment path services there must be measureable goals outlined in the Career Development Plan that support the intended outcomes of this service.

(ii) The measureable goals must include a timeline for achieving the goals as well as the frequency and duration for which progress towards achieving the goals are monitored by the services coordinator or personal agent during service monitoring as outlined in OAR chapter 411, division 415.

(D) Employment path services require that an individual have an employment-related goal in his or her ISP. The employment goal must be related to obtaining, maintaining, or advancing in competitive integrated employment, or, at minimum, exploring competitive integrated employment. General habilitation activities accessed through employment path services must be designed to support such employment goals.

(E) Transportation provided within the course of employment path services is a component part of the employment service.

(F) Consistent with setting requirements for home and community-based services, employment path services must be provided in an integrated setting that supports an individual's full access to the community and where individuals using these services gain experience working with the general public to the same or a similar degree as individuals who do not have a disability and do not use home and community-based services.

(i) A provider agency initially certified or endorsed by the Department on or after January 1, 2016, must provide this service in settings that meet this requirement.

(ii) An existing provider agency certified and endorsed prior to January 1, 2016, must make measurable progress toward compliance with this requirement, consistent with a Department approved transition plan, and be in full compliance with this requirement by September 30, 2018.

(G) Employment path services are a facility-based service if delivered at a fixed site where the supported individual has few or no opportunities to interact with people who do not have a disability except for paid staff. Facility-based employment services under this definition are permissible until September 30, 2018.

(H) Employment path services are the only service that may be used for support in a sheltered workshop setting. Effective July 1, 2015, no service may be authorized in a sheltered workshop setting for any individual who has not already entered or used services for support to work in a sheltered workshop.

Stat. Auth.: ORS 409.050, 410.070

Stats. Implemented: ORS 430.610, 430.630, 430.662, 430.670

411-345-0027 Qualification for Employment Services

(Amended 06/29/2016)

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

- (a) Be an Oregon resident;
- (b) Be determined eligible for developmental disability services by the CDDP of the county of origin as described in OAR 411-320-0080;
- (c) Meet the level of care as defined in OAR 411-320-0020;
- (d) Be eligible for the Comprehensive Services Waiver or Support Services Waiver;
- (e) Be legally eligible to work in the United States;
- (f) Have services under these rules authorized in an ISP by the CDDP or Brokerage providing case management services; and
- (g) Have an employment related goal in the ISP as outlined under these rules and the case management rules in OAR chapter 411, division 415. An employment related goal means a goal related to obtaining, maintaining, or advancing in competitive integrated employment, or, at minimum, exploring competitive integrated employment.

(2) Employment services for individuals under the age of 18 years must have Department approval. The provider must retain documentation of the approval.

(3) As of October 1, 2014, an individual receiving medical benefits under OAR chapter 410, division 200 requesting Medicaid coverage for services in a nonstandard living arrangement (see OAR 461-001-0000) is subject to the requirements of the rules regarding transfer of assets (see OAR 461-140-0210 to 461-140-0300) in the same manner as if the individual was requesting these services under OSIPM.

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

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

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

(C) A loan evaluated according to OAR 461-145-0330; or

(D) An irrevocable trust evaluated according to OAR 461-145-0540.

(b) When an individual is considered ineligible due to a disqualifying transfer of assets, the individual must receive a notice meeting the requirements of OAR 461-175-0310 in the same manner as if the individual was requesting services under OSIPM.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

411-345-0030 Provider Requirements

(Amended 06/29/2016)

(1) Available provider types. A provider of employment services must be:

(a) A provider certified and endorsed under OAR chapter 411, division 323;

(b) A provider certified under OAR 411-340-0170 (Standards for Provider Organizations) prior to January 1, 2016. Providers certified under OAR 411-340-0170 prior to January 1, 2016 must certify under OAR chapter 411, division 323 upon re-certification; or

(c) A qualified independent provider. Independent providers who are employed by the individual may only provide job coaching. Independent providers who are independent contractors may only provide job development and discovery.

