

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

**CHAPTER 411
DIVISION 348**

**HOST HOME PROGRAMS AND SETTINGS FOR CHILDREN WITH
INTELLECTUAL OR DEVELOPMENTAL DISABILITIES**

EFFECTIVE OCTOBER 20, 2021

411-348-0010 Statement of Purpose

(Adopted 11/01/2019)

(1) The rules in OAR chapter 411, division 348, in addition to the rules in OAR chapter 411, divisions 318 and 323, prescribe standards, responsibilities, and procedures for a Host Home Program delivering home and community-based services to children with intellectual or developmental disabilities, including:

- (a) The provision of services based on assessed need to provide daily living support, preserve safety, and support community-based living for children receiving services in a Host Home setting;
- (b) Development, management, and support for a Host Home setting;
and
- (c) Transition support and planning for children entering and exiting Host Home placements.

(2) These rules incorporate the provisions for home and community-based services and settings and person-centered planning set forth in OAR chapter 411, division 004. These rules and the rules in OAR chapter 411, division 004 ensure children 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.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455
Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745,
443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881,
443.991

411-348-0020 Definitions and Acronyms

(Temporary Effective 10/20/2021 - 04/17/2022)

In addition to the following definitions, OAR 411-317-0000 includes general definitions for words and terms frequently used in OAR chapter 411, division 348. If a word or term is defined differently in OAR 411-317-0000, the definition in this rule applies.

(1) "Alternative Care" means attendant care support for a child delivered in a setting other than the child's family home or Host Home to allow for respite for the in-residence caregiver. Alternative care arrangements are made in accordance with OAR 411-348-0410.

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

(3) "DHS-CW" means the child welfare program area within the Department.

(4) "Emergency Escape and Rescue Opening" refers to an opening accessible from the interior of a Host Home that allows for egress without the use of tools, keys, or special knowledge.

(5) "Executive Director" means the person designated by a board of directors or corporate owner responsible for the operation of a Host Home Program and the delivery of services in a Host Home.

(6) "Host Home" means a residential training home per ORS 443.400 that is a community-based family home setting licensed by the Department according to these rules to provide home and community-based services to children with intellectual or developmental disabilities. Host Homes are community homes featuring an in-residence caregiver serving in a parental role with the support of additional staff to deliver intensive care and support to children in a family home environment.

(7) "Host Home Program" means a Medicaid provider agency certified and endorsed according to OAR chapter 411, division 323 to operate a licensed Host Home according to these rules.

(8) "IEP" means "Individualized Education Program".

(9) "In-Residence Caregiver" means the caregiver who utilizes a Host Home as their primary residence and assumes ownership, rental, or lease responsibility for the property of the Host Home. An in-residence caregiver is unrelated to children enrolled to receive services in a Host Home.

(10) "Involuntary Seclusion" means the confinement of a child alone in a room from which the child is prevented from leaving by any means. Involuntary seclusion does not include age-appropriate time-out if the time-out is in a setting from which the child is not prevented from leaving.

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

(12) "ODDS" means the Oregon Department of Human Services, Office of Developmental Disabilities Services.

(13) "Program Provider" means the Host Home Program certified and endorsed according to OAR chapter 411, division 323 to operate a licensed Host Home according to these rules.

(14) "Program Supervisor" is a trained program provider staff person who is designated by the Executive Director to authorize the ongoing application of the restraint of a child according to OAR 411-348-0355.

(15) "Prone Restraint" means a restraint in which a child is held face down on the floor or other surface.

(16) "Reportable Injury" means any type of injury to a child from the use of a restraint, including but not limited to, a rug burn, fracture, sprain, bruising, pain, soft tissue injury, puncture, scratch, concussion, abrasion, dizziness, loss of consciousness, loss of vision, visual disturbance, or death.

(17) "Restraint" means the physical restriction of a child's actions or movements by holding the child or using pressure or other means.

(18) "Serious Bodily Injury" means any significant impairment of the physical condition of a child or others, as determined by qualified medical personnel, whether self-inflicted or inflicted by someone else.

(19) "Supine Restraint" means a restraint in which a child is held face up on the floor or other surface.

(20) "These Rules" mean the rules in OAR chapter 411, division 348.

(21) "Transition Support" means planning and other efforts to support a child entering into or exiting from a placement in a Host Home.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455, SB 710 (2021 OR Law, Ch. 672)

Stats. Implemented: ORS 409.010, 427.007, 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991, SB 710 (2021 OR Law, Ch. 672)

411-348-0025 Program Management, Endorsement, Certification, and Enrollment

(Adopted 11/01/2019)

(1) CERTIFICATION, ENDORSEMENT, AND ENROLLMENT. To operate a Host Home Program, a program provider must have:

(a) A Medicaid agency certificate and an endorsement for a Host Home Program as set forth in OAR chapter 411, division 323; and

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

(2) INSPECTIONS AND INVESTIGATIONS. A program provider and in-residence caregiver must allow for inspections and investigations as described in OAR 411-323-0040.

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

(4) IN-RESIDENCE CAREGIVER APPLICANT STUDY. A program provider must complete and submit an In-Residence Caregiver Applicant Study in accordance with OAR 411-348-0045 for each Host Home. The In-Residence Caregiver Applicant Study must be submitted to the Department as part of the application process for each host home license.

(5) STAFFING SURVEY.

(a) A program provider must submit annual staffing data to the nationally standardized reporting survey organization specified by the Department.

(b) A program provider must ensure completion of the direct support worker staffing survey by the program provider's staff, including the in-residence caregiver, when required by the Department.

(6) COMPETENCY BASED TRAINING PLAN.

(a) A program provider must have and implement a Competency Based Training Plan that meets, at a minimum, the competencies and timelines set forth in the Department's Core Competencies. At a minimum, the Competency Based Training Plan must:

(A) Address health, safety, rights, values, personal regard, and the mission of the program provider.

(B) Describe competencies, training methods, timelines, how competencies of staff and in-residence caregivers are determined and documented, including steps for remediation, and when a competency may be waived by the program provider to accommodate the specific circumstances of an in-residence caregiver or staff member.

(b) When a program provider opts to implement a Competency Based Training Plan other than the Department's Core Competencies for an in-residence caregiver or other staff, the Competency Based Training Plan must include the following curriculum in accordance with the timelines stated below:

(A) Prior to the admission of a child into a Host Home, the in-residence caregiver must have all of the following:

(i) Received sufficient training in all of the following areas to perform the basic duties of a primary caregiver providing support to a child with intellectual or developmental disabilities:

(I) Host Home Program policies and procedures, including complaint processes, safe body mechanics, missions and values, and financial management.

(II) Mandatory abuse reporting.

(III) Basic rights, including home and community-based services protections.

(IV) Confidentiality standards.

(V) Person-centered planning and person-centered practices.

(VI) Individual Support Plans, including roles, how to locate information in an ISP document, and supporting documents such as nursing plans, behavior support documents, mental health plans, education plans, etc.

(VII) Medical services and supports, including basic health indicators, when to report change in health, risks, protocols, and medication management.

(VIII) Infection control and disease outbreak prevention and reporting.

(ii) First Aid and CPR.

- (iii) Positive behavior supports.
- (iv) Emergency preparedness and emergency Response.
- (v) Documentation standards.
- (vi) Incident reporting and serious incidents.
- (vii) Oregon Administrative Rules, including how to find rule information.
- (viii) Trauma-informed care.

(B) Within six months following the licensure of a Host Home, the in-residence caregiver must have received sufficient training in all of the following areas:

- (i) Mitigating risk and the dignity of risk.
- (ii) Transition to adulthood.
- (iii) Employment.

(C) Other training topics that are recommended for initial training or ongoing training credit hours as required per OAR 411-323-0050 for in-residence caregivers or staff include, but are not limited to, the following:

- (i) Guardianship and educational surrogates.
- (ii) Sexual development and sexual health.
- (iii) Diversity and cultural awareness.
- (iv) Suicide prevention.
- (v) Department-approved behavior intervention curriculum (required for any in-residence caregiver or staff supporting a child with a Positive Behavior Support Plan

that includes a safeguarding intervention or safeguarding equipment to address challenging behavior).

(7) GENERAL STAFF AND IN-RESIDENCE CAREGIVER QUALIFICATIONS.

(a) Each staff member or in-residence caregiver providing direct assistance to a child must:

(A) Have knowledge of the child's ISP and support needs, including medical, behavioral, and safety supports required by the child.

(B) Have met the basic qualifications in the Competency Based Training Plan. A program provider must maintain current written documentation that staff and in-residence caregivers have demonstrated competency in areas identified by the program provider's Competency Based Training Plan as required by section (6) of this rule, and that is appropriate to their job description.

(b) An in-residence caregiver must be at least 21 years of age and unrelated to a child receiving services in their Host Home.

(8) CONFIDENTIALITY OF RECORDS.

(a) A program provider must ensure all children's records are kept confidential as described in OAR 411-323-0060.

(b) A program provider, the in-residence caregiver, the in-residence caregiver's family, and staff must treat personal information about a child or a child's family in a confidential manner. Confidential information is to be disclosed on a need-to-know basis to law enforcement, Department staff, Oregon Health Authority staff, CDDP staff, DHS-CW staff, the Residential Facilities Ombudsman, school personnel, and licensed health care providers who are treating or providing services to a child. The information shared must be limited to the child's health, safety, and service needs.

(c) In addition to the requirements in subsections (a) and (b) of this section, a program provider, the in-residence caregiver, the in-residence caregiver's family, and staff must comply with the provisions of ORS 192.553 through 192.568 and therefore may use or disclose a child's protected health information only:

(A) To law enforcement, Department staff, Oregon Health Authority staff, CDDP staff, DHS-CW staff, and the child's parent or guardian, except when prohibited by a court order;

(B) As authorized by the child's parent or guardian appointed under ORS 125.305, 419B.372, 419C.481, or 419C.555;

(C) For purposes of obtaining health care treatment for the child;

(D) For purposes of obtaining payment for health care treatment; or

(E) As permitted or required by state or federal law or by order of a court.

(9) DOCUMENTATION REQUIREMENTS. Unless stated otherwise, all documentation required by these rules must comply with the agency documentation requirements described in OAR 411-323-0060.

(10) ABUSE AND INCIDENT HANDLING AND REPORTING.

(a) Complaints of abuse and the occurrence of serious incidents must be treated as described in OAR 411-323-0063.

(b) NOTIFICATION OF SUBSTANTIATED ABUSE.

(A) When a program provider receives notification of a substantiated allegation of abuse, the program provider must immediately give written notification to the following:

(i) The person found to have committed abuse.

(ii) The parent or guardian of the children receiving services in the Host Home.

(B) A program provider's written notification of a substantiated allegation of abuse must include the following:

(i) The type of abuse.

(ii) When the allegation was substantiated.

(iii) How to request a public record copy of the Abuse Investigation and Protective Services Report.

(C) A program provider must have policies and procedures to describe how the program provider implements notification of substantiated abuse as described in this section.

(11) NEED FOR SERVICES. A program provider must develop and implement written policies and procedures to review and document that each child receiving services in a Host Home continues to require the structure of services specifically available in a Host Home . The policies and procedures must include a frequency of review and address all of the following:

(a) The child's need for a formal Positive Behavior Support Plan based on the child's Functional Needs Assessment, ISP, and Functional Behavior Assessment.

(b) The child's risk to self and others, including frequency of significant threats to safety as a result of the child's actions or non-actions or serious behavioral incidents for the past 12 months.

(c) The frequency of psychiatric hospitalization for the last 12 months, excluding initial assessment and evaluation.

(d) The frequency and nature of community service response required as a result of the child's behavior, including law enforcement and other emergency personnel, juvenile justice, and providers related to juvenile dependency for the past 12 months.

(e) The child's behavioral challenges, including if the behavior challenges continue to be a barrier to the child's return to their family home.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455

Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991

411-348-0030 Issuance of License

(Adopted 11/01/2019)

(1) No person, agency, or governmental unit acting individually or jointly with any other person, agency, or governmental unit shall establish, conduct, maintain, manage, or operate a Host Home Program without being licensed for each residential training home operating as a Host Home.

