

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

**CHAPTER 411
DIVISION 415**

**CASE MANAGEMENT SERVICES FOR INDIVIDUALS WITH
INTELLECTUAL OR DEVELOPMENTAL DISABILITIES**

EFFECTIVE DECEMBER 15, 2022

411-415-0010 Statement of Purpose

(Adopted 06/29/2016)

- (1) The rules in OAR chapter 411, division 415 prescribe standards, responsibilities, and procedures for the delivery of case management services to individuals with intellectual or developmental disabilities.

- (2) Providers of case management services are limited to employees of --
 - (a) A Community Developmental Disabilities Program (CDDP);
 - (b) A Support Services Brokerage (Brokerage);
 - (c) Other public or private agencies contracted by a local community mental health authority; or
 - (d) The Department of Human Services, Office of Developmental Disabilities Services.

- (3) Case management services are delivered using person-centered practices to assist individuals in accessing needed medical, employment, social, educational, and other services. Case management services include, but are not limited to:
 - (a) Assessment and periodic reassessment of individual needs and preferences;
 - (b) Development and periodic revision of the Individual Support Plan;

(c) Referral and related activities;

(d) Monitoring; and

(e) Follow-up activities.

(4) Services provided under these rules are intended to identify, strengthen, expand, and where required, supplement private, public, formal, and informal support available to individuals with intellectual or developmental disabilities. The case management services described in these rules encourage the exercising of self-determination in the design and direction of the individual receiving services.

Stat. Auth.: ORS 409.050, 427.104, 427.154, 430.662

Stats. Implemented: ORS 427.005, 427.007, 427.101, 427.154-427.163, 430.212, 430.610, 430.620, 430.662-430.695

411-415-0020 Definitions and Acronyms

(Amended 12/28/2018)

In addition to the following definitions, OAR 411-317-0000 includes general definitions for words and terms frequently used in OAR chapter 411, division 415. If a word or term is defined differently in OAR 411-317-0000, the definition in this rule applies.

(1) "Affiliated Entity" means an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies, and insurance companies), or a political subdivision or instrumentality (including a municipal corporation of a state), that has an incident of ownership in the CME.

(2) "Case Management Contact" means a reciprocal interaction between a case manager and an individual or their legal or designated representative (as applicable).

(3) "Case Management Services" mean the functions performed by a case manager that are funded by the Department. Case management services include, but are not limited to the following:

- (a) Assessment of support needs.
 - (b) Developing an ISP or Annual Plan that may include authorized services.
 - (c) Information and referral for services.
 - (d) Monitoring the effectiveness of services and supports.
- (4) "CDDP" means "Community Developmental Disabilities Program".
- (5) "CIIS" means "Children's Intensive In-Home Services".
- (6) "CME" means "Case Management Entity". A CME includes the following:
- (a) A CDDP.
 - (b) A Brokerage.
 - (c) CIIS.
 - (d) The Children's Residential Program of the Department.
- (7) "Geographic Service Area" means the area within the state of Oregon where a CME is approved to provide developmental disabilities services. The geographic service area for a CDDP is the county.
- (8) "IEP" means "Individualized Education Program".
- (9) "Incident of Ownership" means an ownership interest, an indirect ownership interest, or a combination of direct and indirect ownership interests.
- (10) "Indirect Ownership Interest" means an ownership interest in an entity that has an ownership interest in another entity. Indirect ownership interest includes an ownership interest in an entity that has an indirect ownership interest in another entity.
- (11) "Initial ISP" means the first ISP:

- (a) For an individual who is newly entered into case management services; or
 - (b) Following a period when an individual did not have an authorized ISP.
- (12) "Initial Level of Care" means the first level of care determination:
- (a) For an individual who is newly accessing Community First Choice state plan or waiver services; or
 - (b) Following a period when an individual was not determined to meet level of care.
- (13) "Initial ONA" means the first ONA:
- (a) For an individual who is newly accessing Community First Choice state plan or waiver services; or
 - (b) Following a period when an individual did not have a current ONA.
- (14) "ISP" means "Individual Support Plan".
- (15) "Level of Care" means ICF/IID Level of Care, Hospital Level of Care, or Nursing Facility Level of Care, as defined in OAR 411-317-0000.
- (16) "OHP" means "Oregon Health Plan".
- (17) "ONA" means "Oregon Needs Assessment".
- (18) "Owner" means a person with an ownership interest.
- (19) "Ownership Interest" means the possession of equity in the capital, stock, or profits of an entity.
- (20) "SSI" means "Supplemental Security Income".
- (21) "These Rules" mean the rules in OAR chapter 411, division 415.

