

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

**CHAPTER 411  
DIVISION 355**

**MEDICALLY INVOLVED CHILDREN'S PROGRAM**

**EFFECTIVE APRIL 15, 2008**

**411-355-0000 Purpose**

*(Temporary Effective 4/15/2008 – 10/12/2008)*

These rules establish the policy of and prescribe the standards and procedures for the provision of Medically Involved Children's Program services for children enrolled by the Seniors and People with Disabilities Division, Children's Intensive In-Home Services. Services provided under this waiver are exclusively intended to allow children who meet the nursing facility level of care to return to their home or remain home with specialized supports and services. Services specifically preserve parent capacity to care for their child, assure the health and safety of the child within the family home, and permit children who have been separated from their families due to their health and medical care needs to return home or prevent out of home placement. These services complement and supplement the services that are available to participants through the Medicaid State Plan and other federal, state and local programs as well as the natural supports that families and communities provide.

Stat. Auth.: [ORS 409.050](#) & [ORS 417.345](#)

Stats. Implemented: [ORS 430.215](#), [ORS 427.007](#), [ORS 417.340 - ORS 417.355](#)

**411-355-0010 Definitions**

*(Temporary Effective 4/15/2008 – 10/12/2008)*

(1) "Activities of Daily Living (ADL)" means activities usually performed in the course of a normal day in a child's life such as eating, dressing and grooming, bathing and personal hygiene, mobility (ambulation and

transfer), elimination (toileting, bowel and bladder management), and cognition and behavior (play and social development).

(2) "Aide" means a caregiver who is hired by the parent or a billing provider to provide in-home daily care.

(3) "Assistant Director" means the Assistant Director of the Department of Human Services, Seniors and People with Disabilities Division, or that person's designee.

(4) "Behavior Consultant" means a contractor with specialized skills who:

(a) Assesses the child, the needs of the parent, and the environment in terms of the behavioral support and related issues;

(b) Develops a Behavior Support Plan;

(c) Trains parents and providers; and

(d) Monitors and revises the Behavior Support Plan as needed.

(5) "Billing Provider" means an organization that:

(a) Enrolls and contracts with the Seniors and People with Disabilities Division to provide services through its employees; and

(b) Bills the Seniors and People with Disabilities Division for the provider's services.

(6) "Child" means a person who is under the age of 18 and eligible for Medically Involved Children's Program services.

(7) "Children's Intensive In-Home Services (CIIS)" means the unit within the Seniors and People with Disabilities Division that enrolls eligible children in the Medically Involved Children's Program.

(8) "CIIS Service Coordinator" means an employee of the Seniors and People with Disabilities Division, Children's Intensive In-Home Services, who ensures a child's eligibility for the Medically Involved Children's Program and provides assessment, case planning, service implementation, and evaluation of the effectiveness of the services.

(9) "Citizenship" means the child has United States citizenship as defined by Oregon and federal policies.

(10) "CMS" means Centers for Medicare and Medicaid Services, the federal agency charged with delivery and oversight of all Medicare and Medicaid services.

(11) "Cost Effective" means that in the opinion of the Children's Intensive In-Home Services Service Coordinator a specific service meets the child's service needs and costs less than or is comparable to other service options considered.

(12) "Delegation" means that a registered nurse authorizes an unlicensed person to perform nursing tasks and confirms that authorization in writing. Delegation by a registered nurse shall only occur to the extent allowed by the Oregon Board of Nursing administrative rules.

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

(14) "Developmental Disability (DD)" is always provisional and means;

(a) For children five years and younger.

(A) The condition or impairment must be expected to last indefinitely and must not be otherwise primarily attributed to mental illness, substance abuse, an emotional disorder, Attention Deficit and Hyperactivity Disorder (ADHD), a learning disability, or sensory impairment; AND

(B) There is a standardized test demonstrating significant adaptive behavior impairment (more than two standard deviations below the norm) in at least two of the following areas of functioning:

(i) Self care;

(ii) Receptive and expressive language;

(iii) Learning;

(iv) Mobility; and

(v) Self-direction; OR

(C) There is a statement by a licensed medical practitioner that the child has a condition or syndrome that will likely cause significant adaptive impairment in at least two of the areas listed in section (13)(a)(B) of this rule.

(b) For children six years and older.

(A) There is a diagnosis of mental retardation; OR

(B) There is a diagnosis of developmental disability; AND

(C) There is significant adaptive behavior impairment (more than two standard deviations below the norm) that requires training or supports similar to that required by individuals with mental retardation in at least two of the following areas of functioning:

(i) Self care;

(ii) Receptive and expressive language;

(iii) Learning;

(iv) Mobility; and

(v) Self direction; AND

(D) The condition or impairment must be expected to last indefinitely and must not be otherwise primarily attributed to mental illness, substance abuse, an emotional disorder, Attention Deficit and Hyperactivity Disorder (ADHD), a learning disability, or sensory impairment; AND

(E) The individual is expected to need multiple, specialized supports indefinitely.

(15) "Eligible Range" means that the score on the Medically Involved Criteria (Form DHS-0521) is at or above 100.

(16) "Family Home" means the residence of the child that is not a foster home, group home or other residential service funded with public funds.

(17) "In-Home Daily Care (IHDC)" means essential supportive daily care delivered by a qualified provider that enables a child to remain or return to the child's family's home.

(18) "Medically Involved" means children who have a health impairment that requires long term, intensive, specialized services on a daily basis that have been accepted for Medically Involved Children's Program services by Children's Intensive In-Home Services.

(19) "Medically Involved Criteria" means the assessment tool (Form DHS-0521) used by Children's Intensive In-Home Services to evaluate the intensity of the challenges presented by children.

(20) " Medically Involved Children's Program (MICP)" means the waiver program granted by the federal Centers for Medicare and Medicaid Services that allows Title XIX funds to be spent on children living in their family home who otherwise would have to be served in a nursing facility if the waiver program was not available.

(21) "Nurse" means a person who holds a valid, current license from the Oregon Board of Nursing as a registered nurse (RN) or licensed practical nurse (LPN).

(22) "Nursing Care Plan" means a plan of care developed by a registered nurse that describes the medical, nursing, psychosocial, and other needs of the child and how those needs will be met. The Nursing Care Plan includes which tasks will be taught, assigned or delegated to the qualified provider or parent. When one exists, it becomes a part of the Plan of Care.

(23) "Nursing Facility (NF)" means a residential medical facility.

(24) "Nursing Tasks or Services" means the care or services that require the education and training of a licensed professional nurse to perform. Some may be delegated.

(25) "OHP" means the Oregon Health Plan.

(26) "Parent" means biological parent, adoptive parent or legal guardian.

(27) "Plan of Care (PoC)" means a written document developed by the Children's Intensive In-Home Services Service Coordinator and the child's parent that describes the needs of the child, the needs and resources of the family that impact the child, and how those needs will be met with family and public resources. The Plan of Care includes the Nursing Care Plan when one exists.

(28) "Primary Caregiver" means the parent, relative or other non-paid parental figure that provides the direct care of the child at the times that a provider is not present.

(29) "Provider or Performing Provider" means the individual who is qualified to receive payment from the Seniors and People with Disabilities Division for in-home daily care that meets the requirements of [OAR 411-355-0050](#). Providers work directly with children. Providers may be employees of billing providers, employees of the parent or independent contractors.

(30) "Respite" means short-term care provided on a periodic basis for the relief of, or due to the temporary absence of, the primary caregiver.