(2) A license is not transferrable and is only applicable to the location, home, and program provider, management agent, or ownership indicated on the application and license.

(3) The Department issues a license to an applicant found to be in compliance with these rules and the rules in OAR chapter 411, divisions 004, 318, and 323. A license is in effect for two years from the date issued unless revoked, suspended, or surrendered.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455

Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991

411-348-0040 Application for Initial License

(Adopted 11/01/2019)

(1) At least 30 calendar days prior to anticipated licensure, an applicant must submit an application, an In-Residence Caregiver Applicant Study, and required non-refundable fee in the amount in accordance with ORS

443.416. The application is provided by the Department and must include all information requested by the Department.

(2) The application must identify the number of children the Host Home is presently capable of supporting at the time of application, in accordance with the capacity requirements described in OAR 411-348-0100. For the purposes of license renewal, the number of beds to be licensed may not exceed the number identified on the license to be renewed unless approved by the Department.

(3) The initial license application must include:

(a) A copy of any lease agreements or contracts, management agreements or contracts, or sales agreements or contracts, relative to the operation and ownership of the home;

(b) A floor plan of the home showing the location and size of rooms, emergency escape and rescue openings, exit doorways, smoke alarms, and extinguishers; and

(c) A copy of the In-Residence Caregiver Applicant Study completed by the program provider according to OAR 411-348-0045.

(4) If a scheduled, onsite licensing inspection reveals that an applicant is not in compliance with these rules as attested to on the Licensing Onsite Inspection Checklist, the onsite licensing inspection may be rescheduled at the convenience of the Department.

(5) Applicants may not admit any child to the home prior to receiving a written confirmation of licensure from the Department.

(6) If an applicant fails to provide complete, accurate, and truthful information during the application and licensing process, the Department may cause initial licensing to be delayed or may deny or revoke the license.

(7) Any applicant, person with controlling interest in a program provider, or an in-residence caregiver is considered responsible for acts occurring during, and relating to, the operation of a Host Home for the purpose of licensing.

(8) The Department may consider the background and operating history of each applicant, each person with controlling interest, and in-residence caregiver when determining whether to issue a license.

(9) When an application for initial licensure is made by an applicant who owns or operates other licensed homes or facilities in Oregon, the Department may deny the license if the applicant's existing home or facility is not, or has not been, in substantial compliance with the Oregon Administrative Rules.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455

Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991

411-348-0045 In-Residence Caregiver Applicant Study

(Adopted 11/01/2019)

(1) A program provider submitting an application for licensure of a Host Home must complete and submit an In-Residence Caregiver Applicant Study. The In-Residence Caregiver Applicant Study must contain documentation of all of the following:

(a) The names and ages of all occupants of the home, including identification of which adults shall be responsible for providing care and support to children residing in the home and which, if any, adults residing in the home are dependent upon care.

(b) Reports of all criminal charges, arrests, or convictions, including the date of the offense and the resolution of those charges, for all occupants of the home. If minor children of an in-residence caregiver are residing in the home, the In-Residence Caregiver Applicant Study must also list reports of all criminal or juvenile delinquency charges, arrests, or convictions, including the date of the offense and the resolution of those charges.

(c) Founded reports of child abuse or substantiated abuse, including dates, locations, and resolutions of those reports, for all occupants of the home.

(d) Names and addresses of any agencies in the United States where any occupant of the home has been licensed or certified to provide care to children or adults and the status of such license or certification, including license or certification for foster or residential care or nursing.

(e) Any professional licenses or certifications currently or previously held by the in-residence caregiver or other adult occupants of the home, and the status of each license or certificate.

(f) Copy of the in-residence caregiver's current driver's license and proof of insurance coverage on all vehicles used by the in-residence caregiver to provide transportation to children.

(g) Disclosure of any current or past Medicaid Provider Enrollments or Medicaid Provider Identifications held by occupants of the home, including a report of the status of each enrollment. Any reported termination of Medicaid enrollment or identification must include a description of the reason for the termination.

(h) Completed character reference checks for the in-residence caregiver. There must be four character reference check sources for each in-residence caregiver who have known the in-residence caregiver for two years or more and can attest to the character of the in-residence caregiver and the in-residence caregiver's ability to care for children. Three of the reference check sources may not be related to the in-residence caregiver.

(i) A physician's statement for the in-residence caregiver that the in-residence caregiver is physically and mentally capable of providing care, to the extent that there are no known issues that prevent or interfere with the in-residence caregiver's ability to provide care to a child.

(j) A disclosure of all past residences in the last five years for the in-residence caregiver. The disclosure must include the address, city, state, and zip code.

(k) A statement from the program provider recommending the in-residence caregiver based on the belief the in-residence caregiver has the necessary skills, knowledge of child development, temperament, and resources to provide a stable and nurturing family home environment for a child placed in the Host Home. The program provider must assess the in-residence caregiver's ability to demonstrate all of the following attributes:

(A) Responsible, stable, emotionally mature adult who exercises sound judgment.

(B) Interest, motivation, and ability to nurture, support, and meet the mental, physical, developmental, and emotional needs of a child placed in the Host Home.

(C) Willing to receive training and have the ability to learn and use effective child-rearing practices to enable a child placed in the Host Home to grow, develop, and build positive personal relationships and self-esteem.

(D) Demonstrates the knowledge and understanding of positive supports and ways of helping a child build positive personal relationships, self-control, and self-esteem.

(E) Respects a child's relationship with their parents and siblings and is willing to work in partnership with family members, agencies, and schools involved with a child placed in the Host Home to attain the goals as listed in the child's IEP, ISP, and other care plans.

(F) Respects a child's privacy in accordance with the child's age and care needs.

(G) Has supportive ties with others who might support, comfort, and provide advice, such as family, friends, neighborhood contacts, churches, or community groups.

(H) Demonstrates a lifestyle and personal habits free from abuse or misuse of alcohol or drugs.

(I) Is able to realistically evaluate which children the in-residence caregiver may accept, work with, and integrate into their family home.

(2) Adults (other than the in-residence caregiver and program provider) having regular contact with a child placed in a Host Home, including volunteers, family members, acquaintances of the in-residence caregiver, and any subject individual as defined in OAR 407-007-0210, must also be identified and documentation of a completed background check must be submitted to the Department with the In-Residence Caregiver Applicant Study. Regular contact applies to visitors who have any role in supervising or providing direct care to children in the home, regardless of frequency of visit to the home.

(3) The Department may require documentation of an approved background check on members of an in-residence caregiver's household who are under the age of 18 if there is reason to believe that a minor household member may pose a risk to children placed in the home. Background checks required by the Department for minor household members must be included in the In-Residence Caregiver Applicant Study.

(4) The Department may not proceed with the licensing of a Host Home if the In-Residence Caregiver Applicant Study is not complete.

(5) Falsification or omission of any of the information of the In-Residence Caregiver Applicant Study may be grounds for denial or revocation of a Host Home license.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455
Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991

411-348-0050 License Expiration, Termination of Operations, and License Return

(Adopted 11/01/2019)

(1) Unless revoked, suspended, or terminated earlier, each license to operate a Host Home expires two years following the date of issuance.

(2) If the operation of a Host Home is discontinued for any reason, the license is considered to have been terminated.

(3) Each license is considered void immediately if the operation of a Host Home is discontinued by voluntary action of the licensee, if there is a change in ownership, or if there is a change in the in-residence caregiver.

(4) The license must be returned to the Department immediately upon suspension or revocation of the license or when operation is discontinued.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455

Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991

411-348-0060 License Conditions

(Adopted 11/01/2019)

The Department may attach conditions to a license that limit, restrict, or specify other criteria for the operation of a Host Home. The type of condition attached to a license must directly relate to the risk of harm or potential risk of harm to children receiving services in the Host Home.

(1) The Department may attach a condition to a license upon any of the following findings:

(a) Information on the application or initial inspection requires a condition to protect the health, safety, or welfare of children.

(b) A threat to the health, safety, or welfare of a child exists.

(c) There is evidence of abuse.

(d) The Host Home is not being operated in compliance with these rules or the rules in OAR chapter 411, divisions 004, 304, 318, and 323.

(e) A program provider is licensed to provide services for a specific child only and further placements may not be made into the Host Home.

(2) Conditions the Department may impose on a license include, but are not limited to, the following:

(a) Restricting the total number of children to whom a program provider may deliver services.

(b) Requiring additional staff or staff qualifications.

(c) Requiring additional training.

(d) Restricting a program provider from allowing a person on the premises who may be a threat to the health, safety, or welfare of a child.

(e) Requiring additional documentation.

(f) Restricting entry.

(g) Requiring a Host Home Program to conduct specific monitoring of a Host Home and report to the Department.

(3) The Department shall impose a condition prohibiting new entry or transfer into a Host Home when there is a death of a child served by the program provider that results in a protective services investigation and the program provider was responsible for delivering supports to the child during the time associated with the child's death.

(a) A new entry or transfer may be accepted while the condition is in place, if the entry or transfer approval is granted by the Department and the case management entity.

(b) The condition may be terminated:

(A) Following the protective services investigation determination that abuse or neglect was not a factor in the child's death; or

(B) At the discretion of the Department upon satisfactory demonstration by the program provider that:

(i) There are adequate protections in place to prevent or minimize risk of harm to other children receiving the same or similar type of services; and

(ii) Entry of additional children into the Host Home does not negatively impact the program provider's ability to safely serve children.

(4) The Department issues a written notice to the program provider when the Department imposes conditions to a license. The written notice of conditions includes the conditions imposed by the Department, the reason for the conditions, and the opportunity to request a hearing according to ORS chapter 183.

(a) Conditions take effect immediately upon issuance of the written notice of conditions or at a later date as indicated on the notice and are a Final Order of the Department unless later rescinded through the hearing process.

(b) The conditions imposed remain in effect until the Department has sufficient cause to believe the situation which warranted the condition has been remedied.

(5) A program provider may request a hearing in accordance with ORS chapter 183 and this rule upon receipt of written notice of conditions. The request for a hearing must be in writing.

(a) The program provider must request a hearing within 21 calendar days from the receipt of the written notice of conditions.

(b) In addition to, or in lieu of a hearing, the program provider may request an administrative review as described in section (6) of this rule. The request for an administrative review must be in writing. The administrative review does not diminish the right of the program provider to a hearing.

(c) The Department shall be allowed reasonable requests for setting or postponement of any hearing to allow for the conclusion of a protective services investigation when a condition is imposed related to the protective services investigation.

(6) ADMINISTRATIVE REVIEW.

(a) In addition to the right to a hearing, a program provider may request an administrative review by the Director of the Department for imposition of conditions. The request for an administrative review must be in writing.

(b) The Department must receive a written request for an administrative review within 10 business days from the date of the notice of conditions. The program provider may submit, along with the written request for an administrative review, any additional written materials the program provider wishes to have considered during the administrative review.

(c) The determination of the administrative review is issued in writing within 10 business days from the date of the written request for an administrative review, or by a later date as agreed to by the program provider.

(d) The program provider may request a hearing if the decision of the Department is to affirm the condition. The request for a hearing must be in writing. The Department must receive the written request for a hearing within 21 calendar days from the date of the original written notice of conditions.

(7) A program provider may send a written request to the Department to remove a condition if the program provider believes the situation that warranted the condition has been remedied.

(8) Conditions must be posted with the license in a prominent location and be available for inspection at all times.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455

Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991

411-348-0070 License Renewal

(Adopted 11/01/2019)

(1) A license is renewable upon submission of an application to the Department, any updated information pertaining to the In-Residence Caregiver Applicant Study, and the payment of the required non-refundable fee in accordance with ORS 443.415.

(2) An application for license renewal must be submitted 60 calendar days prior to the expiration date of the current license. Filing of an application and required information prior to the expiration date of a license extends the effective date of the current license until the Department acts upon the renewal application.