(22) "Transition Period" means the first 60 calendar days after an individual enters a new program type, setting, or CME.

Stat. Auth.: ORS 409.050, 427.104, 427.105, 427.115, 427.154, 430.662
Stats. Implemented: ORS 427.007, 427.104, 427.105, 427.115, 427.121, 427.154, 427.160, 430.212, 430.215, 430.610, 430.620, 430.662, 430.664

411-415-0030 Eligibility for Case Management Services - Entry, Exit, Transfers

(Amended 12/15/2022)

(1) An individual may not be denied case management 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) To be eligible for case management services, an individual must be determined eligible for developmental disabilities services by the CDDP of the county of origin as described in OAR 411-320-0080.

(a) An adult who is eligible for case management services who lives in their own or family home may select to have case management services provided by a CDDP or a Brokerage, when the Brokerage has the capacity to provide the service according to OAR 411-340-0110. When a local Brokerage is selected, but the local Brokerage does not have the capacity to provide case management, case management must be delivered by the local CDDP until the local Brokerage has capacity.

(b) A child or adult selecting services from a residential program may only have case management services delivered by a CDDP or the Department.

(c) A child who is eligible for and receives family support services as described in OAR chapter 411, division 305 may only have case management services delivered by a CDDP.

(d) A child who is eligible for and enrolled in a CIIS program as described in OAR chapter 411, division 300 may only have case

management services delivered by the Department, and by the CDDP with respective roles identified in the ISP.

(e) In order to receive case management services, an individual, or as applicable the legal representative of the individual, must accept the following supports:

(A) Assistance from a CME with the design and management of Department-funded services and supports;

(B) Abuse investigations;

(C) The presence of a case manager at required entry or exit meetings;

(D) Monitoring of services (when applicable) in accordance with OAR 411-415-0090;

(E) Case management contacts as described in OAR 411-415-0090; and

(F) Case manager access to the service record.

(3) To be eligible for case management services delivered by a CIIS services coordinator, an individual must meet the eligibility requirements for a CIIS program in OAR 411-300-0120 and be enrolled to the program.

(4) ENTRY INTO CASE MANAGEMENT.

(a) The county of origin must enter an individual who is eligible for developmental disabilities services into case management services.

(b) Upon entry into case management services, the CME must provide an explanation of the individual rights described in OAR 411-318-0010 to the individual and if applicable the legal representative of the individual.

(c) The CME must assure the availability of a case manager to address the support needs of the individual and any emergency or crisis. The CME must appropriately document the assignment of the

case manager in the service record for the individual and the CME must accurately report entry into case management services in the Department's electronic payment and reporting system.

(A) Within 10 business days from the date of entry, the CME must send a written notice to the individual, and as applicable the legal representative of the individual, that includes the name, telephone number, and location of the case manager assigned to the individual.

(B) The CME must ask the individual, and as applicable the legal representative of the individual, to identify any family and other advocates to whom the CME must provide the name, telephone number, and location of the case manager.

(5) EXIT FROM CASE MANAGEMENT.

(a) A CME retains responsibility for providing case management services to an individual until the responsibility is terminated and the individual exits from case management services as described in this rule.

(b) A CME must exit an individual from case management services when any of the following occur:

(A) The individual, or as applicable the legal representative of the individual, submits a signed written request terminating case management services, or such a request is made by telephone and documented in the service record for the individual.

(B) The individual dies.

(C) The individual is determined to be ineligible for:

(i) Developmental disabilities services in accordance with OAR 411-320-0080; or

(ii) CIIS in accordance with OAR chapter 411, division 300.

(D) The individual is not a resident of Oregon.

(E) The individual moves out of the geographic service area of the CME. If an individual takes up residence in another geographic service area, a CME that operates in the new geographic service area may enter the individual into case management services.