(31) "Seniors and People with Disabilities Division (SPD)" means the Division within the Department of Human Services that focuses on the planning of services, policy development and regulation of programs for persons that have developmental disabilities, are elderly or have physical disabilities.

(32) "Specialized Diet" means specially prepared food and or particular types of food needed to sustain the child in the family home. A specialized diet must be ordered by a physician and periodically monitored by a dietician. It is in addition to meals a parent would provide.

(33) "Supplant" means take the place of.

(34) "These Rules" means the rules in OAR chapter 411, division 355.

(35) "Voucher" means the document generated by CIIS that acts as a prior authorization, contract and payment mechanism for services.

Stat. Auth.: [ORS 409.050](#) & [ORS 417.345](#)

Stats. Implemented: [ORS 430.215](#), [ORS 427.007](#), [ORS 417.340 - ORS 417.355](#)

### **411-355-0020 Eligibility**

*(Temporary Effective 4/15/2008 – 10/12/2008)*

(1) ELIGIBILITY. In order to be eligible for the MICP, the child must:

- (a) Be under the age of 18;
- (b) Require nursing facility level of care;
- (c) Be accepted by scoring 100 or greater on the Medically Involved Criteria within four months of starting services;
- (d) Be eligible to receive Title XIX (Medicaid) services;
- (e) Require services offered under the MICP;
- (f) Be a U.S. Citizen;
- (g) Reside in the family home or reside in a nursing facility and wish to return home; and
- (h) Be capable of being safely served in the family home. This includes, but is not limited to, parents demonstrating the willingness, skills and ability to participate in the care as outlined in the Plan of Care in a cost effective manner as determined by the CIIS Service Coordinator within the limitations of [OAR 411-355-0040](#).

(2) INELIGIBILITY.

- (a) A child who continues to reside in a hospital, school, sub-acute facility, nursing facility, intermediate care facility for the mentally retarded (ICF/MR), residential facility, foster home or other institution is not eligible for the MICP.

(b) A child who does not require waiver services or that has sufficient family, government and community resources available to provide for the child's care is not eligible for the MICP.

(c) A child not safely served in the family home as described in section (1)(h) of this rule is not eligible for the MICP.

### (3) DISENROLLMENT.

(a) A child will be disenrolled from the MICP if the child no longer meets the Medically Involved Criteria of section (1) of this rule.

(b) A child will be disenrolled if the Medically Involved Criteria score falls below 80.

(4) REDETERMINATION. Eligibility for the MICP will be redetermined using the Medically Involved Criteria at a minimum of every 12 months, or as the child's status changes.

### (5) ENROLLMENT.

(a) The date the initial application is complete is the date that CIIS receives all of the required demographic and referral information on the child.

(b) If a child meets the criteria of section (1) of this rule and space is available in the MICP, the child's priority for enrollment will be in accordance with [ORS 417.345](#), CMS model waiver requirements and geographical distribution for equal access to services.

(6) WAIT LIST. A child eligible for the MICP may be placed on a wait list if the allowable numbers of children in the MICP are already being served.

(a) The date the initial application for the MICP is completed shall determine the order on the wait list. A child previously enrolled in CIIS that currently meets eligibility criteria and applies for the MICP will be put on the wait list as of the date their original application for services was complete.

(b) Children on the wait list will be served on a first come, first served basis according to the legislatively mandated enrollment priorities, per geographical region, and as space on the MICP allows.

(7) ASSESSMENT. Anyone can request an assessment for a child for MICP services.

Stat. Auth.: [ORS 409.050](#) & [ORS 417.345](#)

Stats. Implemented: [ORS 430.215](#), [ORS 427.007](#), [ORS 417.340 - ORS 417.355](#)

### **411-355-0030 Plan of Care**

*(Temporary Effective 4/15/2008 – 10/12/2008)*

(1) The CIIS Service Coordinator will be responsible for the following activities in the development of the Plan of Care:

(a) The CIIS Service Coordinator will assess the individual service needs of the child through interviews with the parents, caregivers and other interested persons. The assessment will include:

(A) Identification of the current care needs of the child including ADL care, medication management, communication, supervisory needs and physical environment;

(B) Identification of services for which the child is currently eligible;

(C) Identification of services currently being provided;

(D) All available family, government, community resources or private health insurance that meet any or all of the child's needs; and

(E) Identification of areas of unmet needs.

(b) The CIIS Service Coordinator will prepare, with the input of the parent and any other person at the parent's request, a written Plan of Care that:

- (A) Defines the needs of the child and the family;
- (B) Identifies the methods, resources and strategies that address some or all of those needs;
- (C) Identifies the number of hours of in-home daily care or other related services authorized for the child; and
- (D) Identifies other services authorized by CIIS for the child.

(2) The Plan of Care will:

- (a) Note the maximum hours of authorized provider services; and
- (b) Estimate the cost of the care.

(3) The Nursing Care Plan, when one exists, will be included in the Plan of Care.

(4) All behavior and specialized consultant services purchased through the MICP will be included in the Plan of Care.

(5) The Plan of Care will be reviewed with the parent prior to implementation, signed by both the parent and the CIIS Service Coordinator and a copy provided to the parent.

(6) The Plan of Care will include the date of the next planned review. The Plan of Care review will be completed within 365 days of the last Plan of Care.

(7) Significant changes in the needs of the child will be reflected in the Plan of Care as they occur and a copy provided to the parent.

Stat. Auth.: [ORS 409.050](#) & [ORS 417.345](#)

Stats. Implemented: [ORS 430.215](#), [ORS 427.007](#), [ORS 417.340 - ORS 417.355](#)

**411-355-0040 Scope and Limitations of Services**  
(Temporary Effective 4/15/2008 – 10/12/2008)

(1) In order to be authorized and eligible for payment, all MICP supports and services authorized by CIIS must be:

- (a) Directly related to the child's disability;
- (b) Required to maintain the health and safety of the child;
- (c) Cost effective;
- (d) Considered not typical for a parent to provide a child of the same age;
- (e) Required to help the parent to continue to meet the needs of caring for the child; and
- (f) Included in an approved Plan of Care.

(2) MICP services may include a combination of the following waiver and non-waiver services based upon the needs of the child as determined by the CIIS Service Coordinator and as consistent with the child's Plan of Care:

- (a) In-home daily care;
- (b) Respite;
- (c) Specialized medical equipment and supplies;
- (d) Motor vehicle adaptations;
- (e) Environmental accessibility adaptations;
- (f) Homemaker and chore;
- (g) Physical, occupational, and speech and language therapy;
- (h) Non-medical transportation;
- (i) Family training;
- (j) Translation;

(k) Special diets; and

(l) Specialized consultation (behavior and nursing delegation).

(3) The annual average monthly payment, as authorized in the MICP Plan of Care, dated from the initial Plan of Care to the anniversary date, must not exceed the allowed maximum amount of \$3,000 per month.

(4) Ninety-day exceptions to the cost limitations in section (3) of this rule will only be authorized with CIIS Supervisor approval in the following circumstances:

(a) The child is at immediate risk of loss of home without the expenditure.

(b) The expenditure provides supports for emerging or changing care needs.

(c) A significant medical condition or event occurs that prevents the primary caregiver from providing care or services as documented by a physician.

(5) Exceptions to the cost limitations in section (3) of this rule beyond ninety-days will be:

(a) Evaluated using the criteria in section (4)(a) through (4)(c) of this rule on an individual basis by a SPD designee and the CIIS Supervisor; and

(b) Made when part of legislatively mandated cost of living adjustments.