(3) If the renewal application and fee are not submitted prior to the expiration date of a license, the Host Home is unlicensed and subject to the civil penalties described in OAR 411-348-0460. An unlicensed program provider is ineligible for Medicaid service payment for the time a Host Home is unlicensed.

(4) The Department shall conduct a licensing review of the Host Home prior to the renewal of a license. The licensing review shall be unannounced, conducted 30-120 calendar days prior to the expiration of the license, and review compliance with these rules and the rules in OAR chapter 411, divisions 004, 318, and 323.

(5) The Department may not renew a license if the Host Home is not substantially in compliance with these rules or if the State Fire Marshal or the State Fire Marshal's authorized representative has given notice of noncompliance according to ORS 479.220.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455

Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991

411-348-0090 Change of Ownership, Legal Entity, Legal Status, Management Corporation, and In-Residence Caregiver

(Adopted 11/01/2019)

(1) A program provider must notify the Department in writing of any pending change in ownership or legal entity, legal status, management corporation, or in-residence caregiver.

(2) A new license is required upon change in ownership, legal entity, legal status, or in-residence caregiver. The program provider must submit a license application and required fee at least 30 calendar days prior to change in ownership, legal entity, legal status, or in-residence caregiver.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455

Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991

411-348-0100 Capacity

(Adopted 11/01/2019)

(1) A Host Home may only have a capacity to serve up to two children enrolled in services.

(2) The capacity of a Host Home is based on consideration of the following factors:

(a) The physical requirements as specified by these rules; and

(b) The number of children not enrolled in services and care-dependent adults residing in the Host Home.

(3) The total number of children receiving services, children residing in the Host Home age 18 or younger, and care-dependent adults may not exceed five persons in a Host Home.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455

Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991

411-348-0110 Variances

(Adopted 11/01/2019)

(1) The Department may grant a variance to these rules based upon a program provider's demonstration that an alternative method or different approach provides equal or greater effectiveness and does not violate state or federal laws or adversely impact children's welfare, health, safety, or rights.

(2) A program provider must submit a variance request to the CDDP. The variance request must be on the applicable Department form and contain 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 for a child, evidence the variance is consistent with the child's currently authorized ISP.

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

(4) A program provider may request an administrative review of the denial of a variance request. The Department must receive a written request for an administrative review within 10 business days from the date of the denial. The program 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.

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

(6) A program provider may implement a variance only after written approval from the Department.

(7) The Department may not issue a variance that results in non-compliance with the home and community-based setting requirements in OAR chapter 411, division 004, or that results in a condition having the effect of making the Host Home or child ineligible to receive Medicaid service funding.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455

Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991

411-348-0120 Medical Services

(Adopted 11/01/2019)

(1) POLICY AND PROCEDURE. A program provider must have and implement written policies and procedures that maintain and protect a child's physical health. The policies and procedures must address the following:

- (a) Child health care needs;
- (b) Medication administration;
- (c) Medication storage and disposal;
- (d) Response to emergency medical situations;

- (e) Medical care coordination with the child's health insurance, health care plan coverage, or health care team as applicable;
- (f) Nursing services, if provided; and
- (g) Early detection and prevention of infectious disease.

(2) HEALTH CARE.

(a) A program provider must ensure a child receives care that promotes the health and well-being of the child by ensuring the following:

(A) The child has a primary physician or health care provider whom the child's parent or guardian has chosen from among qualified providers. Provisions must be made for a secondary physician or clinic in the event of an emergency.

(B) The child receives a medical evaluation by a qualified health care provider no less frequently than annually or as recommended by a physician.

(C) The child receives a dental screening exam and oral hygiene care from a dental clinic annually, or as recommended by a dentist. If the program provider is not able to identify an available dentist for routine dental care, the program provider must document ongoing efforts to locate a dentist for the child.

(D) Coordination with the in-residence caregiver to monitor the health status and physical conditions of the child and action in a timely manner in response to identified changes or conditions that may lead to deterioration or harm.

(E) The child's parent or guardian is notified as timely as possible when medical attention is sought for the child. The notification must include the following:

- (i) Condition for which medical care was sought;

(ii) Health care provider's diagnosis of the child's condition; and

(iii) Treatment and recommended follow up prescribed by the health care provider.

(b) A written, signed order from a prescribing physician or qualified health care provider is required prior to the usage or implementation of all of the following:

(A) Prescription medications;

(B) Non-prescription medications except over-the-counter topicals;

(C) Treatment other than basic first aid;

(D) Modified or special diets;

(E) Adaptive equipment; and

(F) Aids to physical functioning.

(c) A program provider, in-residence caregiver, staff, and alternate caregivers must implement the order of a physician or qualified health care provider as written.

(d) A program provider must coordinate with the in-residence caregiver to maintain a medical history on each child to aid physicians, licensed health professionals, staff, and alternate caregivers in understanding the medical history of each child. The medical history must include:

(A) A list of known health conditions, medical diagnoses, known allergies, and immunizations;

(B) A record of visits to licensed health professionals that include documentation of the consultation and any therapy provided; and

(C) A record of known hospitalizations and surgeries.

(3) MEDICATION.

(a) All medications must be:

(A) Kept in their original containers;

(B) Labeled by the dispensing pharmacy, product manufacturer, or physician, as specified per the written order of a physician or qualified health care provider; and

(C) Kept in a secured, locked container or stored in a manner that prevents access by children, and stored as indicated by the product manufacturer.

(b) All medications and treatments must be recorded on an individualized medication administration record (MAR). The MAR must include:

(A) The name of the child;

(B) A transcription of the written order of a physician or qualified health care provider, including the brand or generic name of the medication, prescribed dosage, frequency, and method of administration;

(C) For topical medications and treatments without the order of a physician or qualified health care provider, a transcription of the printed instructions from the package;

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

(E) Signature of the person administering the medication or the person monitoring the self-administration of the medication;

(F) Method of administration;

(G) An explanation of why a PRN (i.e., as needed) medication was administered;

(H) Documented effectiveness of any PRN (i.e., as needed) medication administration;

(I) An explanation of any medication administration irregularity; and

(J) Documentation of any known allergy or adverse drug reaction.

(c) A program provider must document when a treatment, medication, therapy, or special diet is not implemented in accordance with an order from a health care provider, including why the ordered care was not implemented.

(d) A program provider, in-residence caregiver, or staff may not use alternative medications intended to alter or affect a child's mood or behavior, such as herbals or homeopathic remedies without direction and supervision of a licensed health care provider.

(e) Any medication used with the intent to alter a child's behavior must be documented in the child's ISP and meet the standards set forth in OAR 411-348-0360.

(f) PRN (i.e., as needed) orders are not allowed for psychotropic medication.

(g) SELF-ADMINISTRATION OF MEDICATION.

(A) The ISP for children who independently self-administer medications must include a plan for the periodic monitoring and review of the self-administration of medications.

(B) An in-residence caregiver must ensure that children able to self-administer medications keep the medications in a secure, locked container unavailable to other children residing in the Host Home and store the medications as recommended by the product manufacturer.

(h) Safeguards to prevent adverse effects or medication reactions must be utilized and include:

(A) Whenever possible, obtaining all prescription medication for a child, except samples provided by a health care provider, from a single pharmacy which maintains a medication profile for the child;

(B) Maintaining information about the desired effects and side effects of each medication;

(C) Ensuring that medications prescribed for one child are not administered to, or self-administered by, another child or staff member; and

(D) Documentation in the child's record of the reason all medications are not provided through a single pharmacy if multiple pharmacies are utilized for the same child.

(i) All expired, discontinued, recalled, or contaminated medications, including over-the-counter medications, may not be kept in a Host Home and must be disposed of within 10 calendar days of expiration, discontinuation, or a program provider or in-residence caregiver's knowledge of a recall or contamination. A program provider must dispose of the prescription medications for a child who has died within 10 calendar days of the child's death.

(A) A program provider must dispose of medications according to the program provider's policy. The program provider's policy must reflect the medication disposal guidelines issued by the Department of Environmental Quality.

(B) A program provider must maintain a written record of the disposal of a medication. The record must include documentation of the following:

- (i) Date of disposal;
- (ii) Description of the medication, including dosage, strength, and amount being disposed;
- (iii) Name of the child for whom the medication was prescribed;
- (iv) Reason for disposal;
- (v) Method of disposal;
- (vi) Signature of the person disposing of the medication; and
- (vii) For controlled medications, the signature of a witness to the disposal.

(4) NURSING SERVICES. When nursing services are provided to a child, a program provider must:

- (a) Coordinate with a registered nurse and the child's ISP team to ensure the nursing services being provided are sufficient to meet the health needs of the child; and
- (b) Implement the Nursing Service Plan, or appropriate portions therein, as agreed upon by the child's ISP team and the registered nurse.

(5) DELEGATION AND SUPERVISION OF NURSING TASKS. Nursing tasks must be delegated by a registered nurse to a program provider, in-residence caregiver, and staff in accordance with the rules of the Oregon State Board of Nursing in OAR chapter 851, division 047.

(6) A program provider must immediately notify a child's services coordinator, and document the notification, when the child's medical, behavioral, or physical needs change to a point that they may not be met by the program provider.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455

Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991

411-348-0130 Food and Nutrition

(Adopted 11/01/2019)

(1) An in-residence caregiver must offer three nutritious meals and two snacks daily. Meals must be offered at times consistent with those in the community.

(a) Daily meals must include food from the four basic food groups according to the United States Department of Agriculture (USDA) and include fresh fruits and vegetables when in season, unless otherwise specified in writing by a health care provider.

(b) There must be no more than a 14-hour span between the evening meal and breakfast, unless snacks and liquids are served as supplements.

(c) Food preparation must include consideration of the cultural and ethnic background, as well as the food preferences of a child. Special consideration must be given to children with chewing difficulties or other eating limitations as described in section (3) of this rule.

(d) If a child is away from the Host Home during a mealtime, the in-residence caregiver must make arrangements for the child to have the meal available to the child at a time consistent with the community standard time range for the meal offered away from the Host Home.

(2) A child must be permitted to acquire, store, and access personal food in a Host Home in a manner consistent with age-typical practices for children living in the community and in accordance with the child's ISP.

(3) MODIFIED OR SPECIAL DIETS. For a child with a modified or special diet ordered by a physician or health care provider, a program provider, in-residence caregiver, and staff must:

(a) Implement special diets only as prescribed in writing by a physician or health care provider; and

(b) Maintain documentation that identifies how the modified or special diet is prepared and served to the child.

(4) Unpasteurized milk and juice and home canned meats and fish may not be served or stored in a Host Home.

(5) Any home canned food used must be processed according to the guidelines of Oregon State University extension services (<http://extension.oregonstate.edu/fch/food-preservation>).

(6) A program provider must ensure the in-residence caregiver maintains adequate supplies of staple foods for a minimum of one week and perishable foods for a minimum of two days on the premises.

(7) Foods must be stored, prepared, and served in a sanitary manner

(8) All food items must be used prior to their expiration date.

(9) A program provider, in-residence caregiver, or staff must prepare and serve meals in the Host Home. Payment for meals eaten away from the Host Home (e.g. restaurants) for the convenience of the program provider, in-residence caregiver, or staff is the program provider's responsibility.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455

Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991

411-348-0140 Physical Environment

(Adopted 11/01/2019)

(1) All floors, walls, ceilings, windows, furniture, and fixtures must be kept in good repair, clean, and free from odors. Walls, ceilings, and floors must be of such character to permit frequent washing, cleaning, or painting.

(2) The interior and exterior must be well and safely maintained and accessible according to children's needs.

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

(4) A public water supply must be utilized if available. If a non-municipal water source is used, a sample must be collected yearly by a provider, sanitarian, or technician from a certified water-testing laboratory. The water sample must be tested for coliform bacteria and action taken to ensure potability. Test records must be retained for three years.

(5) Septic tanks or other non-municipal sewage disposal systems must be in good working order.

(6) Incontinence garments must be disposed of in closed containers.

(7) A program provider must establish and implement a policy for the appropriate disposal of biohazards and medical waste.