(i) If an individual receiving case management from a CDDP moves to a new geographic service area, the original CDDP may continue to provide case management services to the individual. The individual, or as applicable the legal or designated representative of the individual, must request to retain case management services from the original CDDP, and both the original CDDP and the CDDP in the new location must agree in writing to the responsibilities for delivering case management services.

(ii) If an adult individual receiving case management from a Brokerage moves to a new geographic service area, the Brokerage may continue to provide case management services. The adult individual, or as applicable the legal or designated representative of the individual, must request to retain case management services from the original Brokerage, and the Department must approve. Approval may be granted if the Brokerage is available to meet the case management standards described in OAR 411-415-0050 timely and adequately and the Brokerage has the capacity to deliver the case management services.

(iii) In the case of a child moving into a foster home, host home, or 24-hour residential program, the county of parental residency or court jurisdiction must retain responsibility for case management services unless:

(I) The child is entering into a state operated group home; or

(II) An agreement between the CDDPs and the legal representative of the child is reached that describes the responsibilities for case management services.

(F) After the individual either cannot be located or has not responded after a minimum of 30 calendar days of repeated attempts by CME staff to complete ISP development, annual plan development, or monitoring activities.

(G) After the individual has been incarcerated, hospitalized, or in a nursing facility, for longer than 12 consecutive months.

(c) An exit from case management services is an exit from all developmental disabilities services, except in the case of a move by an individual within the state, but out of the geographic service area of the CME.

(d) When an individual is being exited from case management services, the CME must issue a Notification of Planned Action consistent with OAR 411-318-0020 to notify the individual, and as applicable the legal representative of the individual, of the intent of the CME to terminate case management services and any other developmental disabilities services. A Notification of Planned Action is not required when the exit from case management is due to:

(A) The death of the individual; or

(B) A move by the individual within the state, but out of the geographic service area of the CME.

(e) When a child is exited from a CIIS program, the child may remain enrolled at the CDDP for case management services if the child is eligible for developmental disabilities services according to OAR 411-320-0080.

(6) CHANGE OF CASE MANAGEMENT SERVICES PROVIDER.

(a) An available CME, chosen by the individual, or as applicable the legal or designated representative of the individual, must enter an eligible individual into the CME within 10 calendar days from the

request to change the CME unless a later date is mutually agreed upon by the individual, or as applicable the legal or designated representative of the individual, and the CMEs involved in the change. The agreement must be documented in the service record by the CME of the individual at the time of the agreement.

(b) A change in CME may only be to a CDDP or Brokerage that is within the same geographic service area as the residence of the individual, unless an exception is approved by the Department.

(c) The exiting CME must assure all relevant information is provided to the entering CME to assist the entering CME in implementing an ISP or Annual Plan that best meets the support needs of the individual, including, but not limited to:

(A) A current application on the Department-mandated application;

(B) A copy of the level of care determination, if present;

(C) A copy of the current functional needs assessment, if present or if unavailable in the Department's electronic payment and reporting system;

(D) A copy of eligibility determination and records used to make the determination;

(E) Copies of financial eligibility information;

(F) Copies of any legal documents, such as guardianship papers, conservatorship, civil commitment status, probation, and parole;

(G) Copies of progress notes; and

(H) A copy of the current ISP or Annual Plan and any protocols, Service Agreements, Functional Behavior Assessments, Behavior Support Plans, and Nursing Service Plans.

Stat. Auth.: ORS 409.050, 427.104, 427.105, 427.115, 427.154, 430.212, 430.662

Stats. Implemented: ORS 409.010, 427.005-427.154, 430.212, 430.215, 430.610, 430.620, 430.662, 430.664

411-415-0040 Case Manager Staff Requirements

(Amended 12/28/2018)

(1) CASE MANAGER. The case manager must have knowledge of the public service system for developmental disabilities services in Oregon and at least:

(a) A bachelor's degree in behavioral science, social science, or a closely related field;

(b) A bachelor's degree in any field and one year of human services related experience, such as work providing assistance to people and groups with issues, such as economical disadvantages, employment, abuse and neglect, substance abuse, aging, disabilities, prevention, health, cultural competencies, or housing;

(c) An associate's degree in a behavioral science, social science, or a closely related field and two years of human services related experience, such as work providing assistance to people and groups with issues, such as economical disadvantages, employment, abuse and neglect, substance abuse, aging, disabilities, prevention, health, cultural competencies, or housing; or

(d) Three years of human services related experience, such as work providing assistance to people and groups with issues, such as economical disadvantages, employment, abuse and neglect, substance abuse, aging, disabilities, prevention, health, cultural competencies, or housing.