(6) SPD will not pay for services that are:

(a) Abusive, aversive or demeaning;

(b) Experimental;

(c) Illegal;

(d) Determined unsafe for the general public by recognized child and consumer safety agencies;

(e) Not necessary or cost effective;

(f) Educational services for school-age children, including professional instruction, formal training and tutoring in communication, socialization and academic skills; or

(g) Services or activities for which the legislative or executive branch of Oregon government has prohibited use of public funds.

(7) When two children in the same home or setting qualify for MICP services, the same provider must provide services to all qualified children if services can be safely delivered by a single provider, as determined by the CIIS Service Coordinator.

(8) IN-HOME DAILY CARE.

(a) In-home daily care services include a combination of direct provider support assistance with ADLs, nursing services or other supportive services provided by qualified providers and agencies. Hours will be authorized only to support a parent in their primary caregiving role. The extent of the services may vary, but the extent of service is limited as described in this rule. In-home daily care services provided by qualified providers or agencies include:

(A) Basic personal hygiene - Assistance with bathing and grooming;

(B) Toileting/bowel and bladder care - Assistance in the bathroom, diapering, external cleansing of perineal area and care of catheters;

(C) Mobility - Transfers, comfort, positioning and assistance with range of motion exercises;

(D) Nutrition - Special diets, monitoring intake and output, and feeding;

(E) Skin care - Dressing changes;

(F) Supervision - Providing an environment that is safe and meaningful for the child, interacting with the child to prevent danger to the child and others, and assisting the child with appropriate leisure activities;

(G) Communication - Assisting the child in communicating, using any means used by the child;

(H) Neurological - Monitoring of seizures, administering medication and observing status; and

(I) Other personal care tasks or services.

(b) When any of the in-home daily care services listed in section (8)(a)(A) through (8)(a)(I) of this rule are essential to the health and welfare of the child, the following supportive services can also be provided:

(A) Housekeeping tasks necessary to maintain a healthy and safe environment for the child;

(B) Arranging for necessary medical equipment, supplies and medications;

(C) Arranging for necessary medical appointments;

(D) Accompanying the child to appointments, outings and community-based activities; and

(E) Activities to enhance development.

(c) The number of in-home daily care service hours may be spread throughout the time authorized in the voucher or used in large blocks as the parent determines.

(d) All in-home daily care services must:

(A) Be prior-authorized by CIIS before services begin;

(B) Be based on the assessed service needs of the child consistent with, and documented in, the Plan of Care as determined by the CIIS Service Coordinator;

(C) Be delivered through the most cost effective method as determined by the CIIS Service Coordinator; and

(D) Include a physician's order when nursing services are to be provided. The CIIS Service Coordinator will determine whether payment of nursing services or the hours of in-home daily care services as ordered by the physician will be authorized for payment according to these rules.

(e) In-home daily care services exclude:

(A) Hours that will supplant the natural supports and services available from family, community, other government or public services, insurance plans, schools, philanthropic organizations, friends, or relatives;

(B) Hours solely to allow a parent to work or attend school; and

(C) The authorization of hours or level of care not supported by the assessed needs of the child as documented in the Plan of Care.

## (9) RESPITE.

(a) Respite services are provided to the child on a periodic or intermittent basis furnished because of the temporary absence of, or need for relief of, the primary caregiver. Respite includes both day and overnight care and may be provided in the child's home, qualified provider's home or qualified facility. The following types of qualified providers will be authorized to provide respite care:

(A) Individual respite provider;

(B) Licensed day care center;

(C) Group home;

(D) Foster home; and

(E) Disability-related or therapeutic recreational camp.

(b) Respite services will not be authorized;

(A) Solely to allow caregivers to attend school or work;

(B) On more than a periodic schedule;

(C) For more than 56 days in a calendar year;

(D) For more than 14 consecutive days in a calendar month;

(E) For more than 10 days per individual plan year when provided at a specialized camp; or

(F) To pay for room and board if provided at a licensed site or specialized camp;

#### (10) SPECIALIZED EQUIPMENT AND SUPPLIES.

(a) Specialized equipment and supplies include the purchase of devices, aids, controls, supplies or appliances that are necessary to enable a child to increase their abilities to perform activities of daily living, or to perceive, control or communicate with the environment in which they live. Specialized equipment and supplies could include:

(A) Communication devices;

(B) Adaptive clothing;

(C) Adaptive eating equipment;

(D) Adaptive sensory or habilitation devices or supplies;

(E) Incontinent supplies; and

(F) Increased utility costs associated with medically necessary equipment and procedures.

(b) When a professional is required to assess, identify, adapt or fit the equipment, SPD will include this cost in the purchase price of the equipment.

(c) To be authorized, specialized equipment and supplies must;

(A) Be in addition to any medical equipment and supplies furnished under the Oregon Health Plan;

(B) Be determined necessary to the daily functions of the child; and

(C) Be directly related to the child's disability.

(d) Specialized equipment and supplies exclude:

(A) Items that are not necessary or of direct medical or remedial benefit to the child;

(B) Specialized medical equipment and supplies intended to supplant similar items furnished under the Oregon Health Plan;

(C) Items available through family, community or other governmental resources; or

(D) Items that are considered unsafe for the child.

#### (11) MOTOR VEHICLE ADAPTATIONS.

(a) Motor vehicle adaptations are physical adaptations to a vehicle that are necessary to ensure the health, welfare, and safety of the child and meet the unique needs of the child. Motor vehicle adaptations will only be authorized:

(A) For the primary vehicle used by the child;

(B) When the adaptation is directly related to the child's disability; and

(C) When cost effective.

(b) Motor vehicle adaptations do not include typical repair or general maintenance and upkeep required by a motor vehicle.

## (12) ENVIRONMENTAL ACCESSIBILITY ADAPTATIONS.

(a) Environmental accessibility adaptations are physical adaptations to a child's home that are necessary to ensure the health, welfare, and safety of the child in the home, or that are necessary to enable the child to function with greater independence around the home and in family activities. Environmental accessibility adaptations also include an environmental modification consultation necessary to evaluate the family home and make plans to modify the home to ensure the health, welfare and safety of the child. Environmental accessibility adaptations will only be authorized by CIIS:

(A) When they are related to the child's disability

(B) When they are determined to be the most cost effective solution.

(C) When provided in accordance with applicable state or local building codes by licensed contractors. Any modification that impedes egress must be approved only if a risk assessment demonstrates no safer solution and a safety plan is signed by the parent.

(D) When authorized in writing by the owner of a rental structure prior to initiation of the work. This does not preclude any requirement related to the Reasonable Accommodation Act.

(b) For environmental accessibility adaptations that, singly or together, exceed \$5,000, SPD will protect its interest for the entire amount of the adaptations through liens or other legally available means.

(c) Environmental accessibility adaptations exclude;

(A) Adaptations or improvements to the home that are of general utility and are not for the direct safety, remedial or long term benefit to the child; and

(B) Adaptations that add to the total square footage of the home.

(13) **HOMEMAKER AND CHORE.** Homemaker and Chore services are services that are required to maintain the home in a clean, sanitary and safe environment. Homemaker services include general housekeeping activities while chore services consist of heavy household chores including washing floors, windows and walls.

(a) Homemaker and chore services are authorized when the individual regularly responsible for these activities is temporarily absent or unable to manage the home and care for him or herself or others in the home or to allow the caregiver more time to care for the child enrolled in the MICP.