(8) All heating and cooling devices and systems must be installed in accordance with current building codes and must be in working order. Areas of a Host Home used by children must be maintained at a temperature within a comfort range reasonable for the children residing in the Host Home. Minimum temperatures when children are in the Host Home may not be less than 60 degrees Fahrenheit.

(a) During times of extreme summer heat, a program provider, in-residence caregiver, and staff must make every reasonable effort to make the children comfortable and safe using ventilation, fans, or air

conditioners. The temperature in a home may not exceed 85 degrees Fahrenheit.

(b) If a child's needs require a strictly maintained temperature or temperatures outside of a reasonable comfort range, a program provider, in-residence caregiver, or staff must maintain the environment according to the child's needs as directed by a health care provider and as identified in the child's ISP.

(9) Screening for workable fireplaces and heaters with exposed heating elements must be provided.

(10) Handrails must be provided on all stairways.

(11) Yard and exterior steps must be accessible and appropriate to the needs of the children.

(12) Swimming pools, hot tubs, saunas, spas, ponds, and trampolines must be equipped with safety barriers or devices designed to prevent accidental injury and unsupervised access.

(13) Sanitation for household pets and other domestic animals must be adequate to prevent health hazards. Proof of current rabies vaccinations and any other vaccinations that are required for the pet by a licensed veterinarian must be maintained on the premises. Pets not confined in enclosures must be under control and may not present a danger or health risk to children or guests.

(14) All measures necessary must be taken to prevent the entry of rodents, flies, mosquitoes, and other insects or pests.

(15) The interior and exterior of a Host Home must be kept free of litter, garbage, and refuse.

(16) Any work undertaken at a Host home including, but not limited to, demolition, construction, remodeling, maintenance, repair, or replacement must comply with all applicable state and local building, electrical, plumbing, and zoning codes.

(17) A program provider must comply with all applicable legal zoning ordinances pertaining to the number of children receiving services at the Host Home.

(18) TELEPHONE.

(a) There must be a phone in the Host Home at all times and a child must have reasonable access to the telephone.

(b) The following emergency telephone numbers must be located in an accessible place within a Host Home:

(A) Local CDDP;

(B) Police, fire, and medical, if not served by 911;

(C) Program provider on-call or designee;

(D) Emergency physician; and

(E) Additional people to be contacted in the case of an emergency.

(c) Telephone numbers for making complaints or a report of alleged abuse to the Department, the local CDDP, the Residential Facilities Ombudsman, and Disability Rights Oregon must also be posted.

(d) A program provider must notify the Department, children, and as applicable the children's families, guardians, and service coordinators, of any change in the Host Home's telephone number within 24 hours of the change.

(19) A poster for the Residential Facilities Ombudsman Program must be posted in a location described by the Ombudsman in accordance with ORS 443.392.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455

Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745,

443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991

411-348-0150 General Safety

(Adopted 11/01/2019)

(1) All toxic materials, including, but not limited to poisons, chemicals, rodenticides, and insecticides must be:

(a) Properly labeled;

(b) Stored in the original container separate from all foods, food preparation utensils, linens, and medications; and

(c) Stored in a locked area unless the Risk Tracking records for all children residing in a Host Home document that there is no risk present.

(2) All flammable and combustible materials must be properly labeled, stored, and locked in accordance with state fire code.

(3) Knives and sharp utensils must not be directly accessible to children in the Host Home. Knives and sharp utensils must be secured when determined necessary for safety based on a child's support needs.

(4) Window shades, curtains, or other covering devices must be provided for all bedroom and bathroom windows to assure privacy. Pull cords and other hanging elements of window coverings must be child safe and not present a strangulation hazard.

(5) Hot water in bathtubs and showers may not exceed 120 degrees Fahrenheit. Other water sources, except the dishwasher, may not exceed 140 degrees Fahrenheit.

(6) Bedrooms.

(a) Bedrooms must have at least two emergency escape and rescue openings that open from the inside without the use of tools, keys, or special knowledge. Windows used as a means of egress must have a

minimum net clear opening width of 20 inches and height of 24 inches, for a total of 820 square inches or more. Interior sill height may not be more than 44 inches from the floor level.

(b) Bedrooms occupied by children must have a minimum of 60 square feet.

(c) Children receiving services in a Host Home must be the single occupant of their assigned bedroom.

(d) Children receiving services in a Host Home who require any ambulation assistance must only occupy ground floor bedrooms with exterior sill heights no greater than 72 inches from the ground, platform, deck, or landing.

(e) Single Action Locks. A child's ISP team shall consider if a lock is appropriate for a child's bedroom door. If a lock is determined to be an appropriate option for the child, the lock must be a single action release lock.

(f) Child bedrooms must be in close enough proximity to the in-residence caregiver to alert the in-residence caregiver to nighttime needs or emergencies or be equipped with a working audio monitor.

(7) Operative flashlights, at least one per floor, must be readily available to the in-residence caregiver and staff in case of emergency.

(8) First-aid kits and first-aid manuals must be available to the in-residence caregiver and staff within each Host Home in a designated location. First aid kits must be locked if, after evaluating any associated risk, items contained in the first aid kit present a hazard to children living in the Host Home. First aid kits containing any medication including topical medications must be locked or stored in a secure manner that prevents access by children.

(9) Windows with an interior sill height below 36 inches must have a barrier or guard in place to prevent a child from falling out of the window. The guard or barrier used must be removable or while in place still allow for

egress if the window is designated as an emergency escape and rescue opening.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455
Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991

411-348-0170 Staffing Requirements

(Adopted 11/01/2019)

(1) A Host Home must have in-residence caregivers or staff present appropriate to the number of all of the following:

- (a) Children receiving services to meet the needs of the children in accordance with each child's ISP;
- (b) Other children in the Host Home; and
- (c) Care-dependent adults.

(2) There must be at least one in-residence caregiver or staff member present in the Host Home when a child enrolled to receive service in the Host Home is in the Host Home.

(3) A child may not be left alone in a vehicle, unless identified as appropriate in accordance with the child's ISP.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455
Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991

411-348-0180 Individual Summary Sheets

(Adopted 11/01/2019)

A program provider must maintain a current one to two-page summary sheet for each child receiving services from the program provider. A copy

of the summary sheet must be maintained by the program provider and at the Host Home. The record must include all of the following:

(1) The child's name, current and previous address, date of entry into the Host Home, date of birth, gender identity, sex, religious preference, current hospital, medical prime number and private insurance number (where applicable), and guardianship information.

(2) A photo of the child taken within the last year.

(3) The name, address, and telephone number of the following:

(a) The child's family, parent, guardian, advocate, or other significant person.

(b) The child's current physician, secondary physician, or clinic.

(c) The child's current dentist.

(d) The child's current pharmacy.

(e) The child's current school and educational surrogate, if applicable.

(f) The child's CDDP services coordinator.

(g) The child's behavior professional, when professional behavior services are actively involved with the development of a Temporary Emergency Safety Plan, Functional Behavior Assessment, or Positive Behavior Support Plan, or the maintenance of the Positive Behavior Support Plan.

(h) Other representatives providing services to the child including an attorney or CASA (Court Appointed Special Advocates) representative.

(4) Any court-ordered, or parent or guardian authorized, contacts or limitations.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455
Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745,
443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881,
443.991

411-348-0185 Emergency Information

(Adopted 11/01/2019)

(1) The program provider, in collaboration with the in-residence caregiver, must maintain at each Host Home emergency information for each child receiving services in the Host Home in addition to the individual summary sheet described in OAR 411-348-0180.

(2) The emergency information must be kept current and include all of the following:

(a) The name of the child.

(b) The name, address, and telephone number of the program provider and in-residence caregiver.

(c) The physical description of the child, which may include a picture and the date the picture was taken, and identification of:

(A) The race, gender identity, sex, height, weight range, hair, and eye color of the child; and

(B) Any other identifying characteristics that may assist in identifying the child if the need arises, such as marks or scars, tattoos, or body piercings.

(d) Information on the abilities and characteristics of the child, including:

(A) How the child communicates;

(B) The language the child uses or understands;

(C) The ability of the child to know and take care of bodily functions; and

(D) Any additional information that may assist a person not familiar with the child to understand what the child may do for him or herself.

(e) The health support needs of the child, including:

(A) Diagnosis;

(B) Allergies or adverse drug reactions;

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

(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 that the child is taking that may be an aspiration risk or other risk for the child;

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

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

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

(f) The emotional and behavioral support needs of the child, including:

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

(B) Behavioral strategies or interaction guidelines to use when addressing challenging behavior exhibited by the child.

(g) Any court-ordered, or parent or guardian authorized, contacts or limitations.

(h) The supervision requirements of the child and why.

(i) Any additional pertinent information that may assist in the care and support of the child if a disaster occurs.

(3) A program provider must maintain a written Emergency Plan for the protection of all children in the Host Home in the event of an emergency or disaster.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455

Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991

411-348-0200 Transportation

(Adopted 11/01/2019)

(1) Service providers, including the program provider, in-residence caregiver, staff, and volunteers who own or operate vehicles that transport children, must:

(a) Maintain the vehicle in safe operating condition;

(b) Comply with Department of Motor Vehicles laws;

(c) Maintain or assure insurance coverage including liability, on all vehicles and all authorized drivers; and

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

(2) When transporting, the driver must ensure that all children use seat belts. Car seats or booster seats must be used for transporting all children as required by law. When transporting children in wheel chairs, the driver

must ensure that wheel chairs are secured with tie downs and that children wear seat belts.

(3) Drivers operating vehicles that transport children must meet applicable Department of Motor Vehicles requirements as evidenced by a driver's license.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455
Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991

411-348-0210 Transition Planning and Supporting Families
(Adopted 11/01/2019)

A program provider must adopt, in addition to the individual and family involvement policy required by OAR 411-323-0060, policy and procedure that supports a child's relationship with their family. A planning goal, when it is a safe and legal option, must include efforts to support the child's return to their family home. The program provider is expected to deliver supports when appropriate, including:

- (1) Participation in transition planning;
- (2) Arranging for transportation for child and family visitation;
- (3) Staffing and behavior support services in preparation for family visitation;
- (4) Supporting contact between the child and family, including phone calls, written communication, and other means of communication with family; and
- (5) Allowing families access to the child in the Host Home setting, when safe and not legally prohibited.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455
Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991

411-348-0220 Required Furnishings

(Adopted 11/01/2019)

(1) Bedroom furniture must be provided or arranged for each child and include:

(a) A bed including a frame unless otherwise documented by an ISP team decision, a clean comfortable mattress, a waterproof mattress cover if the child is incontinent, and a pillow;

(b) A private dresser or similar storage area for personal belongings that is readily accessible to the child; and

(c) A closet or similar storage area for clothing that is readily accessible to the child.

(2) The bedroom décor and furnishing must reflect the personal style and preferences of the child.

(3) Two sets of linens must be provided or arranged for each child and include:

(a) Sheets and pillowcases;

(b) Blankets appropriate in number and type for the season and the comfort of the child; and

(c) Towels and washcloths.

(4) Each child must be assisted in obtaining personal hygiene items in accordance with individual needs and items must be stored in a sanitary and safe manner.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455

Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991

411-348-0230 Emergency Plan and Safety Review

(Adopted 11/01/2019)

(1) EMERGENCY INFORMATION AND EMERGENCY PLANS. A program provider must ensure:

(a) The in-residence caregiver maintains emergency information for each child placed in the Host Home according to OAR 411-348-0185;

(b) Emergency telephone numbers are posted in an accessible location in the Host Home;

(c) The in-residence caregiver maintains a written emergency plan for the protection of all children in the Host Home in the event of an emergency or disaster.

(d) Children are provided with 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.

(2) EMERGENCY POLICIES AND PROCEDURES AND WRITTEN EMERGENCY PLAN.

(a) A program provider must develop, maintain, update, and implement a written emergency plan that includes instructions for the in-residence caregiver, staff, and volunteers in the event of an emergency or disaster. The emergency plan must be available at the program provider's office and the Host Home setting. The program provider must also provide a copy to the CDDP. The emergency plan must:

(A) Be practiced at least annually. The emergency plan practice may consist of a walk-through of the program provider's and in-residence caregiver's responsibilities, or a discussion exercise dealing with a hypothetical event.