(2) CASE MANAGER TRAINING. The case manager must participate in a core competency training sequence approved by the Department. The core competency training sequence is not a substitute for the normal procedural orientation that must be provided by the CME to the new case manager.

(a) The orientation provided by the CME to a new case manager must include:

- (A) An overview of the role and responsibilities of a case manager.
- (B) An overview of developmental disabilities services and related human services within the geographic service area of the CME.
- (C) An overview of the Department's rules governing the CME.
- (D) An overview of the Department's administrative rules, policies, and Expenditure Guidelines for services and service providers that may be authorized by the CME.
- (E) An overview of the enrollment process and required documents needed for enrollment into the Department's electronic payment and reporting system.
- (F) A review and orientation of Medicaid, SSI, Social Security Administration, home and community-based waiver and state plan services, OHP, and the individual support planning processes for the services they coordinate.
- (G) A review (prior to having contact with individuals) of the case manager's responsibility as a mandatory reporter of abuse, including abuse of individuals with intellectual or developmental disabilities, individuals with mental illness, older adults, individuals with physical disabilities, and children.

(b) The case manager must participate in an on-line series of required case management core competency modules as follows:

- (A) A case manager hired after January 1, 2017 must complete:
 - (i) Tier 1 trainings within 30 calendar days from the date of employment and before working unassisted.

(ii) Tier 2 trainings within 90 calendar days from the date of employment.

(B) Other case managers must complete core competency modules as directed by the Department.

(c) Within the first year, the case manager must attend or participate in ISP training that is endorsed or sponsored by the Department.

(d) The case manager must continue to enhance his or her knowledge, as well as maintain a basic understanding of developmental disabilities services, self-determination, person-centered thinking and practices, and the skills, knowledge, and responsibilities necessary to perform the duties of the position. Each case manager must participate in a minimum of 20 hours per year of Department sponsored training or other training in the areas of intellectual or developmental disabilities.

Stat. Auth.: ORS 409.050, 427.104, 427.105, 427.115, 427.154, 430.662
Stats. Implemented: ORS 427.007, 427.104, 427.105, 427.115, 427.121, 427.154, 427.160, 430.212, 430.215, 430.610, 430.620, 430.662, 430.664

411-415-0050 Standards for Case Management Services

(Amended 03/01/2020)

(1) The CME must apply the principles of self-determination and person-centered practices to provision of case management services.

(2) The CME must ensure that a case manager is available to provide case management services and other supports to the individual.

(a) Case management services include the activities related to:

(A) Assessment and periodic reassessment of an eligible individual to determine service needs, including activities that focus on needs identification, to determine the need for any medical, educational, social, or other services including those assessments described in OAR 411-415-0060.

(B) Development and periodic revision of an ISP or Annual Plan based on the information collected through an assessment or reassessment that specifies the desired outcomes, goals, and actions to address the medical, employment, social, educational, and other services needed by the eligible individual as described in OAR 411-415-0070.

(C) Support to access available services, including referral and related activities to help an individual obtain needed services as described in OAR 411-415-0080.

(D) Monitoring and follow-up activities, including activities and contacts that are necessary to ensure that the ISP or Annual Plan is effectively implemented and adequately addresses the needs of the eligible individual as described in OAR 411-415-0090.

(b) Other supports provided by a CME may include, but are not limited to:

(A) Authorizing services in the Department's electronic payment and reporting system;

(B) Arranging employer-related supports that may include, but are not limited to:

(i) Education about employer responsibilities;

(ii) Orientation to basic wage and hour issues; and

(iii) Use of common employer-related tools, such as service agreements.

(C) Assisting the Department with establishing provider credentials; and

(D) Assistance with understanding and accessing financial, medical, and other benefits.

(3) Prior to an initial ISP, at least annually, and at the request of an individual, or as applicable the legal representative of the individual, a CME must provide a Notification of Rights (form 0948) and an explanation of the individual rights described in OAR 411-318-0010 to the individual and if applicable the legal representative of the individual.