(2) PROVIDER REQUIREMENTS:

(a) The provider must complete enrollment requirements outlined under OAR chapter 411, division 370. As part of enrollment, the provider must complete a Department designated assessment for each setting in which employment services are provided.

(b) Providers must meet requirements regarding Medicaid Performing Provider Numbers as described under OAR chapter 411, division 370.

(c) Providers must have a job description for its employment professionals or Service Agreement with clearly stated job responsibilities or service requirements. The job description or Service Agreement must be current, signed, and dated by the provider. Job descriptions for providers must also include duties specific to the area of specialization.

(d) A provider agency must have at least one employee in a supervisory position who has the Department approved credentialing. Providers independently contracted to provide an employment service must have the Department approved credentialing.

(3) EMPLOYMENT PROFESSIONAL REQUIREMENTS.

(a) Each employment professional must possess and demonstrate the following qualifications:

(A) Knowledge of developmental disabilities services.

(B) Knowledge of best practice methodologies regarding employment services.

(C) All core competencies for employment services must be demonstrated within one year of employment. Documentation that the employment professional has demonstrated these competencies must be maintained in the personnel file.

(D) Knowledge of the rules governing employment services.

(E) Ability to provide services designed to support successful employment outcomes consistent with individualized career goals, including goals identified in the ISP and Career Development Plan.

(F) Ability to support individuals to maintain and be successful in employment.

(G) Demonstrate by background, education, references, skills, and abilities that the employment professional is capable of safely and adequately performing the tasks to support the Service Agreement or ISP and Career Development Plan for an individual, 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 employment professional has knowledge of emergency procedures specific to the individual receiving services.

(b) A job development provider must be qualified as a vendor of Vocational Rehabilitation job placement in order to provide the job development service.

(c) A discovery provider must be qualified as a vendor of Vocational Rehabilitation job placement in order to provide the discovery service.

(4) EMPLOYMENT PROFESSIONAL TRAINING:

(a) All employment professionals must complete an initial competency based employment training as follows:

(A) Employment professionals providing job coaching must complete at least one Department approved training for job coaching within 90 days of providing job coaching.

(B) Employment professionals providing job development must complete at least one Department approved training for job developers within 90 days of providing job development.

(C) Employment professionals providing discovery must complete at least one Department approved training for discovery before being authorized to provide discovery.

(D) Employment professionals providing small group services must complete at least one Department approved training within 90 days of providing small group.

(E) Employment professionals providing employment path must complete at least one Department approved training for employment path providers within 90 days of providing employment path services.

(b) All employment professionals must also complete annual training requirements.

(c) Documentation that the employment professionals have completed these training requirements must be maintained in the personnel file of the employment professional.

(5) DISQUALIFICATION. Employment professionals must self-report any potentially disqualifying condition as described in OAR 407-007-0280 (Potentially Disqualifying Conditions) and OAR 407-007-0290 (Other Potentially Disqualifying Conditions). The employment professionals must notify the Department or the designee of the Department within 24 hours.

Stat. Auth.: ORS 409.050, 410.070

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 Service Providers
(Amended 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

(Amended 06/29/2016)

(1) PROGRESS NOTES.

(a) Providers must maintain regular progress notes regarding the employment service provided. The progress note must include, at minimum, the following information regarding the service rendered:

(A) Date and time the service was provided;

(B) Information regarding progress towards achieving the intended employment goal for which the employment service was utilized, including progress towards outcomes and milestones outlined in the Career Development Plan and the implementation strategies or plan;

(C) At least every six months, documentation of the number of hours the supported individual works, the wages and level of benefits, as well as any any opportunities presented to the individual for increased work hours; and

(D) Any discussion about work hours and related goals.

(b) Progress notes must be made available upon request.

(2) For each individual supported, providers being paid for job development services must report activity at least monthly to the services coordinator or personal agent for the individual.