(B) Consider the needs of the child being served and address all natural and human-caused events identified as a significant risk for the Host Home, such as a pandemic or an earthquake.

(C) At the Host Home, include provisions and sufficient supplies, such as sanitation and food supplies, to shelter in place, when unable to relocate, for a minimum of three days under the following conditions:

- (i) Extended utility outage;
- (ii) No running water;
- (iii) Inability to replace food or supplies; and
- (iv) Alternate caregiver or staff is unable to provide respite or additional support and care.

(D) Include provisions for evacuation and relocation that identifies:

- (i) The duties of the program provider, in-residence caregiver, and staff during evacuation, transporting, and housing of a child including instructions to notify the child's parent or guardian, the Department or designee, the CDDP services coordinator, and DHS-CW as applicable, of the plan to evacuate or the evacuation of the Host Home as soon as the emergency or disaster reasonably allows;
- (ii) The method and source of transportation;
- (iii) Planned relocation sites that are reasonably anticipated to meet the needs of the child;
- (iv) A method that provides a person unknown to the child the ability to identify each child by the child's name, and to identify the name of the child's supporting provider; and

(v) A method for tracking and reporting to the Department or the Department's designee and the local CDDP, the physical location of each child in the Host Home until a different entity resumes responsibility for the child.

(E) Address the needs of the child, including provisions to provide:

(i) Immediate and continued access to medical treatment and other information necessary to obtain care, treatment, food, and fluids for the child, during and after an evacuation and relocation;

(ii) Continued access to life sustaining pharmaceuticals, medical supplies, and equipment during and after an evacuation and relocation;

(iii) Behavior support needs anticipated during an emergency; and

(iv) Adequate supervision and supports needed to meet the life-sustaining and safety needs of the child.

(b) A program provider must provide and document all training to in-residence caregivers and staff regarding their responsibilities for implementing the emergency plan.

(c) A program provider must re-evaluate and revise the emergency plan at least annually or when there is a significant change in the Host Home.

(d) The emergency plan summary must be sent to the Department annually and upon change of ownership.

(3) EMERGENCY BACK-UP. A program provider must have a plan and assure for emergency back-up in the event the in-residence caregiver is unavailable.

(a) The emergency back-up plan may include, but is not limited to, the use of an alternate Host Home setting or other licensed or certified provider home, additional staffing, and behavior support consultation.

(b) A program provider must assure that in the event of the emergency absence of an in-residence caregiver, there is a written contingency plan for each child that is available for the staff and alternate caregivers.

(4) MONTHLY SAFETY REVIEW. A documented safety review must be conducted monthly to ensure that each Host Home is free of hazards. The program provider must keep the monthly safety review reports for two years and must make them available upon request by the CDDP or the Department.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455
Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991

411-348-0240 Assessment of Fire Evacuation Assistance and Fire Safety Evacuation Plan

(Adopted 11/01/2019)

(1) A program provider must assess, within 24 hours of a child's entry to a Host Home, the child's ability to evacuate the Host Home in response to an alarm or simulated emergency.

(2) A program provider must document the level of assistance needed by each child to safely evacuate the Host Home and the documentation must be maintained in the child's records.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455
Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991

411-348-0250 Fire Drill Requirements and Fire Safety

(Adopted 11/01/2019)

(1) A program provider, in collaboration with an in-residence caregiver, must conduct unannounced evacuation drills when children are present, one per quarter each year with at least one drill per year occurring during the hours of sleep. Drills must occur at different times during day and night with exit routes being varied based on the location of a simulated fire.

(2) Written documentation must be made at the time of the fire drill and kept by the program provider for at least two years following the drill. Fire drill documentation must include:

(a) The date and time of the drill or simulated drill;

(b) The location of the simulated fire and exit route;

(c) The last names of all children and in-residence caregivers or staff present on the premises at the time of the drill;

(d) The type of evacuation assistance provided by in-residence caregivers or staff to each child as specified in each child's safety plan;

(e) The amount of time required by each child to evacuate; and

(f) The signature of the in-residence caregiver or staff conducting the drill.

(3) Smoke alarms or detectors, carbon monoxide detectors, and protection equipment must be inspected and documentation of inspections maintained as recommended by the local fire authority or State Fire Marshal.

(4) A program provider must provide necessary adaptations to ensure fire safety for sensory and physically impaired children.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455

Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991

411-348-0260 Fire Safety Evacuation Plans

(Adopted 11/01/2019)

(1) A program provider must assure a Host Home has a written fire safety evacuation plan for all children:

- (a) Residing in the Host Home who are unable to evacuate the Host Home in three minutes or less;
- (b) Whose ISP team has determined may not participate in fire drills;
or
- (c) Assigned to a bedroom located on a floor other than ground level.

(2) The written fire safety evacuation plan must include documentation of:

- (a) The risk to the child's medical and physical condition and behavioral status;
- (b) Alternative practices used to evacuate the Host Home, including level of support needed;
- (c) The routes to be used to evacuate the Host Home to a point of safety;
- (d) Assistive devices required for evacuation;
- (e) The frequency the fire safety evacuation plan shall be practiced and reviewed by the child, program provider, in-residence caregiver, and any staff working in the Host Home; and
- (f) A plan to encourage the child's future participation when the child's ISP team has determined the child may not participate.

(3) The child's parent or guardian, services coordinator, and the program provider's Executive Director or designee must approve the fire safety evacuation plan.

(4) The program provider must maintain documentation of the practice and review of the fire safety evacuation plan by the child and the in-residence caregiver or staff.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455

Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991

411-348-0280 Fire Safety Requirements

(Adopted 11/01/2019)

(1) Each Host Home must be fire safe, including the following standards:

(a) Each Host Home must have a minimum of two exterior doorway exits allowing for egress.

(b) Sleeping and living quarters must have a minimum of two unobstructed emergency escape and rescue openings.

(c) A working fire extinguisher in compliance with state-adopted fire code that is easily accessible must be provided on each floor of a Host Home.

(A) Fire extinguishers must be checked on a monthly basis by the in-residence caregiver to ensure the locking pin is intact, the tamper seal is unbroken, and the extinguisher has no obvious signs of damage, corrosion, leakage, or clogs.

(B) Fire extinguishers must be inspected and certified annually by a fire protection equipment company. A complete breakdown and internal inspection must be done every six years by a fire protection equipment company.

(d) Permanent wired smoke alarms from a commercial source with a battery back-up must be provided and maintained in each bedroom and at a point centrally located on each floor in the corridor or area giving access to each separate sleeping areas. A Host Home may be granted an exception according to section (2) of this rule.

(e) A 13D residential sprinkler system in accordance with the National Fire Protection Association Code must be provided and maintained. A Host Home may be granted an exception according to section (2) of this rule.

(f) Hardware for all exit doors and interior doors must be simple hardware that may not be locked against exit and must have an obvious method of operation. Hasp, sliding bolts, hooks and eyes, double key deadbolts, and childproof doorknobs are not permitted. A deadbolt must be single action release to allow a door to open in a single operation.

(2) A Host Home is granted an exception to the requirements in sections (1)(d) and (e) of this rule under all of the following circumstances:

(a) All children receiving services in the Host Home have demonstrated the ability to respond to an emergency alarm with or without physical assistance from the in-residence caregiver or staff to the exterior and away from the Host Home in three minutes or less, as evidenced by three or more consecutive documented fire drills.

(b) Battery operated smoke alarms with a 10-year battery life and hush feature have been installed in accordance with the manufacturer's listing, in each bedroom, adjacent hallways, common living areas, basements, and in two-story homes at the top of each stairway. Ceiling placement of smoke alarms is recommended. If wall mounted, smoke alarms must be mounted as per the manufacturer's instructions. Alarms must be equipped with a device that warns of low battery condition when battery operated. All smoke alarms must be maintained in functional condition.

(c) A written fire safety evacuation plan is implemented according to OAR 411-348-0260 that assures the in-residence caregiver and staff assist all children in evacuating the premises safely during an emergency or fire as documented by fire drill records.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455
Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745,

443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991

411-348-0300 Rights, Complaints, Notification of Planned Action, and Hearings

(Adopted 11/01/2019)

(1) INDIVIDUAL RIGHTS.

(a) A program provider and in-residence caregiver must protect the rights of children described in OAR 411-318-0010 and encourage and assist children and the child's parent or guardian to understand and exercise these rights.

(b) Upon entry and request and annually thereafter, the individual child rights described in OAR 411-318-0010 must be provided to a child and the child's parent or guardian.

(c) The individual rights apply to all children eligible for or receiving developmental disabilities services. A parent or guardian may place reasonable limitations on the rights of a child.

(d) The child and their parent or guardian must be notified annually, in accordance with the ISP, of the services available from the Residential Facilities Ombudsman.

(2) COMPLAINTS.

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

(b) Upon entry and request and annually thereafter, the policy and procedures for complaints must be explained and provided to a child and the child's parent or guardian.

(3) NOTIFICATION OF PLANNED ACTION. In the event a developmental disabilities service is denied, reduced, suspended, or terminated, a written advance Notification of Planned Action on a Department-approved form must be provided as described in OAR 411-318-0020.

(4) HEARINGS.

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

(b) A child's parent or guardian may request a hearing as provided in ORS chapter 183 and OAR 411-318-0025 for a denial, reduction, suspension, or termination or OAR 411-318-0030 for an involuntary reduction, transfer, or exit.

(c) Upon entry and request and annually thereafter, a notice of hearing rights and the policy and procedures for hearings must be explained and provided to a child and the child's parent or guardian.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455
Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991

411-348-0350 Behavior Supports

(Temporary Effective 10/20/2021 - 04/17/2022)

For the purpose of this rule, a designated person is the person implementing the behavior supports identified in a child's Positive Behavior Support Plan.

(1) BEHAVIOR SUPPORTS. Professional behavior services and behavior supports must be delivered in accordance with OAR 411-323-0060(4).

(2) Behavior supports must not include any of the following characteristics:

(a) Abusive.

(b) Aversive.

(c) Coercive.

(d) For convenience.

- (e) Disciplinary.
- (f) Demeaning.
- (g) Mechanical restraint.
- (h) Prone or supine restraint.
- (i) Pain compliance.
- (j) Punishment.
- (k) Retaliatory.

(3) PROFESSIONAL BEHAVIOR SERVICES. Professional behavior services may be provided to a child based on the child's specific identified need for services to address challenging behavior in accordance with OAR chapter 411, division 304.

(a) When professional behavior services are provided to a child, a program provider, including the in-residence caregiver and staff, must:

(A) Coordinate with the behavior professional and the child's ISP team to ensure the professional behavior services and behavior supports being provided are sufficient to meet the behavioral support needs of the child; and

(B) Implement the Positive Behavior Support Plan, or appropriate portions therein, as agreed upon by the child's ISP team.

(b) A Host Home Program may deliver professional behavior services to a child under the following conditions:

(A) The Host Home Program must be endorsed to OAR chapter 411, division 304 for professional behavior services in accordance with OAR chapter 411, division 323;

(B) The behavior professional must meet the qualifications described in OAR 411-304-0170;

(C) The behavior professional must be the choice of the child's parent or guardian for professional behavior services;

(D) Professional behavior services are not delivered to children enrolled to receive services in a Host Home for the convenience of the behavior professional or program provider; and

(E) The Host Home Program meets the requirements as an enrolled Medicaid Provider as described in OAR chapter 411, division 370, and has a separate and distinct Medicaid Provider number for the provision of professional behavior services.

(c) A Positive Behavior Support Plan must be developed and implemented when Department funds are used for professional behavior services. The provision of professional behavior services must be authorized by a child's case manager and identified in the child's ISP.

(4) SAFEGUARDING INTERVENTIONS AND SAFEGUARDING EQUIPMENT.

(a) A safeguarding intervention is also a restraint and must meet the requirements of OAR 411-348-0355.