(4) A CME may not authorize services that are delivered by an affiliated entity.

(5) Developmental disabilities services must be authorized in accordance with OAR 411-415-0070. A case manager must authorize any developmental disabilities services and delivery of those services by a qualified provider chosen by the individual, or as applicable the legal or designated representative of the individual, for which the individual is eligible as described in the relevant program rules.

(a) NOTIFICATION OF PLANNED ACTION. In the event that a developmental disabilities service is denied, reduced, suspended, or terminated, or a chosen qualified provider is not authorized to deliver a chosen service to an individual, a written advance Notification of Planned Action (form 0947) must be provided as described in OAR 411-318-0020.

(b) HEARINGS.

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

(B) An individual may request a hearing as provided in ORS chapter 183 and OAR 411-318-0025.

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

(6) Services authorized in an ISP must be entered into the Department's electronic payment and reporting system within 30 calendar days of the start of the services being delivered by any individual provider.

(7) If an individual loses eligibility for a Medicaid Title XIX (OHP) Benefit Package, a case manager must assist the individual to identify why the eligibility was lost. Whenever possible, the case manager must assist the individual in reestablishing the eligibility. The case manager must document the assistance given in the service record for the individual.

(8) CHOICE ADVISING. Through choice advising, the CME must assure that case management and other developmental disabilities service options, provider options, and setting options, including non-disability specific settings and an option for a private or shared unit in a residential program, are described to all individuals receiving case management services from the CME, or to the legal representative of the individual.

(a) An individual newly determined eligible for developmental disabilities services must receive choice advising, including the choice of institutional or home and community-based services, prior to the authorization of the initial ISP.

(b) Choice advising occurs as part of the person-centered planning process and must be conducted prior to an initial ISP and prior to a review of the ISP when required according to OAR 411-415-0070.

(c) Choice advising, including the choice of institutional or home and community-based services, must occur at least six months before the 18th birthday of a child.

(d) Prior to entry into a 1915(c) Home and Community-Based Services waiver, an individual, or as applicable their legal representative, must be informed of their choice to receive home and community-based or institutional services and verify their choice using the Freedom of Choice form (DHS 2808).

(e) If a CME is affiliated with an agency provider of developmental disabilities services in addition to case management services, the CME must disclose the relationship and inform the individual, or as applicable the legal or designated representative of the individual, that the CME cannot authorize the affiliated provider. The CME must discuss other case management provider options when the individual, or as applicable the legal or designated representative of the

individual, expresses interest in receiving services from the affiliated provider.

(9) A case manager must coordinate services with the child welfare caseworker assigned to a child to ensure the provision of required supports from the Department, CDDP, and child welfare.

(10) The case manager must participate in transition planning by attending IEP meetings or other transition planning meetings for students 16 years of age or older to discuss the transition of the student to adult living and work situations, unless the attendance of the case manager is refused by the parent or guardian of the student or the student if the student is 18 years or older. The case manager must participate in transition planning as young as age 14, if transition planning deemed appropriate by the student's IEP team, unless the attendance of the case manager is refused by the parent or guardian of the student or the student if the student is 18 years or older.

(11) When appropriate, a case manager must coordinate with vocational rehabilitation regarding employment services. When appropriate, a case manager must facilitate referrals to vocational rehabilitation.

(12) Until a CME is certified as a CAM user by the Department, a services coordinator at a CDDP must ensure that all serious events related to an individual are reported to the Department using the SERT system. The CDDP must ensure that there is monitoring and follow-up on both individual events and system trends.

(13) HEALTH CARE ADVOCATES.

(a) For an individual determined to be incapable as defined in OAR 411-390-0120, and who does not have a guardian with medical decision-making authority or a health care representative, a case manager must have a documented discussion with the individual's ISP team regarding the appointment of a health care advocate as described in OAR chapter 411, division 390 when a significant medical procedure or treatment is being considered. The case manager must assure the individual is informed of all of the following:

(A) The ISP team's decision to seek a health care advocate, prior to the appointment of the health care advocate.

(B) The name of the appointed health care advocate.

(C) The proposed decision about any significant medical procedure or treatment.