(3) For each individual supported, providers being paid for discovery services must complete a Discovery Profile and submit the Discovery Profile to the services coordinator or personal agent for the individual.

(4) 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 Service Providers

(Amended 12/28/2014)

(1) The Department may grant a variance to these rules based upon a demonstration by the 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 or violate state or federal laws.

(2) The agency service provider requesting a variance must submit a written 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 the services of an individual, evidence that the variance is consistent with the currently authorized ISP for the individual.

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

(4) The request for a variance is approved or denied by the Department. The decision of the Department is sent to the agency service provider, the CDDP, and to all relevant Department programs or offices within 30 calendar days from the receipt of the variance request.

(5) The agency service provider may request an administrative review of the denial of a variance. The Department must receive a written request for an administrative review within 10 business days from the receipt of the denial. The agency service provider must send a copy of the written request for an administrative review to the CDDP. The decision of the Director is the final response from the Department.

(6) The duration of the variance is determined by the Department.

(7) The agency 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

(Amended 06/29/2016)

(1) Employment service rates authorized in Department payment and reporting systems are paid to providers for delivering services, as described in these rules, and shall be based upon the Collective Bargaining Agreement and the Rate Schedule.

(2) Only one hourly employment service may be billed per individual per hour. Payments based on an outcome for job development and discovery are not in conflict with payments made based on direct service delivery.

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

(a) An average of 25 hours per week for any combination of job coaching, small group employment support, and employment path services; and

(b) 40 hours in any one week for job coaching if job coaching is the only service utilized.

(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

(Repealed 12/28/2014)

411-345-0110 Individuals Rights

(Amended 06/29/2016)

(1) A provider agency must have and implement written policies and procedures that protect the rights of individuals described in OAR 411-318-0010 (Individual Rights) and encourage and assist individuals to understand and exercise these rights.

(2) Upon entry and request and annually thereafter, the individual rights described in OAR 411-318-0010 (Individual Rights) must be provided to an individual and the legal or designated representative of the individual.

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

(Amended 06/29/2016)

(1) INDIVIDUAL COMPLAINTS.

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

(b) A provider agency must have and implement written policies and procedures for individual complaints in accordance with OAR 411-318-0015.

(c) Upon entry and request and annually thereafter, the policy and procedures for complaints 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 that a developmental disability service is 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 are addressed in accordance with ORS chapter 183 and OAR 411-318-0025.

(b) An individual may request a hearing as provided in ORS chapter 183 and OAR 411-318-0025 for a denial, reduction, suspension, or termination of a developmental disability service.

(c) Upon entry and request, and, at minimum, annually, a notice of hearing rights and the policy and procedures for hearings 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 a Provider Agency

(Amended 06/29/2016)

(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. A provider agency must participate in an entry ISP team meeting when requested by the individual. A provider agency may require an entry meeting as a condition of employment services.

(a) Prior to or upon an entry ISP team meeting, a provider agency must acquire or demonstrate efforts to acquire and then maintain the following information:

(A) A copy of the Career Development Plan and an ISP or Service Agreement;

(B) All information related to the employment goals and interests of the individual. This may include, but is not limited to, provider implementation strategies, documentation available through Vocational Rehabilitation or the local school, or a Discovery Profile;

(C) A copy of the Service Agreement or job description; and

(D) Any other documentation required by a provider, and that is consistent with requirements under OAR chapter 411, division 415 (regarding case management).

(b) Prior to or during an entry ISP team meeting, or prior to the commencement of employment services, a provider must develop a preliminary written plan or implementation strategies that includes measurable goals and milestones to support the individual to achieve career goals and outcomes outlined in the Career Development Plan. Within 60 days of an ISP team meeting, or the start of services, the provider must update, revise, or further refine the written plan or implementation strategies to reflect updates from the ISP team meeting and updates to the Career Development Plan. The plan or strategies may become part of the Service Agreement or job description.

(3) VOLUNTARY TRANSFERS AND EXITS.