(b) A designated person must only utilize a safeguarding intervention or safeguarding equipment according to OAR 411-348-0355.

(c) The child's parent or guardian must provide consent for the safeguarding intervention or safeguarding equipment through an individually-based limitation in accordance with OAR 411-348-0430.

(d) Prior to utilizing a safeguarding intervention or safeguarding equipment, a designated person must be trained.

(A) For a safeguarding intervention, the designated person must be trained in intervention techniques using an ODDS-approved behavior intervention curriculum and trained to the child's specific needs. Training must be conducted by a person who is appropriately certified in an ODDS-approved behavior intervention curriculum.

(B) For safeguarding equipment, the designated person must be trained on the use of the identified safeguarding equipment.

(e) A designated person must not utilize any safeguarding intervention or safeguarding equipment not meeting the standards set forth in this rule or OAR 411-348-0355 even when the use is directed by the child or the child's parent or guardian, regardless of the child's age.

(5) RESTRAINT. The use of a restraint must meet the requirements in OAR 411-348-0355.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455, SB 710 (2021 OR Law, Ch. 672)

Stats. Implemented: ORS 409.010, 427.007, 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991, SB 710 (2021 OR Law, Ch. 672)

411-348-0355 Restraint and Involuntary Seclusion

(Temporary Effective 10/20/2021 - 04/17/2022)

(1) PROHIBITIONS.

(a) A child may not be placed in involuntary seclusion.

(b) A child may not be placed in a restraint except as noted in section (2) of this rule.

(c) The use of the following types of restraint of a child are prohibited:

(A) A restraint with any of the following characteristics:

- (i) Abusive.
- (ii) Aversive.
- (iii) Coercive.
- (iv) Demeaning.
- (v) Disciplinary.
- (vi) For convenience.
- (vii) Punishment.
- (viii) Retaliatory.

(B) Chemical restraint.

(C) Mechanical restraint.

(D) Prone restraint.

(E) Supine restraint.

(F) Any restraint that includes the nonincidental use of a solid object, including the ground, a wall, or the floor, to impede a child's movement, unless the restraint is necessary to gain control of a weapon.

(G) Any restraint that places, or creates a risk of placing, pressure on a child's neck or throat.

(H) Any restraint that places, or creates a risk of placing, pressure on a child's mouth, unless the restraint is necessary for the purpose of extracting a body part from a bite.

(I) Any restraint that impedes, or creates a risk of impeding, a child's breathing.

(J) Any restraint that involves the intentional placement of hands, feet, elbows, knees, or any object on a child's neck, throat, genitals, or other intimate parts.

(K) Any restraint that causes pressure to be placed, or creates a risk of causing pressure to be placed, on a child's stomach, chest, joints, throat, or back by a knee, foot, or elbow.

(L) Any other restraint, the primary purpose of which is to inflict pain.

(2) PERMISSIBLE USE OF RESTRAINT.

(a) Except as otherwise provided in this rule, a child may only be placed in a restraint if the child's behavior poses a reasonable risk of imminent serious bodily injury to the child or others and less restrictive interventions would not effectively reduce the risk.

(b) A restraint may only be used on a child if:

(A) The restraint is necessary to break up a physical fight or to effectively protect a person from an assault, serious bodily injury, or sexual contact;

(B) The restraint uses the least amount of physical force and contact possible; and

(C) The restraint is not a prohibited restraint described in section (1)(c) of this rule.

(c) In addition to the restraints described in subsection (b) of this section, a child may be placed in a restraint if:

(A) The restraint is used only for as long as the child's behavior poses a reasonable risk of imminent serious bodily injury;

(B) The person placing the child in the restraint is trained, as described in section (3) of this rule, in the use of the type of restraint used;

(C) The program provider staff or in-residence caregiver continuously monitors the child for the duration of the restraint; and

(D) The restraint is performed in a manner that is safe, proportionate, and appropriate, taking into consideration the child's:

(i) Chronological and developmental age;

(ii) Size;

(iii) Gender identity;

(iv) Physical, medical, and psychiatric condition; and

(v) Personal history, including any history of physical or sexual abuse.

(d) The following restraints are not subject to the requirements outlined in subsections (b) or (c) of this section.

(A) Holding the child's hand or arm to escort the child safely and without the use of force from one area to another.

(B) Assisting the child to complete a task if the child does not resist the physical contact.

(C) The use of safeguarding equipment to address a child's medical condition or medical support need, when the safeguarding equipment is included in a medical order written by the child's licensed health care provider and implemented consistent with the medical order.

(D) The use of acceptable infant safety products.

(E) The use of car safety systems, consistent with applicable state law.

(e) In addition to the requirements described in subsection (c) of this section, if a program provider staff or in-residence caregiver places a child in a restraint for more than 10 minutes, the program provider staff or in-residence caregiver must:

(A) Provide the child with adequate access to the bathroom and water at least every 30 minutes; and

(B) Receive authorization for the continuation of the restraint by a Program Supervisor every five minutes after the first 10 minutes of the restraint.

(i) The Program Supervisor must be trained in the ODDS-approved behavior intervention curriculum, specifically in the type of restraint being used.

(ii) If the Program Supervisor is not on-site at the time the restraint is used, the Program Supervisor may provide the written authorization electronically. The written authorization must document why the restraint continues to be the least restrictive intervention to reduce the risk of imminent serious bodily injury in the given circumstances.

(3) TRAINING REQUIREMENTS. With the exception of restraints described in section (2)(d) of this rule, each person placing a child in a restraint must be trained by a certified trainer using an ODDS-approved behavior intervention curriculum, to administer the type of restraint used.

(4) POLICY AND PROCEDURE. A program provider must develop and implement written policies and procedures for the in-residence caregiver and program provider staff to follow when a child is placed in a restraint according to this rule.

(5) NOTIFICATION OF RESTRAINT.

(a) If a program provider staff or in-residence caregiver places a child in a restraint, except as provided in section (2)(d) of this rule, the program provider staff or in-residence caregiver must provide the

child's case manager, attorney, court appointed special advocate, and parents or guardians with:

(A) Verbal or electronic notice that a restraint was used as soon as practicable following the restraint but not later than the end of the next business day; and

(B) Written notice as described in subsection (b) of this section as soon as practicable following the incident but not later than the end of the next business day.

(b) WRITTEN NOTICE. The written notice must include:

(A) A description of the restraint including all of the following:

(i) The date of the restraint.

(ii) The times when the restraint began and ended.

(iii) The location of the restraint.

(B) A description of the child's activity that necessitated the use of the restraint.

(C) The efforts the program provider staff or in-residence caregiver used to deescalate the situation and the alternatives to restraint attempted before placing the child in the restraint or involuntary seclusion.

(D) The names of each person who placed the child in the restraint and who monitored or approved the placement of the child in the restraint including all of the following:

(i) Whether the person was trained as required by this rule in the use of the type of restraint used, the date of the person's most recent training, and a description of the types of restraint the person is trained to use, if any.

(ii) If a person was not trained in the type of restraint, or if the person's training was not current, a description of the person's training deficiency and the reason the person without the proper training was involved in the restraint.

(c) DEBRIEFING MEETING.

(A) When notification is required as described in subsection (b) of this section, the program provider must hold a debriefing meeting with each person involved in the restraint and with any other appropriate staff.

(B) The debriefing meeting must be held no later than two business days following the date of the restraint.

(C) Written notes of each debriefing meeting must be taken and provided to the child's case manager, attorney, court appointed special advocate, and parent or guardian.

(d) If serious bodily injury or the death of staff occurs in connection to the use of a restraint, the program provider must provide ODDS with written notification of the incident not later than 24 hours following the incident.

(6) REPORTABLE INJURY.

(a) A program provider must maintain a record for each incident in which a reportable injury arises from the use of a restraint.

(b) If a program provider staff or in-residence caregiver places a child in a restraint and the child suffers a reportable injury arising from the restraint, the program provider must immediately provide ODDS and the child's attorney, court appointed special advocate, and parent or guardian with written notification of the incident and upon request, access to copies of all records related to the restraint or involuntary seclusion, including any photographs.

(7) INCIDENT REPORTING. In addition to the notice requirements in section (5)(b) of this rule, all incidents involving restraint must be documented in an incident report as required by OAR 411-323-0063.

(8) QUARTERLY REPORTING. Beginning September 1, 2021, a program provider must provide to ODDS data regarding the use of restraints in a quarterly report. The report must be thoroughly and accurately completed using the ODDS approved form and submitted quarterly.

(a) The quarterly report must include the aggregate number of children served by the program across all of its Host Home locations.

(b) ODDS shall make the quarterly report available on ODDS' website.

(c) Each program that submits a quarterly report under this section shall make its quarterly report available to the public upon request at the program's main office and on the program's website if the program maintains a website.

(d) Each program shall provide notice regarding how to access the quarterly reports to the parents or guardians of children in the program. The program shall provide the notice upon the child's admission and at least two times each year thereafter.

(e) Restraints described in section (2)(d) of this rule are not subject to reporting requirements of this section.

(9) EFFECTIVE DATE. This rule implements the requirements of Senate Bill 710 (2021 Oregon Law, Chapter 672) that took effect on September 1, 2021.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455, SB 710 (2021 OR Law, Ch. 672)

Stats. Implemented: ORS 409.010, 427.007, 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991, SB 710 (2021 OR Law, Ch. 672)

411-348-0360 Psychotropic Medications and Medication for Behavior

(Adopted 11/01/2019)

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

(a) Prescribed by a physician or health care provider through a written order; and

(b) Monitored by the prescribing physician or health care provider, ISP team, and program provider for desired responses and adverse consequences.

(2) The use of PRN psychotropic medications is prohibited.

(3) When medication is first prescribed and annually thereafter, the program provider must obtain a signed balancing test from the prescribing health care provider using the Department-approved Balancing Test Form or by inserting the required form content into forms maintained by the program provider. A program provider must present the physician or health care provider with a full and clear description of the behavior and symptoms to be addressed, as well as any side effects observed.

(4) The program provider must keep signed copies of the Balancing Test Forms required in section (3) of this rule in the child's medical record for seven years.

(5) A mental health assessment by a qualified mental health professional or licensed medical practitioner must be completed, except as noted in subsection (a) of this section, prior to the administration of a new medication for more than one psychotropic or any antipsychotic medication to a child in the legal care or custody of Child Welfare residing in a Host Home.

(a) A mental health assessment is not required in any of the following situations:

(A) In a case of urgent medical need;

(B) For a substitution of a current medication within the same class;

(C) A medication order given prior to a medical procedure; or

(D) A change in dosage of a current medication.

(b) When a mental health assessment is required, the program provider:

(A) Must notify the DHS-CW caseworker when a child is in legal custody of DHS-CW; or

(B) Must arrange for a mental health assessment when a child is a voluntary care placement.

(c) The mental health assessment:

(A) Must have been completed within three months prior to the prescription; or

(B) May be an update of a prior mental health assessment that focuses on a new or acute problem.

(d) Whenever possible, information from the mental health assessment must be communicated to the licensed health care provider prior to the issuance of a prescription for psychotropic medication.

(6) Within one business day after receiving a new prescription or knowledge of a new prescription for psychotropic medication for a child under the legal care or custody of Child Welfare residing in a Host Home, a program provider must notify:

(a) The CDDP services coordinator; and

(b) The child's parent when the parent retains legal guardianship or the child's guardian; or

(c) DHS-CW when DHS-CW is the child's guardian.

(7) A program provider's notification to a child's parent or guardian and the child's CDDP services coordinator must contain all of the following:

- (a) Name of the prescribing licensed health care provider.
- (b) Name of the medication.
- (c) Dosage, any change of dosage, suspension, or discontinuation of the current psychotropic medication.
- (d) Dosage administration schedule prescribed.
- (e) Reason the medication was prescribed.
- (f) The side effects of the medication.

(8) When DHS-CW is a child's guardian, an in-residence caregiver or program provider must get a written informed consent from DHS-CW prior to filling a prescription for any new psychotropic medication except in a case of urgent medical need.