(b) Homemaker services may not exceed 24 hours per month.

(c) Chore services are considered one-time or intermittent services that are not available on a routine basis.

(d) Homemaker and chore services must be prior authorized by the CIIS Service Coordinator after agreement to scope of work, hours and cost.

(14) **PHYSICAL THERAPY, OCCUPATIONAL THERAPY, AND SPEECH AND LANGUAGE THERAPY.**

(a) Physical, occupational, and speech and language therapy are service provided in the home or clinic setting by a physical therapist, occupational therapist, or speech and language therapist as defined under the Oregon Health Plan except that the amount and duration specified in the State Medicaid Plan do not apply. Physical, occupational, and speech and language therapy service are provided as an extension to state plan services and include interventions and treatments that are commonly accepted practice. To be authorized, the physical, occupational, and speech and language therapy service must:

(A) Have exhausted the limits identified under the Oregon Health Plan and private insurance;

(B) Be denied by the Oregon Health Plan for additional treatments;

(C) Be assessed by the professional, CIIS Services Coordinator and physician concluding that the child would benefit by continued services;

(D) Include MD orders and therapist's treatment plan with the authorization request;

(E) Identify the number of services provided in the plan year until Oregon Health Plan or private insurance renew; and

(F) Be reviewed by the CIIS Service Coordinator.

(b) The following physical, occupational, and speech and language therapy service is excluded:

(A) Services and treatments that supplant those provided under the Oregon Health Plan or other resources;

(B) Services and treatments that are not commonly accepted practice;

(C) Services and treatments offered by a non-licensed professional; and

(D) Services that are not defined under the approved State Medicaid Plan.

#### (15) NON-MEDICAL TRANSPORTATION.

(a) Non-medical transportation for children served by the MICP includes transportation provided in order to enable a child to gain access to MICP and other community services, activities and resources as specified in the Plan of Care.

(b) Whenever possible, family, neighbors, friends or community agencies that can provide non-medical transportation service to the child without charge must be utilized.

(c) Authorization of the service in the Plan of Care will identify the parameters and limits of non-medical transportation service for each child.

(d) Non-medical transportation service for the child must be provided through the most cost effective means identified and may be purchased through local commercial transportation or mileage reimbursement to a qualified provider.

(e) Non-medical transportation services are provided for the child and the child must always be present.

(f) Non-medical transportation excludes:

(A) Transportation to and from school and medical appointments;

(B) Transportation provided by parents, guardians or legally responsible adults;

(C) Transportation typically provided by parents for children of similar age without disabilities; and

(D) Mileage reimbursement in excess of the published federal rate at

[http://www.gsa.gov/Portal/gsa/ep/contentView.do?contentId=17943&contentType=GSA\\_BASIC](http://www.gsa.gov/Portal/gsa/ep/contentView.do?contentId=17943&contentType=GSA_BASIC).

(16) FAMILY TRAINING. Family training services include:

(a) Training and counseling services that increase the parent's capability to care for and maintain the child in the family home.

(b) Disability related resource materials including books, DVD and other media.

(A) To be authorized, the materials must relate to the child's specific disability.

(B) Resource materials will not be authorized when determined by the CIIS Service Coordinator to be available for loan from other available resources such as local, state or specialty libraries.

(c) Conferences, workshop registrations and group trainings that offer information, education, training and materials about the child's disability, medical and health conditions.

(A) To be authorized, the conference, workshop or group training must:

- (i) Be directly related to the child's disability; and
- (ii) Increase the knowledge and skills of the parent to care for and maintain the child in the family home.

(B) Conference, workshop or group training costs will not be authorized for:

- (i) Travel and lodging expenses;
- (ii) Meals not included in the registration cost;
- (iii) Services otherwise provided under the Oregon Health Plan or available through other resources; and
- (iv) Individual family members who are employed to care for the child.

(d) Counseling services that include those services provided by a MSW or psychologist to assist the parent with the stresses of having a child with a disability.

(A) Authorized counseling services must:

- (i) Be provided by licensed providers;
- (ii) Directly relate to the child's disability and the ability of the parents to care for their child;

(iii) Be short term; and

(iv) Have treatment goals prior approved by the CIIS Service Coordinator.

(B) Counseling services are excluded for:

(i) Therapy that could be obtained through Oregon Health Plan or other payment mechanisms;

(ii) Marriage therapy;

(iii) Therapy to address parent or other family members' psychopathology; and

(iv) Counseling that addresses stressors not directly attributed to the child eligible for the MICP.

#### (17) SPECIALIZED DIET.

(a) A specialized diet is specific to a child's medical condition or diagnosis, and includes specially prepared food or purchase of particular types of food needed to sustain a child in the family home. Specialized diet services include the purchase of registered dietician services. In order to be authorized:

(A) The diet must be ordered by a physician licensed by the Oregon Board of Medical Examiners;

(B) The diet must be periodically monitored by a dietician; and

(C) The foods must be on the approved list developed by the SPD;

(b) The maximum monthly purchase for specialized diet supplies must not exceed \$100 per month.

(c) The following will not be authorized:

(A) Special diets and dietician services otherwise available under the Oregon Health Plan or other sources;

- (B) Restaurant and prepared foods;
- (C) Vitamins; and
- (D) Food that constitutes a full nutritional regime.

(18) TRANSLATION.

(a) Translation service includes the services of a translator or interpreter required for a monolingual caregiver. Translation service is provided solely for the purpose of safely implementing the Plan of Care between parent, child and provider for those MICH services delivered within the family home. The purpose of translation services is to establish and maintain the same understanding of the child's care requirements between the private providers and the families who must work together to implement the Plan of Care.

(b) Translation services will not be authorized for administrative purposes or services available through Medicaid.

(19) NURSING DELEGATION.

(a) Nursing delegation is the purchase of individualized consultation from a registered nurse in order to delegate tasks of nursing care in select situations. Tasks of nursing care are those procedures that require nursing education and the license of a nurse to perform.

(b) Nursing delegation is required for unlicensed providers paid by SPD when the child requires tasks of nursing care.

(c) Nursing delegation occurs only after:

- (A) Assessing the child and the ability of the delegate to perform a specific task;
- (B) Teaching the task;
- (C) Documenting the task; and

(D) Ensuring on-going assessment of the child and re-evaluation and supervision of the delegate.

(d) Nursing delegation consultation must include:

(A) An assessment of the child that determines the child's condition is stable and predictable.

(B) An assessment of the unlicensed provider that determines the ability of the provider to understand the task and safely perform the task without direct nursing supervision. The task should not be delegated if, in the RN's judgment, the provider is unable to understand or perform the task in a safe and accurate manner.

(C) Provision of initial direction by teaching the task of nursing care, including:

(i) The proper procedure and technique;

(ii) Why the task of nursing care is necessary;

(iii) The risks associated with the task;

(iv) Anticipated side effects;

(v) The appropriate response to untoward or side effects;

(vi) Observation of the child's response;

(vii) Documentation of the task of nursing care; and

(viii) Observation of the unlicensed person performing the task to ensure the task is performed safely and accurately.

(D) Written instructions regarding the task including:

(i) A step by step outline of how the task is to be performed;

(ii) Signs and symptoms to be observed;

(iii) Guidelines for what to do if signs and symptoms occur;

(iv) Instruction to the provider that the task is specific to the child and is not transferable to other children nor can it be taught to other providers by the delegated provider; and

(v) Determination and documentation of the need and time frame for the next assessment and supervisory visit that may be often until the delegation is complete.