(a) A provider agency must promptly notify a services coordinator or personal agent if an individual gives notice of the intent to exit services or abruptly exits services.

(b) A provider agency must notify a services coordinator or personal agent prior to the voluntary transfer or exit of an individual from services.

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

(4) INVOLUNTARY REDUCTIONS, TRANSFERS, AND EXITS.

(a) A provider agency may only reduce, transfer, or exit an individual or group of individuals involuntarily for one or more of the following reasons:

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

(B) The individual experiences a medical emergency;

(C) The service needs of the individual exceed the ability of the provider agency; or

(D) The certification or endorsement for the provider agency described in OAR chapter 411, division 323 is suspended, revoked, not renewed, or voluntarily surrendered.

(b) A notice of involuntary reduction, transfer, or exit is not required when an employment relationship between a community or general employer terminates. Notice requirements must be met if the job or work experience is in a provider owned, controlled, or operated setting or facility.

(c) NOTICE OF INVOLUNTARY INDIVIDUAL REDUCTION, TRANSFER, OR EXIT.

(A) A provider agency must not reduce services, transfer, or exit an individual involuntarily without 30 calendar days advance written notice to the individual, the legal or designated representative of the individual (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 (B) of this section.

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

(I) The reason for the reduction, transfer, or exit; and

(II) The right of the individual to a hearing as described in subsection (e) of this section.

(ii) A Notice of Involuntary Reduction, Transfer, or Exit is not required when an individual requests the reduction, transfer, or exit.

(B) A provider agency may give less than 30 calendar days advance 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 legal or designated representative of the individual (as applicable), and the services coordinator or personal agent immediately upon determination of the need for a reduction, transfer, or exit.

(d) NOTICE OF INVOLUNTARY GROUP REDUCTION, TRANSFER, OR EXIT. If a provider agency reduces, transfers, or exits more than 10 individuals within any 30 calendar day period, the provider agency must provide 60 days advance written notice to the individuals and their legal or designated representatives (as applicable), the Department, and the services coordinators or personal agents.

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

- (i) The reason for the reduction, transfer, or exit; and
- (ii) The right of the individual to a hearing as described in subsection (e) of this section.

(B) A Notice of Involuntary Reduction, Transfer, or Exit is not required when an individual requests the reduction, transfer, or exit.

(e) HEARING RIGHTS. An individual must be given the opportunity for a hearing under ORS chapter 183 and OAR 411-318-0030 to dispute an involuntary reduction, transfer, or exit. If an individual requests a hearing, the individual must receive the same services until the hearing is resolved. When an individual has been given less than 30 calendar days advance written notice of a reduction, transfer, or exit as described in subsection (c) of this section and the individual has requested a hearing, the provider agency must reserve service availability for the individual until receipt of the Final Order.

(5) EXIT MEETING.

(a) The ISP team for an individual must meet before any decision is made to exit services. Findings of the exit meeting must be recorded in the file for the individual and include, at a minimum:

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

(B) The date of the exit meeting;

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

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

(E) Documentation of the discussion of the strategies to prevent the exit of the individual from services (unless the individual is requesting the exit);

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

(G) Documentation of the proposed plan for services 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 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 ISP team must meet to discuss any proposed transfer of an individual from one site to another site before any decision to transfer is made. Findings of the transfer meeting must be recorded in the file for the individual and include, at a minimum:

- (a) The name of the individual considered for transfer;
- (b) The date of the transfer meeting;
- (c) Documentation of the participants included in the transfer meeting;
- (d) Documentation of the circumstances leading to the proposed transfer;
- (e) Documentation of the alternatives considered instead of transfer;
- (f) Documentation of the reasons any preferences of the individual, or as applicable the legal or designated representative or family members of the individual, may not be honored;
- (g) Documentation of the decision regarding the transfer of the individual, including verification of the voluntary decision to transfer or exit or a copy of the Notice of Involuntary Reduction, Transfer, or Exit; and
- (h) The 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 and Career Development Plan

(Amended 06/29/2016)

(1) A Career Development Plan must be completed as part of the ISP consistent with the case management requirements outlined under OAR chapter 411, division 415.