(9) An in-residence caregiver and program provider must cooperate as requested when a review of psychotropic medications is indicated.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455

Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991

411-348-0370 Personal Property

(Adopted 11/01/2019)

(1) A program provider must prepare and maintain an accurate individual written record of personal property that has significant or monetary value to each child as determined by a documented ISP team or parent or guardian decision.

(2) The record must include:

- (a) The description and identifying number, if any;
- (b) Date of inclusion in the record;
- (c) Date and reason for removal from the record;
- (d) Signature of in-residence caregiver or staff making each entry;
and
- (e) A signed and dated annual review of the record for accuracy.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455

Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991

411-348-0380 Financial Records and Managing Money

(Adopted 11/01/2019)

(1) A program provider must maintain a separate financial record for each child receiving services in a Host Home. Errors must be corrected with a single strike through and initialed by the person making the correction. The child's financial record must include all of the following:

- (a) Date, amount, and source of all income received on the child's behalf.
- (b) Room and board fee paid at the beginning of each month.
- (c) Date, amount, and purpose of funds disbursed on the child's behalf.
- (d) Signature of the person making the entry.

(2) A child's ISP team may address how the personal spending money of a child is managed. Records must be kept in accordance with each child's financial plan, including documentation in the child's financial record and inclusion of receipts for large purchases.

(3) If a child has a separate commercial bank account, records from the account must be maintained with the child's financial record.

(4) A child's personal funds must be maintained in a safe manner and separate from the funds of other members of the household.

(5) A program provider must reimburse a child any funds that are missing due to theft or mismanagement on the part of any in-residence caregiver or staff member of the Host Home or for any funds within the custody of the program provider or in-residence caregiver that are missing. Such reimbursement must be made within 10 business days of the verification that funds are missing.

(6) Misuse of funds may be cause for an administrative sanction, including conditions, civil penalty, suspension, revocation, or denial of renewal of a license.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455

Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991

411-348-0390 Entry, Exit, Transfer, and Closure

(Adopted 11/01/2019)

(1) **NON-DISCRIMINATION.** A child considered for Department-funded services may not be denied services or otherwise discriminated against on the basis of race, color, religion, sex, gender identity, sexual orientation, national origin, marital status, age, disability, source of income, duration of Oregon residence, or other protected classes under federal and Oregon Civil Rights laws.

(2) **QUALIFICATIONS FOR DEPARTMENT-FUNDED SERVICES.** A child who enters a Host Home is subject to eligibility as described in this section. To be eligible for services in a Host Home, a child must meet the following requirements:

(a) Be an Oregon resident.

(b) Be receiving a Medicaid Title XIX (OHP) benefit package through OSIPM or the OCCS Medical Program.

(c) Be determined eligible for:

(A) Developmental disabilities services by the CDDP of the county of origin as described in OAR 411-320-0080; or

(B) Services for Aging and People with Disabilities as described in OAR chapter 411, division 015.

(d) Meet the level of care as defined in OAR 411-317-0000.

(e) Not receive other Department-funded in-home, community living support, or other services in another residential setting.

(f) Be determined through the Department's approved assessment process to require the structure and service delivery specific to a Host Home.

(3) ENTRY.

(a) A program provider considering a child for entry into a Host Home must:

(A) Provide notification and obtain approval from the Department prior to the placement of a child into a Host Home.

(B) Be prior authorized to provide Medicaid-funded services to the child if the child is not private pay.

(C) Receive written permission from the Department prior to:

(i) A child under age 18 moving into a Host Home with individuals age 18 or older; or

(ii) An individual who turns 18 and continues to reside in a Host Home with children under the age of 18.

(D) Gather sufficient information to make an informed choice about the ability of the program provider and in-residence caregiver to safely and adequately support the child.

(b) A program provider must participate in an entry meeting with a child's case manager prior to delivering services to the child for services to be funded in a Host Home.

(c) Prior to or upon an entry, a program provider must demonstrate diligent efforts to acquire the following information about the child from the referring case management entity:

(A) A copy of the eligibility determination document.

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

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

(D) Medical insurance information and the child's medical card.

(E) A medical history and information on health care supports that includes (when available):

(i) The results of the most recent physical exams or well-child exams;

(ii) The results of any dental evaluation;

(iii) A record of immunizations;

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

(v) A record of major illnesses and hospitalizations;

(vi) A record of mental health diagnosis and treatment plans, if applicable; and

(vii) Any additional medical documentation relevant to the child's current care needs.

(F) A written record of any current or recommended medications, treatments, diets, and aids to physical functioning.

(G) A copy of the most recent functional needs assessment and previous functional needs assessment if the needs of the child have changed over time.

(H) Copies of protocols, the risk tracking record, and any support documentation (if available).

(I) Copies of documents relating to the guardianship, conservatorship, health care representation, power of attorney, court orders, probation and parole information, or any other legal protections or restrictions on the rights of the child (if applicable).

(J) Written documentation that the child is participating in out of residence activities, including public school enrollment.

(K) Written documentation to explain why preferences of the child or the child's parent or guardian may not be implemented.

(L) A copy of the most recent Functional Behavior Assessment, Positive Behavior Support Plan, ISP or Service Agreement, Nursing Service Plan, and Individualized Education Plan (if available).

(d) If a child is being admitted from the child's family home and the information required in subsection (c) of this section is not available, the program provider must assess the child upon entry for issues of immediate health or safety and document a plan to secure the remaining information no later than 30 calendar days after entry. The

plan must include a written justification as to why the information is not available.

(e) A program provider retains the right to deny entry of any child if the program provider determines the support needs of the child may not be adequately or appropriately met by the program provider or for any other reason not specifically prohibited by these rules.

(f) A program provider may not admit a child from another funding source without first determining that the service and safety needs of all children in a Host Home shall be maintained and there is prior written approval from ODDS.

(4) VOLUNTARY TRANSFERS AND EXITS.

(a) A program provider must promptly notify a child's case manager if the child's parent or guardian gives notice of the intent to exit or abruptly exits services. A child's parent or guardian is not required to give prior notice to a program provider if the child's parent or guardian chooses to exit the child from the Host Home.

(b) A program provider must notify a child's case manager prior to the voluntary transfer or exit of a child from the Host Home or services, even when the child enters into another Host Home operated by the same program provider.

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

(d) A program provider is responsible for the provision of services until a child exits the Host Home when the exit is a voluntary exit from the Host Home.

(5) INVOLUNTARY TRANSFERS AND EXITS.

(a) A program provider must only transfer or exit a child involuntarily for one or more of the following reasons:

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

(B) The child experiences a medical emergency that results in the child requiring substantially increased ongoing support that the program provider is unable to meet.

(C) The service needs of the child exceed the ability of the program provider.

(D) Payment is not available from Medicaid or other third-party reimbursement.

(E) The program provider's license for the home is suspended, revoked, not renewed, or voluntarily surrendered.

(F) The program provider's Medicaid provider enrollment agreement or contract has been terminated.

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

(b) NOTICE OF INVOLUNTARY REDUCTION, TRANSFER, OR EXIT. A program provider must not reduce services, transfer, or exit a child involuntarily without giving advance written notice 30 calendar days prior to the reduction, transfer, or exit. The notice of involuntary reduction, transfer, or exit must be provided to the child's parent or guardian and case manager, except in the case of a medical emergency or when a child is engaging in behavior that poses an imminent danger to self or others in the Host Home as described in subsection (c) of this section.

(A) The written notice must be provided on the applicable Department form and include:

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

(ii) The right of the child or the child's parent or guardian on behalf of the child to a hearing as described in section (7) of this rule.

(B) A notice is not required when a child's parent or guardian requests the reduction, transfer, or exit.

(c) A program provider may give advance written notice less than 30 calendar days prior to an exit or transfer only in a medical emergency or when a child is engaging in behavior that poses an imminent danger to self or others in the Host Home and undue delay in moving the child increases the risk of harm. The notice must be provided to the child's parent or guardian and case manager immediately upon the program provider's determination of the need for a reduction, transfer, or exit.

(d) A program provider must demonstrate through documentation, attempts to resolve the reason for the involuntary reduction, transfer, or exit, including consideration of alternatives to the reduction, transfer, or exit and engagement of the case manager in the process.

(e) A program provider is responsible for the provision of services until the date of reduction, transfer, or exit identified in the notice, or when a child's parent or guardian requests a hearing, until the hearing is resolved.

(6) HEARING RIGHTS.

(a) A child, or child's parent or guardian on behalf of the child, 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, except when a program provider's license is revoked, not renewed, voluntarily surrendered, or the program provider's Medicaid contract is terminated.

(b) If a child's parent or guardian requests a hearing within 15 calendar days after the date of the notice and requests continuation of services, the child must receive the same services until the hearing is resolved.

(c) When a child has been given written notice less than 30 calendar days in advance of a reduction, transfer, or exit as described in section (5)(c) of this rule and the child's parent or guardian has requested a hearing, the program provider must reserve the room of the child and avail services in accordance with the child's needs until receipt of the Final Order.

(d) A child's parent or guardian may request an expedited hearing in accordance with OAR 411-318-0030.

(7) EXIT MEETING. A program provider must participate in an exit meeting before any decision to exit a child is made, unless the exit meeting is waived in accordance with OAR 411-415-0080.

(8) CLOSURE. A program provider must notify the Department and case management entity in writing prior to announcing a voluntary closure of a Host Home to a child and the child's parent or guardian.

(a) The program provider must give each child's parent or guardian and the case management entity written notice 30 calendar days in advance of the planned closure, except in circumstances where undue delay might jeopardize the health, safety, or welfare of the children, the program provider, or in-residence caregiver.

(b) If the program provider has more than one Host Home, a child may not be moved from one Host Home to another without:

(A) Providing the child's parent or guardian and the case management entity written notice 30 calendar days in advance of the planned move, unless prior approval is given and agreement obtained from the child's parent or guardian and the case management entity, or when undue delay might jeopardize the health, safety, or welfare of the child, program provider, or in-residence caregiver;

(B) Choice advising provided to the child and the child's parent or guardian informing them of all alternative placement and service options available; and

(C) All exit and entry requirements met in accordance with this rule.

(c) A program provider must return the license for a Host Home to the Department if the Host Home closes prior to the expiration of the license.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455

Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991

411-348-0410 Alternative Care, Childcare, Camp, and Alternate Caregivers

(Adopted 11/01/2019)

(1) A program provider must establish written policies and procedures for addressing a child's safety and support needs when the child is receiving support in a setting other than the licensed Host Home or the child's family home. The policies and procedures must address:

(a) Informing of and approval by the program provider for the support of a child away from the Host Home setting or child's family home;

(b) Safety measures to assure caregivers given the responsibility for the supervision and support of a child are safe and have adequate skills and knowledge to safely support the child;

(c) Settings are licensed, certified, or approved as a designated setting for care when the child is supported overnight away from the Host Home or the child's family home;

(d) Alternative care settings and caregivers are provided with adequate information to safely support the child; and

(e) Planning to ensure the in-residence caregiver or staff are able to immediately respond if a situation arises that results in the child needing intervention or to leave the alternative care setting.

(2) ALTERNATIVE CARE. A program provider must establish a plan for respite for a child's in-residence caregiver in accordance with the child's needs when the support to the child is delivered in a setting other than the Host Home setting or the child's family home.

(a) Alternative care settings must be currently:

(A) Licensed as a Host Home in accordance with these rules;

(B) Licensed as a 24-Hour Residential Program Setting in accordance with OAR chapter 411, division 325; or

(C) Certified as a Child Foster Home in accordance with OAR chapter 411, division 346.

(b) The program provider and the in-residence caregiver must arrange for continuity of needed services and routine activities important to the child while the child is receiving care in the alternative care settings, including but not limited to:

(A) School attendance;

(B) Routine treatment or therapies;

(C) Extra-curricular activities, such as team events or activities for which routine attendance is expected;

(D) Family visitation not prohibited by a court-order or guardian; and

(E) Religious activities, including church attendance or holiday observance.