(I) The initial return assessment and supervisory visit must be made within 60 days from the initial date of the delegation.

(II) Subsequent visits must be no greater than every 180 days.

## (20) BEHAVIOR CONSULTATION.

(a) Behavior consultation is the purchase of individualized consultation provided in the family home only as needed, to respond to a specific problem or behavior identified by the parents and CIIS Service Coordinator. Behavior consultation will only be authorized to support families in their caregiving role, not as an educational service.

(b) Behavior consultation must include:

(A) Working with the parent to identify:

(i) Areas of a child's home life that are of most concern for the parent and child;

(ii) The formal or informal responses the parent or provider has used in those areas; and

(iii) The unique characteristics of the parent that could influence the responses that would work with the child.

(B) An assessment of the child that includes:

(i) Specific identification of the behaviors or areas of concern;

(ii) Identification of the settings or events likely to be associated with or to trigger the behavior;

(iii) Identification of early warning signs of the behavior;

(iv) Identification of the probable reasons that are causing the behavior and the needs of the child that are being met by this behavior, including the possibility that the behavior is:

(I) An effort to communicate;

(II) The result of a medical condition;

(III) The result of an environmental cause; or

(IV) The symptom of an emotional or psychiatric disorder.

(v) Evaluation and identification of the impact of disabilities, such as autism, blindness, deafness, etc., that impact the development of strategies and affect the child and the area of concern; and

(vi) Assessment of current communication strategies.

(C) Development of a variety of positive strategies that assist the parent and provider to help the child use acceptable, alternative actions to meet the child's needs in the most cost effective manner. These strategies may include changes in the physical and social environment, developing effective communication, and appropriate responses by a parent and provider to the early warning signs.

(i) Positive, preventive interventions must be emphasized.

(ii) The least intrusive intervention possible must be used.

(iii) Abusive or demeaning interventions must never be used.

(iv) The strategies must be adapted to the specific disabilities of the child and the style or culture of the parent.

(D) Development of emergency and crisis procedures to be used to keep the child, parent and provider safe. When interventions in the behavior of the child are necessary, positive, preventative, non-adversive interventions shall be utilized. CIIS will not pay a provider to use physical restraints on a child receiving MICP services.

(E) A written Behavior Support Plan that includes the following:

(i) Use of clear, concrete language that is understandable to the parent and provider; and

(ii) Describes the assessment and strategies and procedures to be used.

(F) Teaching the provider and parent the strategies and procedures to be used.

## (21) GOODS, SERVICES AND SUPPLIES.

(a) Goods, services and supplies paid for by SPD must be documented by receipts and the receipts maintained by CIIS for five years. If no receipt is available, the parent must submit to CIIS in writing, a statement that they received the goods, service or supplies and the date they were received on.

(b) SPD will protect its interest through any legally allowable means for any good, service, or supply as determined by SPD.

(c) SPD can expend its funds through contract, purchase order, use of credit card, payment directly to the vendor or any other legal payment mechanism.

Stat. Auth.: [ORS 409.050](#) & [ORS 417.345](#)

Stats. Implemented: [ORS 430.215](#), [ORS 427.007](#), [ORS 417.340 - ORS 417.355](#)

**411-355-0050 Standards for Providers Paid with MICP Funds**  
(Temporary Effective 4/15/2008 – 10/12/2008)

(1) PROVIDER QUALIFICATIONS.

(a) Each provider who is paid as a contractor, a self-employed person, or an employee of the parent to provide homemaker and chore, in-home daily care, respite, transportation, family training, occupational therapy, physical therapy, speech and language therapy, dietician, nursing delegation, or specialized supports must:

(A) Be at least 18 years of age;

(B) Maintain a drug-free work place;

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

(D) Not be on the current CMS list of excluded or debarred providers (<http://exclusions.oig.hhs.gov/>);

(E) Not be a parent, step parent or legal guardian of the child;

(F) Consent to and pass a criminal history check by DHS as described in [OAR chapter 407, division 007](#) and be free of convictions or founded allegations of abuse or neglect by the appropriate agency, including but not limited to DHS prior to enrolling as a provider.

(i) DHS requires a criminal history check for any provider having regular contact with children in the home.

(ii) DHS may require that the provider provide fingerprints and processing fees for the purpose of a criminal history check.

(iii) Criminal history rechecks will be performed bi-annually, or as needed, if a report of criminal activity has been received by DHS;

(G) Sign a Medicaid provider agreement and be enrolled as a Medicaid provider prior to delivery of any in-home daily care; and

(H) Demonstrate by background, education, references, skills, and abilities that the individual is capable of safely and adequately performing the care required. Such demonstration must be confirmed in writing by the parent and include:

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

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

(iii) Ability to communicate with the child;

(iv) Training of a nature and type sufficient to ensure that the provider has knowledge of emergency procedures specific to the child being cared for;

(v) Current, valid, and unrestricted appropriate professional license or certification where care and supervision requires specific professional education, training and skill;

(vi) Understanding requirements of maintaining confidentiality and safeguarding the child's information; and

(vii) If providing transportation, a valid driver's license and proof of insurance, as well as other license or certification

that may be required under state and local law depending on the nature and scope of the transportation service.

(b) A provider is not an employee of DHS or the state of Oregon and is not eligible for state benefits and immunities, including but not limited to, Public Employees' Retirement System or other state benefit programs.

(c) If the provider or billing provider is an independent contractor, during the terms of the contract, the provider or billing provider must maintain in force at the providers own expense, professional liability insurance with a combined single limit of not less than \$1,000,000 each claim, incident or occurrence. Professional liability insurance is to cover damages caused by error, omission, or negligent acts related to the professional services.

(A) The provider or billing provider must furnish evidence of insurance coverage to CIIS prior to beginning work.

(B) There must be no cancellation of insurance coverage without 30 days written notice to CIIS.

(d) If the provider is an employee of the parent, the provider must submit to CIIS documentation of immigration status required by federal statute. CIIS will maintain documentation of immigration status required by federal statute, as a service to the parent.

(e) A provider must immediately notify the parent and CIIS, if appropriate, of injury, illness, accidents, or any unusual circumstances that may have a serious effect on the health, safety, physical, emotional well being or level of service required by the child for whom services are being provided.

(f) Providers described in [ORS chapter 418](#) are required to report suspected child abuse to the police or their local office of DHS in the manner described in [ORS chapter 418](#).

(2) BEHAVIOR CONSULTANTS. Behavior consultants providing specialized consultations must:

(a) Have education, skills, and abilities necessary to provide behavior consultation services as outlined in [OAR 411-355-0040](#) including knowledge and experience in developing plans based on positive behavioral theory and practice;

(b) Have current certification demonstrating completion of Level II training in Oregon Intervention Systems; and

(c) Submit a resume to CIIS indicating at least one of the following:

(A) A bachelor's degree in special education, psychology, speech and communication, occupational therapy, recreation, art or music therapy, or a behavioral science field and at least one year of experience with people with developmental disabilities who present difficult or dangerous behaviors; or

(B) Three years experience with people with developmental disabilities who present difficult or dangerous behaviors and at least one year of that experience must include providing the services of a behavior consultant.

(C) Additional education or experience may be required to safely and adequately provide the services described in [OAR 411-355-0040](#).

(3) NURSES. Nurses providing direct care or delegation services must:

(a) Have a current Oregon nursing license; and

(b) Submit a resume to CIIS indicating the education, skills, and abilities necessary to provide nursing services in accordance with state law, including at least one year of experience with people with developmental disabilities.