(2) Providers must implement the Service Agreement or ISP, Career Development Plan, provider implementation strategies, and any other related documents.

(3) A provider agency must:

- (a) Assign a staff member to participate as a team member in the development of the ISP and Career Development Plan when invited by the individual;
- (b) Follow any required process and format as described in this rule;
- (c) Train staff to understand the Service Agreement or ISP, Career Development Plan, and supporting documents for each individual and to provide individual services; and
- (d) Comply with Department rules and policies regarding the Service Agreement or ISP and Career Development Plan.

(4) When invited by the individual, a provider agency must participate in a face-to-face meeting annually with the ISP team.

(5) In preparation for the annual ISP meeting, the provider agency must do the following, regardless of whether the provider agency participates in the meeting:

- (a) Gather person-centered information regarding preferences, interests, and desires of the individual supported;
- (b) Review the current Service Agreement or ISP and Career Development Plan of the individual to determine the ongoing appropriateness and adequacy of the services and supports identified in the Service Agreement or ISP and Career Development Plan;
- (c) Develop a preliminary written plan or provider implementation strategies including measurable goals to support the individual to achieve career goals and outcomes outlined in the Career Development Plan; and
- (d) Share all materials drafted in preparation for the ISP meeting with the ISP team one week prior to the ISP meeting.

(6) Within 60 days after the annual ISP meeting, the provider must update, revise, or further refine the written plan or implementation strategies to

reflect updates from the ISP team meeting and updates to the Career Development Plan. The plan or strategies may become part of the Service Agreement or job description.

(7) The provider agency must make reasonable efforts to obtain a copy of the Career Development Plan and a Service Agreement and supporting documents necessary for delivery of services.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

411-345-0170 Behavior Support for a Provider Agency

(Amended 06/29/2016)

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

(1) The provider agency must have and implement a written policy for behavior support utilizing individualized positive support techniques and prohibiting abusive practices.

(2) The provider agency must inform the individual, and as applicable the legal or designated representative of the individual, 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 provider agency 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 needs, preferences, and relationships of an individual;
 - (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) The provider agency must maintain the following additional documentation for implementation of Behavior Support Plans:

(a) Written evidence that the individual, the legal or designated representative of the individual (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 a Provider Agency
(Amended 06/29/2016)

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

(1) The provider agency 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 protection of the individual 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 personnel file for the staff person and be available for review by the Department or the designee of the Department.

(3) The provider agency 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 record for the individual.

(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 executive director of the provider agency or the designee of the executive director 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 legal representative of the individual (if applicable), no later than one business 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 executive director of the provider agency or the designee of the executive director 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 provider agency must forward a copy of the incident report within five business days of the incident to the services coordinator or personal agent and the legal representative of the individual (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 the legal representative or other provider agency of an individual when the report is part of an abuse or neglect investigation.

(c) A copy of an incident report provided to the legal representative or other service provider of an individual 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 business day of the incident.

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

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

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

(c) The Behavior Support Plan defines and documents the parameters of the baseline level of behavior;

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

(e) 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

(f) 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 calendar days to the services coordinator, personal agent, or other Department designee (if applicable) and the legal representative of an individual (if applicable).

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

411-345-0190 Medical Services for a Provider Agency

(Amended 06/29/2016)

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

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

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

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

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

(4) The provider agency must maintain records on each individual to aid physicians, health care providers, and the provider agency in understanding the medical history and current treatment program for the individual. These records must be kept current and organized in a manner that permits a staff and health care provider to easily follow the course of treatment for the individual. 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 current medical condition of the individual, including:

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

(B) A list of all current medications; and

(C) A record of visits to health care providers if facilitated or provided by the provider agency.