(c) The program provider must assure the alternative care setting is provided with the:

(A) Individual Summary Sheet for the child required by OAR 411-348-0180;

(B) Emergency information about the child required by OAR 411-348-0185; and

(C) The child's ISP and supporting documents necessary for the alternate caregiver to meet the child's needs such as protocols, Functional Behavior Assessments, and Positive Behavior Support Plans.

(3) CHILD CARE AND CAMP. When a child is supported in any care arrangement away from the Host Home, the program provider must assure:

(a) When a child is cared for by a child care provider or a child care center, the child care provider home or center is certified, licensed, or registered as required by the Office of Child Care (ORS 329A).

(b) For a child attending camp, the camp holds any current license, membership, or certification appropriate to function as required by Oregon or federal laws and regulations.

(c) The ISP team is in agreement with and the child's guardian consents to the plan for the child to attend the camp, child care center, or child care provider home.

(d) The child care center, child care provider, or camp is aware of the child's support needs beyond age and neuro-typical support needs of child of the same age without a disability as relevant to the child's care while supported by the child care provider, center, or camp. If the child requires intensive supervision or behavioral support to maintain safety, there must be a plan for the adequate staffing and supervision of the child at the child care center, child care provider's home, or camp.

(4) When an in-residence caregiver arranges for a child's social activities for less than 24 hours, including an overnight arrangement, the in-residence caregiver must follow the program provider's policies and procedures and assure there is a designated adult who is responsible and capable of assuming child care responsibilities and present at all times.

The in-residence caregiver and program provider still maintains primary responsibility for the child.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455
Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991

411-348-0430 Individual Support Plan

(Adopted 11/01/2019)

(1) A program provider must collect and summarize the following information prior to a child's ISP meeting:

- (a) One-page profile reflecting, at a minimum, information gathered by the in-residence caregiver.
- (b) Person-centered information reflecting, at a minimum, information gathered by the in-residence caregiver.
- (c) Information about known, identified serious risks.

(2) A program provider must develop and share the following information with a child's case manager, the child, and the child's parent or guardian as directed by the child's ISP or Service Agreement.

- (a) Implementation strategies, such as action plans, for desired outcomes or goals.
- (b) Necessary protocols or plans that address health, behavioral, safety, and financial supports.
- (c) A summary of the program provider's risk management strategies in place, including title of document, date, and where the document is located.
- (d) A Nursing Service Plan, if applicable.
- (e) Other documents required by the ISP team.

(3) When desired by a child's parent or guardian, the program provider, including the in-residence caregiver, must participate in the child's ISP team meetings.

(4) A program provider must agree in writing to implement the portion of the ISP for which the program provider is responsible for implementing. Agreement may be recorded by a signature on the ISP or a Service Agreement.

(5) A program provider must maintain a copy of the ISP or Service Agreement provided by the case management entity.

(6) A program provider must maintain documentation of implementation of each support and services specified in section (2) of this rule in a child's ISP. The documentation must be kept current and be available for review by the child, the child's parent or guardian, case management entity, and Department representatives.

(7) INDIVIDUALLY-BASED LIMITATIONS.

(a) A program provider, including the in-residence caregiver and staff, may implement structure and place reasonable restrictions on a child consistent with community parenting practices. The program provider is expected to collaborate with the child's parent or guardian and ISP team in identifying reasonable limits and boundaries a child may require.

(b) When a child's individual health and safety needs necessitate a program provider to place limitations on the child's home and community-based freedoms described in OAR 411-004-0020 that are more restrictive than community parenting practices, an individually-based limitation must be authorized and documented in the child's ISP in accordance with OAR 411-415-0070.

(c) A program provider may not place any limitations on a child's freedom from restraint without an individually-based limitation, except in accordance with the standards for developmental disabilities

services set forth in OAR chapter 411 or the relevant Title XIX Medicaid-funding authority.

(d) When an individually-based limitation is implemented for a child, the program provider is responsible for all of the following:

(A) Maintaining a copy of the completed and signed form documenting a child's parent's or guardian's consent to the appropriate individually-based limitation. The form must be signed by the child's parent or guardian and the case manager.

(B) Regular collection and review of data to measure the ongoing effectiveness of, and the continued need for, the individually-based limitation.

(C) Requesting a review of the individually-based limitation when a new individually-based limitation is indicated or change or removal of an individually-based limitation is needed.

(8) TRANSITION SUPPORTS. The program provider, in coordination with the child's ISP team, must document a plan, including specific strategies and responsibilities to support the child's goal of returning to the family home or to an environment where the child may be successfully supported with less structured supports.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455

Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991

411-348-0460 Civil Penalties

(Adopted 11/01/2019)

(1) For purposes of imposing civil penalties, a Host Home licensed under ORS 443.400 through 443.455 and ORS 443.991(2) is considered to be a long-term care facility subject to ORS 441.705 through 441.745.

(2) The Department issues the following schedule of penalties applicable to Host Home settings as provided for under ORS 441.705 through 441.745:

(a) Violations of any requirement within any part of the following rules may result in a civil penalty up to \$500 per day for each violation not to exceed \$6,000 for all violations for any licensed Host Home within a 90-day period:

(A) 411-348-0025(3), (5), (7), or (8), (9), or (10);

(B) 411-348-0120(2) or (4);

(C) 411-348-0130;

(D) 411-348-0140;

(E) 411-348-0150;

(F) 411-348-0170;

(G) 411-348-0200;

(H) 411-348-0220(1) or (3);

(I) 411-348-0230;

(J) 411-348-0240, 411-348-0250, 411-348-0260, and 411-348-0280;

(K) 411-348-0300 and 411-348-0350;

(L) 411-348-0360;

(M) 411-348-0380;

(N) 411-348-0410; and

(O) 411-004-0020, 411-004-0030, and 411-004-0040.

(b) Civil penalties of up to \$300 per day per violation may be imposed for violations of any section of these rules not listed in subsection

(a)(A) to (a)(P) of this section if a violation has been cited on two consecutive inspections or surveys of a Host Home setting where such surveys are conducted by an employee of the Department. Penalties assessed under this section of this rule may not exceed \$6,000 within a 90-day period.

(3) Monitoring occurs when a Host Home is surveyed, inspected, or investigated by an employee or designee of the Department or an employee or designee of the Office of State Fire Marshal.

(4) In imposing a civil penalty pursuant to the schedule published in section (2) of this rule, the Department considers the following factors:

(a) The past history of the program provider incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation;

(b) Any prior violations of statutes or rules pertaining to Host Home settings; and

(c) The immediacy and extent to which the violation threatens or threatened the health, safety, or well-being of children receiving services.

(5) When a program provider receives notification from the Department of a violation for which a penalty or other liability may be imposed, the program provider must take action to eliminate the violation in a reasonable time:

(a) Not to exceed 30 calendar days after the first notice of a violation; or

(b) In cases where a violation requires more than 30 calendar days to correct, such time as is specified in a plan of correction found acceptable by the Department.

(6) Any civil penalty imposed under ORS 443.455 and 441.710 becomes due and payable when the program provider incurring the penalty receives a notice in writing from the Director of the Department. The notice referred

to in this section of this rule is sent by registered or certified mail and includes:

- (a) A reference to the particular sections of the statute, rule, standard, or order involved;
- (b) A short and plain statement of the matters asserted or charged;
- (c) A statement of the amount of the penalty or penalties imposed; and
- (d) A statement of the right of the program provider to request a hearing.

(7) The program provider has 20 calendar days from the date of mailing of the notice in which to make a written application for a hearing before the Department.

(8) All hearings are conducted pursuant to the applicable provisions of ORS chapter 183.

(9) If the program provider notified fails to request a hearing within 20 calendar days, an order may be entered by the Department assessing a civil penalty.

(10) If, after a hearing, the program provider is found to be in violation of a license, rule, or order listed in ORS 441.710(1), an order may be entered by the Department assessing a civil penalty.

(11) A civil penalty imposed under ORS 443.455 or 441.710 may be remitted or reduced upon such terms and conditions as the Director of the Department considers proper and consistent with individual health and safety.

(12) If the order is not appealed, the amount of the penalty is payable within 10 calendar days after the order is entered. If the order is appealed and is sustained, the amount of the penalty is payable within 10 calendar days after the court decision. The order, if not appealed or sustained on appeal, constitutes a judgment and may be filed in accordance with the provisions

of ORS 183.745. Execution may be issued upon the order in the same manner as execution upon a judgment of a court of record.

(13) A violation of any general order or Final Order pertaining to Host Home setting issued by the Department is subject to a civil penalty in the amount of not less than \$5 and not more than \$500 for each and every violation.

(14) Judicial review of civil penalties imposed under ORS 441.710 are provided under ORS 183.480, except that the court may, in its discretion, reduce the amount of the penalty.

(15) All penalties recovered under ORS 443.455 and 441.710 through 441.740 are paid into the State Treasury and shall be deposited in the Long-Term Care Ombudsman account established in ORS 441.419.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455

Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991

411-348-0470 License Denial, Suspension, Revocation, and Refusal to Renew

(Adopted 11/01/2019)

(1) The Department shall deny, suspend, revoke, or refuse to renew a license where the Department finds there has been substantial failure to comply with these rules or where the State Fire Marshal or the State Fire Marshal's representative certifies there is failure to comply with all applicable ordinances and rules relating to safety from fire.

(2) The Department shall suspend the Host Home license where imminent danger to health or safety of children exists.

(3) The Department shall deny, suspend, revoke, or refuse to renew a license where it finds that a program provider or in-residence caregiver is on the current Centers for Medicare and Medicaid Services list of excluded or debarred providers.

(4) Revocation, suspension, or denial is done in accordance with the rules of the Department and ORS chapter 183.

(5) Failure to disclose requested information on the application or provision of incomplete or incorrect information on the application constitutes grounds for denial or revocation of the license.

(6) The Department shall deny, suspend, revoke, or refuse to renew a license if the licensee fails to implement a plan of correction or comply with a Final Order of the Department imposing an administrative sanction, including the imposition of a civil penalty.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455

Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991

411-348-0480 Criminal Penalties

(Adopted 11/01/2019)

(1) Violation of any provision of ORS 443.400 through 443.455 is a Class B misdemeanor.

(2) Violation of any provision of ORS 443.881 is a Class C misdemeanor.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455

Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991

411-348-0490 Provider Eligibility for Medicaid Service Payment

(Adopted 11/01/2019)

(1) In addition to meeting the licensing standards and conditions set forth in these rules, a program provider must have an approved prior authorization through the Department payment system for children receiving Medicaid-funded services before the program provider is eligible to claim for delivering Medicaid-funded services. The prior authorization includes dates of authorized services and the funding amount allocated.

(2) A program provider may only claim for a day of service when:

(a) A child sleeps in the Host Home or alternative care setting overnight; or

(b) A child does not sleep in the Host Home overnight, but intends to return to the Host Home, and the program provider was responsible for an accumulated period of eight hours for the primary care, support, safety, and well-being of the child, including any of the following:

(A) Providing intermittent physical support or care.

(B) Providing stand-by support with the ability to respond in person within the response times as outlined in the child's ISP.

(C) Being responsible to communicate reciprocally within the response times agreed upon by the child's ISP team and documented in the child's ISP, based on the child's identified support needs.

(3) A day of service does not apply when a child:

(a) Has been admitted overnight to a hospital;

(b) Has been admitted to a nursing facility;

(c) Is held in detention or jail; or

(d) Is outside of the United States.

(4) A program provider may only claim for a day of service under section (2)(b) of this rule when a child is away from the Host Home or alternative care setting, accompanied by a program provider, in-residence caregiver, or staff, for up to 30 consecutive days or 45 calendar days in an ISP year.

(a) The program provider is not paid for the 31st and following consecutive days when a child is away from the Host Home.

(b) A program provider is not paid for the 46th and following non-consecutive days a child is not at the licensed Host Home overnight.

(c) Days not paid do not count in the 45-calendar day total.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455

Stats. Implemented: ORS 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991