(4) ENVIRONMENTAL MODIFICATION CONSULTANTS. Environmental modification consultants must be licensed general contractors and have experience evaluating homes, assessing individual needs and developing cost effective plans that will make the home safe and accessible for the individual.

(5) ENVIRONMENTAL ACCESSIBILITY ADAPTATION PROVIDERS. Environmental accessibility adaptation providers must be building contractors licensed as applicable under either [OAR chapter 812](#), Construction Contractor's Board, or [OAR chapter 808](#), Landscape Contractors Board.

(6) FAMILY TRAINING PROVIDERS. Providers of family training must be:

- (a) Psychologists licensed under [ORS 675.030](#);
- (b) Social workers licensed under [ORS 675.530](#);
- (c) Counselors licensed under [ORS 675.715](#); or
- (d) Medical professionals licensed under [ORS 677.100](#).

(7) DIETICIANS. Dieticians providing specialized diets must be licensed according to [ORS 691.415 through 691.465](#).

Stat. Auth.: [ORS 409.050](#) & [ORS 417.345](#)

Stats. Implemented: [ORS 430.215](#), [ORS 427.007](#), [ORS 417.340 - ORS 417.355](#)

**411-355-0060 Standards for Provider Organizations Paid by SPD**  
(*Temporary Effective 4/15/2008 – 10/12/2008*)

(1) A provider organization may not require additional certification to provide respite, community inclusion or emergent services if they are licensed or certified as:

- (a) 24-hour residential programs under [OAR chapter 411, division 325](#);
- (b) Foster homes for children with developmental disabilities under [OAR chapter 411, division 346](#);
- (c) Child care centers under [OAR chapter 414, division 300](#); or
- (d) Organizational camps under [OAR chapter 333, division 030](#).

(2) Provider organizations licensed or certified as described in section (1) of this rule may be considered sufficient demonstration of ability to:

- (a) Recruit, hire, supervise and train qualified staff;
- (b) Provide services according to Individual Support Plans; and
- (c) Develop and implement operating policies and procedures required for managing an organization and delivering services, including provisions for safeguarding individuals receiving services.

(3) A provider organization that wishes to enroll with the MICP must maintain and submit evidence upon initial application and upon request by CIIS the following:

- (a) Current criminal history checks on each employee who will be providing services in a home showing that the employee has no disqualifying criminal convictions;
- (b) Professional liability insurance that meets the requirements of [OAR 411-355-0050](#); and
- (c) Any licensure required of the agency by the state of Oregon or federal law or regulation.

(4) Provider organizations must assure that all individuals directed by the provider organization as employees, contractors, or volunteers to provide services paid for with MICP funds meet standards for qualification of providers outlined in [OAR 411-355-0050](#).

Stat. Auth.: [ORS 409.050](#) & [ORS 417.345](#)

Stats. Implemented: [ORS 430.215](#), [ORS 427.007](#), [ORS 417.340 - ORS 417.355](#)

**411-355-0070 Standards for General Business Providers paid by SPD**  
(Temporary Effective 4/15/2008 – 10/12/2008)

General business providers providing services to children paid with MICP funds must hold any current license appropriate to function required by the state of Oregon or federal law or regulation.

- (1) Home health agencies must be licensed under [ORS 443.015](#).
- (2) In-home care agencies must be licensed under [ORS 443.315](#).
- (3) Public transportation providers must be regulated according to established standards and private transportation providers must have business license and drivers licensed to drive in Oregon.
- (4) Vendors and medical supply companies providing specialized medical equipment and supplies must have a current retail business license and, if vending medical equipment, be enrolled as Medicaid providers through the Division of Medical Assistance Programs.
- (5) Providers of personal emergency response systems must have a current retail business license.
- (6) Vendors and supply companies providing specialized diets must have a current retail business license.

Stat. Auth.: [ORS 409.050](#) & [ORS 417.345](#)

Stats. Implemented: [ORS 430.215](#), [ORS 427.007](#), [ORS 417.340 - ORS 417.355](#)

### **411-355-0080 Documentation Needs for In-Home Daily Care and Specialized Consultation**

*(Temporary Effective 4/15/2008 – 10/12/2008)*

- (1) Original, accurate time sheets of MICP services, dated and signed by the provider and the parent after the services are provided, must be maintained and submitted to CIIS with any request for payment for services.
- (2) Requests for payment for MICP services must:
  - (a) Include the voucher that prior authorized the services;
  - (b) Be signed by the parent of the child after the services were delivered, verifying that the services were delivered as billed; and

(c) Be signed by the provider or billing provider, acknowledging agreement upon request with the terms and condition of the voucher and attesting that the hours were delivered as billed.

(3) Documentation of provided services must be provided to the CIIS Service Coordinator and maintained in the child's residence or the place of business of the provider of services. Payment can only be made for services related to the child's disability as outlined in the Plan of Care.

(4) Vouchers and time sheets will be retained by CIIS for at least five years from the date of service.

(5) Behavior consultants must submit to CIIS the following written in clear, concrete language, understandable to the parent and provider:

(a) An evaluation of the child, the parent's concerns, the environment of the child, current communication strategies used by the child and used by others with the child, and any other disability of the child that would impact the appropriateness of strategies to be used with the child; and

(b) Any behavior plan or instructions left with the parent or provider that describes the suggested strategies to be used with the child.

(6) Nurses providing delegation services must submit to CIIS the following written in clear, concrete language, understandable to the parent and provider:

(a) A copy of the written statement acknowledging the specific provider receiving training, the nursing tasks delegated to that provider and the date of the next scheduled review; and

(b) Any nursing delegation plan or instructions left with the parent or provider.

(7) Documentation of provided services must be maintained by the billing provider for at least seven years from the date of service.

(8) Upon written request from DHS, the Oregon Department of Justice Medicaid Fraud Unit or Centers for Medicare and Medicaid Services or their authorized representatives, providers or billing providers must furnish

requested documentation immediately or within the time frame specified in the written request. Failure to comply with the request may be deemed by SPD as reason to deny or recover payments.

(9) Access to records by DHS inclusive of medical or nursing records, behavior or psychiatric records, and financial records, does not require authorization or release by the parent.

Stat. Auth.: [ORS 409.050](#) & [ORS 417.345](#)

Stats. Implemented: [ORS 430.215](#), [ORS 427.007](#), [ORS 417.340 - ORS 417.355](#)

### **411-355-0090 Payment for In-Home Daily Care and Specialized Consultants**

*(Temporary Effective 4/15/2008 – 10/12/2008)*

(1) Payment for MICP services described in [OAR 411-355-0040](#) will be made after services are delivered as authorized and required documentation received by the CIIS Service Coordinator.

(2) Rates will be individually negotiated by SPD, based on the individual needs of the child, within the guidelines published by SPD.

(3) Authorization must be obtained prior to the delivery of any services for those services to be eligible for payment.

(4) Providers must request authorization for payment of services provided during an unforeseeable emergency on the first business day following the emergency service. The CIIS Service Coordinator will determine if the service is eligible for payment.

(5) SPD will make payment to the individual employee of the parent on behalf of the parent. SPD will pay the employer's share of FICA and withhold the employee's share of FICA as a service to the parent as the provider's employer.

(6) The delivery of authorized services must occur so that any individual employee of the parent does not exceed forty hours per work week. Services will not be authorized that require the payment of overtime, without written prior authorization by the CIIS Supervisor.