(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 provider agency must:

(a) Obtain a copy of a written order signed by a physician, designee of a physician, or health care provider 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 or health care provider, as specified per the written order of a physician or health care provider;

(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 order of the physician or health care provider and medication;

(c) For topical medications and basic first aid treatments utilized without the order of a physician or health care provider, 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 executive director of the provider agency or the designee of the executive director.

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

(a) Maintaining information about the effects and side-effects of each prescribed medication;

(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 the medications of one individual by another individual.

(10) The service site or provider agency 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 provider agency 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 a provider agency, the provider agency must:

- (a) Have documentation that a training program was initiated with approval of the ISP team for the individual 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 residence of the individual;
- (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 ISP team.

(12) The provider agency 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 provider agency must immediately contact the services coordinator or personal agent when the medical, behavioral, or physical needs of an individual change to a point that the needs of the individual may not be met by the provider agency. 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 a Provider Agency

(Amended 06/29/2016)

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

(1) The provider agency must maintain a current one to two page summary sheet record at the primary place of business of the provider agency for each individual receiving services. The record must include:

(a) The name of the individual and his or her 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 legal or designated representative, family, and other significant person of the individual (as applicable);

(B) The primary care provider and clinic preferred by the individual;

(C) The dentist preferred by the individual;

(D) The services coordinator or personal agent of the individual; and

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

(2) A provider agency must maintain emergency information for each individual receiving supports and services from the provider agency 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 name of the individual;
- (b) The name, address, and telephone number of the provider agency;
- (c) The address and telephone number of the residence where the individual lives;
- (d) The physical description of the individual, which may include a picture and the date the picture was taken, and identification of:
 - (A) The race, gender, height, weight range, hair, and eye color of the individual; 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 abilities and characteristics of the individual, 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 health support needs of the individual, 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 ability of the individual to communicate, respond to instructions, or follow directions; and

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

(g) The emotional and behavioral support needs of the individual, 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 supervision requirements of the individual and why; and

(j) Any additional pertinent information the provider agency 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 for a Provider Agency

(Amended 06/29/2016)

For a provider agency certified by the Department to deliver 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 record for the individual. 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) 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 411-317-0000) must be sent to the services coordinator or personal agent within five business days of the unusual incident.

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

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

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

- (b) The CDDP or Brokerage;
- (c) The residential contact of the individual; 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 provider agency must immediately notify:

- (a) The designated representative of the individual (if applicable);
- (b) The legal representative of the individual or nearest responsible relative (as applicable);
- (c) The residential contact of the individual;
- (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 a Provider Agency

(Amended 06/29/2016)

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

(1) A provider agency 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 name and to identify the name of the provider agency for the individual; 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) A provider agency 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 executive director of the provider agency and additional people to be contacted in the case of an emergency.

(3) If an individual regularly accesses the community independently, the provider agency 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 provider agency 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 for a Provider Agency

(Amended 06/29/2016)

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

(1) The provider agency 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 provider agency must document the level of assistance needed by each individual to safely evacuate and such documentation must be maintained in the entry records for the individual.

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

(4) A site-based provider agency 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 the safety plan for the individuals;

(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 medical, physical condition, and behavioral status of the individual;

(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 legal representative of the individual, services coordinator or personal agent, and the executive director of the provider agency; 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 for a Provider Agency

(Amended 06/29/2016)

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

(1) A provider agency must ensure that the service site has no known health or safety hazards in its immediate environment and that individuals are trained to avoid recognizable hazards.

(2) The provider agency 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 workers compensation insurance carrier of the provider agency;

(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 provider agency;

(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 provider agency 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 provider agency 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 for a Provider Agency

(Amended 06/29/2016)

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

(1) A provider agency that owns or operates vehicles that transports individuals must:

(a) Maintain the vehicles in safe operating condition;

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

(c) Maintain insurance coverage; and

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

(2) A driver operating vehicles to transport individuals must meet all applicable requirements of the Driver and Motor Vehicle Services Division.

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)