(7) SPD will not pay for any hours of service provided by a provider beyond 16 hours in any 24-hour period unless the hours are part of a 24-hour rate negotiated by SPD and there is evidence the child can be safely served with a 24-hour rate. Exceptions shall require written authorization by the CIIS Supervisor.

(8) Holidays are paid at the same rate as non-holidays.

(9) Travel time to reach the job site is not reimbursable.

(10) Requests for payments must be submitted to CIIS within three months of the delivery of services in order to be eligible for payment.

(11) Payment by SPD for MICP services will be considered full payment for the services rendered under Title XIX. Under no circumstances will the provider or billing providers demand or receive additional payment for these services from the parent or any other source.

(12) Medicaid funds are the payor of last resort. The provider or billing provider must bill all third party resources before Medicaid unless another arrangement is agreed upon by CIIS in the Plan of Care.

(13) SPD reserves the right to make a claim against any third party payer before or after making payment to the provider of service.

(14) SPD may void without cause prior authorizations that have been issued.

(15) Upon submission of the voucher for payment, the provider agrees that it has complied with:

(a) All SPD rules in [OAR chapter 411](#);

(b) Title V, Section 504 of the Rehabilitation Act of 1973;

(c) Title II and Title III of the Americans with Disabilities Act of 1991;  
and

(d) Title VI of the Civil Rights Act of 1964.

(16) All billings must be for services provided within the provider's licensure.

(17) It is the responsibility of the provider to submit true and accurate information on the voucher. Use of a billing provider does not abrogate the provider's responsibility for the truth and accuracy of submitted information.

(18) No person will submit to CIIS:

(a) A false voucher for payment;

(b) A voucher for payment that has been or is expected to be paid by another source; or

(c) Any voucher for services that have not been provided.

(19) SPD will only make payment to the enrolled provider who actually performs the service or the enrolled billing provider. Federal regulations prohibit SPD from making payment to collection agencies.

(20) Payments may be denied if any provisions of these rules are not complied with.

(21) Overpayments will be recouped. The amount to be recovered:

(a) Will be the entire amount determined or agreed to by SPD;

(b) Is not limited to the amount determined by criminal or civil proceedings; and

(c) Will include interest to be charged at allowable state rates.

(22) SPD will deliver to the provider, by registered or certified mail, or in person, a request for repayment of the overpayment or notification of recoupment of future payments.

(23) Payment schedules with the interest can be negotiated at the discretion of SPD.

(24) If recoupment is sought from a parent who received services, contested hearing rights in [OAR 411-355-0110](#) will apply.

Stat. Auth.: [ORS 409.050](#) & [ORS 417.345](#)

Stats. Implemented: [ORS 430.215](#), [ORS 427.007](#), [ORS 417.340 - ORS 417.355](#)

## **411-355-0100 Complaints and Grievances**

*(Temporary Effective 4/15/2008 – 10/12/2008)*

(1) COMPLAINTS AND GRIEVANCES. CIIS will address all grievances in accordance with CIIS written policies, procedures and rules. Copies of the procedures for resolving grievances will be maintained on file at the CIIS offices. These policies and procedures, at minimum, will address:

(a) Informal resolution. The parent or legal guardian of a child must have an opportunity to informally discuss and resolve any complaint or grievance regarding action taken by CIIS that is contrary to law, rule, or policy and that does not meet the criteria for an abuse investigation. Choosing an informal resolution does not preclude the parent to pursue resolution through formal grievance processes.

(b) Receipt of complaints. CIIS will maintain a log of all complaints regarding the MICP provision of services received via phone calls, e-mails or otherwise in writing.

(A) The complaint log will, at a minimum, include the following:

(i) The date the complaint was received;

(ii) The person taking the complaint;

(iii) The nature of the complaint;

(iv) The name of the person making the complaint, if known; and

(v) The disposition of the complaint.

(B) Child welfare and law enforcement reports of abuse or neglect will be maintained separately from the central complaint and grievance log.

(c) Response to complaints. CIIS staff response to the complaint will be provided within five working days following receipt of the complaint and will include:

(A) An investigation of the facts supporting or disproving the complaint; and

(B) Agreement to resolve the complaint. Any agreement to resolve the complaint will be reduced to writing and will be specifically approved by the grievant. The grievant will be provided with a copy of such agreement.

(d) Review by the CIIS Manager. If the complaint involves CIIS staff or services, or if the complaint is not or cannot be resolved with CIIS staff, a review by the CIIS Manager will be completed. CIIS Manager response to the complaint will be made in writing, provided within 30 days following receipt of the complaint and include a response to the complaint as described in section (1)(c) of this rule.

(e) Third-party review when complaints are not resolved by the CIIS Manager. Unless the grievant is a Medicaid recipient who has elected to initiate the Medicaid Fair Hearing process according to [OAR 411-355-0110](#), a complaint involving the provision of service or a service provider may be submitted to SPD for an administrative review.

(A) The grievant must submit to SPD a request for an administrative review within 15 days from the date of the decision by the CIIS Manager.

(B) Upon receipt of a request for an administrative review, the Assistant Director will appoint an Administrative Review Committee and name the Chairperson. The Administrative Review Committee will be comprised of two representatives of SPD. Committee representatives must not have any direct involvement in the provision of services to the grievant or have a conflict of interest in the specific case being grieved.

(C) The Administrative Review Committee will review the complaint and the decision by the CIIS Manager and make a recommendation to the Assistant Director within 45 days of

receipt of the complaint unless the grievant and the Administrative Review Committee mutually agree to an extension.

(D) The Assistant Director will consider the report and recommendations of the Administrative Review Committee and make a final decision. The decision will be made in writing and issued within 10 days of receipt of the recommendation by the Administrative Review Committee. The written decision will contain the rationale for the decision.

(E) The decision of the Assistant Director is final. Any further review is pursuant to the provision of [ORS 183.484](#) for judicial review.

(f) Documentation of complaint. Documentation of each complaint and its resolution will be filed or noted in the grievant's record.

(2) NOTIFICATION. Upon enrollment and annually thereafter, the CIIS will inform each child's parent orally and in writing, using language, format, and methods of communication appropriate to the parent's needs and abilities, of the following:

(a) CIIS grievance policy and procedures, including the right to an administrative review and the method to obtain an administrative review; and

(b) The right of a Medicaid recipient to a Medicaid Fair Hearing as per [OAR 411-355-0110](#) and of the method to obtain a Medicaid Fair Hearing.

Stat. Auth.: [ORS 409.050](#) & [ORS 417.345](#)

Stats. Implemented: [ORS 430.215](#), [ORS 427.007](#), [ORS 417.340 - ORS 417.355](#)

**411-355-0110 Denial, Termination, Suspension, Reduction or Eligibility for Services for Individual Medicaid Recipients**  
(Temporary Effective 4/15/2008 – 10/12/2008)

(1) MEDICAID FAIR HEARING RIGHTS. Each time CIIS takes an action to deny, terminate, suspend or reduce a child's access to services covered under Medicaid, CIIS will notify the child's parent of the right to a hearing and the method to obtain a hearing. CIIS will mail the notice by certified mail, or personally serve it to the child's parent 10 days or more prior to the effective date of an action.

(a) CIIS will use, Notice of Hearing Rights, or a comparable SPD-approved form for such notification. This notification requirement will not apply if an action is part of, or fully consistent with, the Plan of Care, or the child's parent has agreed with the action by signature to the Plan of Care.

(b) The parent may appeal a denial of a request for additional or different services only if the request has been made in writing and submitted to the Department of Human Services, Seniors and People with Disabilities, CIIS, 500 Summer St. N.E., E10 Salem, Oregon.

(c) A notice required by section (1) of this rule will include:

(A) The action CIIS intends to take;

(B) The reasons for the intended action;

(C) The specific Oregon Administrative Rules that supports or the change in federal or state law that requires the action;

(D) The appealing party's right to request a Medicaid Fair Hearing in accordance with [OAR chapter 137](#), Oregon Attorney General's Model Rules and [42 CFR Part 431, Subpart E](#);

(E) A statement that CIIS files on the subject of the Medicaid Fair Hearing automatically become part of the Medicaid Fair Hearing record upon default for the purpose of making a prima facie case;

(F) A statement that the actions specified in the notice will take effect by default if the CIIS representative does not receive a request for a Medicaid Fair Hearing from the party within 45 days from the date that CIIS mails the notice of action;

(G) In cases of an action based upon a change in law, the circumstances under which a Medicaid Fair Hearing will be granted; and

(H) An explanation of the circumstances under which MICP services will be continued if a Medicaid Fair Hearing is requested.

(d) If the parent disagrees with the decision or proposed action of CIIS to deny, terminate, suspend or reduce a child's access to services covered under Medicaid, the parent may request a Medicaid Fair Hearing as provided in [ORS 183](#). The request for a Medicaid Fair Hearing must be in writing on Form [DHS 443](#) and signed by the parent. The signed form ([DHS 443](#)) must be received by CIIS within 45 days from the date of CIIS notice of denial.

(e) The parent may request an expedited Medicaid Fair Hearing if the parent feels that there is immediate, serious threat to the child's life or health should the normal timing of the Medicaid Fair Hearing process be followed.

(f) If the parent requests a Medicaid Fair Hearing before the effective date of the proposed actions and requests that the existing services be continued, CIIS will continue the services.

(A) CIIS will continue the services until whichever of the following occurs first, but in no event will services be continued in excess of 90 days from the date of the parent's request for a Medicaid Fair Hearing:

(i) The current authorization expires;

(ii) The hearings officer issues a proposed order and CIIS renders a final order about the complaint; or

(iii) The child is no longer eligible for Medicaid benefits.

(B) CIIS will notify the child's parent that it is continuing the service. The notice will inform the parent that, if the hearing is resolved against the child, SPD may recover the cost of any

services continued after the effective date of the continuation notice.

(g) CIIS will reinstate services if:

(A) CIIS takes an action without providing the required notice and the parent requests a Medicaid Fair Hearing;

(B) CIIS does not provide the notice in the time required in this rule and the parent requests a Medicaid Fair Hearing within 10 days of the mailing of the notice of action; or

(C) The post office returns mail directed to the parent, but the location of the parent becomes known during the time that the child is still eligible for services.

(h) CIIS will promptly correct the action taken up to the limit of the original authorization, retroactive to the date the action was taken, if the Medicaid Fair Hearing decision is favorable to the child, or CIIS decides in the child's favor before the Medicaid Fair Hearing.

(i) The CIIS representative and the parent may have an informal conference, without the presence of the hearings officer, to discuss any of the matters listed in [OAR 137-003-0575](#), Prehearing Conferences. The informal conference may also be used to:

(A) Provide an opportunity for CIIS and the parent to settle the matter;

(B) Ensure the child's parent understands the reason for the action that is the subject of the Medicaid Fair Hearing request;

(C) Give the parent an opportunity to review the information that is the basis for that action;

(D) Inform the parent of the rules that serve as the basis for the contested action;

(E) Give the parent and CIIS the chance to correct any misunderstanding of the facts;

(F) Determine if the parent wishes to have any witness subpoenas issued; and

(G) Give CIIS an opportunity to review its action.

(j) The child's parent may, at any time prior to the hearing date, request an additional conference with the CIIS representative. At the CIIS representative's discretion, the CIIS representative may grant such a conference if it will facilitate the Medicaid Fair Hearing process.

(k) CIIS may provide the parent the relief sought at any time before the final order is served.

(l) A parent may withdraw a Medicaid Fair Hearing request at any time. The withdrawal will be effective on the date CIIS or the hearings officer receives it. CIIS will send a final order confirming the withdrawal to the last known address of the child's parent. The child's parent may cancel the withdrawal up to 10 workdays following the date such an order is issued.

## (2) PROPOSED AND FINAL ORDERS.

(a) In a contested case, the hearings officer will serve a proposed order on the child and CIIS.

(b) If the hearings officer issues a proposed order that is adverse to the child, the child's parent may file exceptions to the proposed order to be considered by CIIS. The exceptions must be in writing and must reach CIIS not later than 10 days after service of the proposed order. The child's parent may not submit additional evidence after this period unless CIIS prior approves.

(c) After receiving the exceptions, if any, CIIS may adopt the proposed order as the final order or may prepare a new order. Prior to issuing the final order, CIIS may issue an amended proposed order.

(3) The performing or billing provider must submit relevant documentation to CIIS within five working days at the request of CIIS when a hearing has been requested.

Stat. Auth.: [ORS 409.050](#) & [ORS 417.345](#)

Stats. Implemented: [ORS 430.215](#), [ORS 427.007](#), [ORS 417.340 - ORS 417.355](#)

### **411-355-0120 Sanctions for MICP Providers**

*(Temporary Effective 4/15/2008 – 10/12/2008)*

(1) Sanctions may be imposed on a provider when any of the following conditions have been determined by CIIS to have occurred:

- (a) The provider has been convicted of any crime that would have resulted in an unacceptable criminal history check upon hiring or issuance of a provider number;
- (b) The provider has been convicted of unlawfully manufacturing, distributing, prescribing or dispensing a controlled substance;
- (c) The provider's license has been suspended, revoked, otherwise limited or surrendered;
- (d) The provider has failed to safely and adequately provide the services authorized;
- (e) The provider has had an allegation of abuse or neglect substantiated against them;
- (f) The provider has failed to cooperate with any investigation or grant access to or furnish, as requested, records or documentation;
- (g) The provider has billed excessive or fraudulent charges or has been convicted of fraud;
- (h) The provider has made a false statement concerning conviction of crime or substantiation of abuse;
- (i) The provider has falsified required documentation;
- (j) The provider has not adhered to the provisions of these rules; or

(k) The provider has been suspended or terminated as a provider by another agency within DHS.

(2) The following sanctions may be imposed on a provider by CIIS:

(a) The provider may be terminated from participation in the MICP;

(b) The provider may be suspended from participation in the MICP for a specified length of time or until specified conditions for reinstatement are met and approved by the state; and

(c) SPD may withhold payments to the provider.

(3) If CIIS makes a decision to sanction a provider, the provider will be notified by mail of the intent to sanction.

(a) The provider may appeal a sanction by requesting an administrative review by the Assistant Director of SPD.

(b) For an appeal to be valid, written notice of the appeal must be received by SPD within 45 days of the date the sanction notice was mailed to the provider.

(c) The provider must appeal a sanction separately from any appeal of audit findings and overpayments.

(4) At the discretion of CIIS, providers who have previously been terminated or suspended by any division within DHS may not be re-enrolled as providers of Medicaid services.

Stat. Auth.: [ORS 409.050](#) & [ORS 417.345](#)

Stats. Implemented: [ORS 430.215](#), [ORS 427.007](#), [ORS 417.340 - ORS 417.355](#)