(b) A case manager must give an individual's health care advocate appointed according to OAR chapter 411, division 390 a copy of OAR chapter 411, division 390 and document this in the individual's service record.

(c) A case management entity must provide health care advocate training materials to a potential health care advocate prior to appointment and any health care decision-making.

(14) A case manager who becomes aware that a health care representative is considering withholding or withdrawing life-sustaining procedures for an individual, must provide the health care representative with any information in the case manager's possession that is related to the individual's values, beliefs, and preferences with respect to the withholding or withdrawing of life-sustaining procedures.

(15) The CME must implement procedures to address individual, designated representative, or family complaints regarding service delivery that have not been resolved using the complaint procedures of a provider agency. The complaint procedures must be consistent with the requirements in OAR 411-318-0015.

(16) A case manager must coordinate with other state, public, and private agencies regarding services to individuals.

(17) When appropriate, a case manager must facilitate referrals to nursing facilities as described in OAR 411-070-0043.

(18) A case manager must coordinate and monitor the services provided to an eligible individual living in a nursing facility.

(19) A Department case manager must make referrals for entry and participate in all entry meetings for children in residential programs, CIIS, and the Stabilization and Crisis Unit.

(20) The CME must provide case management services to individuals who are eligible for and desire them. If an individual receiving case management services from a CDDP is receiving other developmental disabilities services in more than one county, the county of origin must be responsible for case management services unless otherwise negotiated and documented in writing with the mutually agreed upon conditions.

(21) CHANGE OF CASE MANAGER.

(a) If the CME changes the assignment of a case manager for any reason, the CME must notify the individual, the legal and designated representative of the individual (as applicable), and all providers within 10 business days of the change. The notification must be in writing and include the name, telephone number, email address, and mailing address of the new case manager.

(b) The individual receiving services, or as applicable the legal or designated representative of the individual, may request a new case manager within the same CME or request a change of case management entity.

(22) FAMILY RECONNECTION. The CME and a case manager must provide assistance to the Department when a family member is attempting to reconnect with an individual who was previously discharged from Fairview Training Center or Eastern Oregon Training Center or an individual who is currently receiving developmental disabilities services.

(a) If a family member contacts the CME for assistance in locating an individual, the CME must refer the family member to the Department. A family member may contact the Department directly.

(b) The Department shall send the family member a Department form requesting further information to be used in providing notification to the individual. The form shall include the following information:

(A) Name of requestor;

(B) Address of requestor and other contact information;

- (C) Relationship to individual;
- (D) Reason for wanting to reconnect; and
- (E) Last time the family had contact.

(c) The Department shall determine:

- (A) If the individual was previously a resident of Fairview Training Center or Eastern Oregon Training Center;
- (B) If the individual is deceased or living;
- (C) Whether the individual is currently or previously enrolled in Department services; and
- (D) The county in which services are being provided, if applicable.

(d) With permission from the individual, the Department shall notify the family member if the individual is enrolled or no longer enrolled in Department services within 10 business days from the receipt of the request.

(e) If the individual is enrolled in Department services, the Department shall send the completed family information form to the individual and the case manager.

(f) If the individual is deceased, the Department shall follow the process for identifying the personal representative of the individual as provided for in ORS 192.573.

(A) If the personal representative and the requesting family member are the same, the Department shall inform the personal representative that the individual is deceased.

(B) If the personal representative is different from the requesting family member, the Department shall contact the personal representative for permission before sharing information about the individual with the requesting family

member. The Department must make a good faith effort to find the personal representative and obtain a decision concerning the sharing of information as soon as practicable.

(g) When an individual is located, the CME must facilitate a meeting with the individual to discuss and determine if the individual wishes to have contact with the family member.

(A) The case manager must assist the individual in evaluating the information to make a decision regarding initiating contact, including providing the information from the form and any relevant history with the family member that may support contact or present a risk to the individual.

(B) If the individual does not have a legal representative or is unable to express his or her wishes, the ISP team of the individual must be convened to review factors and choose the best response for the individual after evaluating the situation.

(h) If the individual wishes to have contact, the individual or ISP team designee may directly contact the family member to make arrangements for the contact.

(i) If the individual does not wish to have contact, the CME must notify the Department. The Department shall inform the family member in writing that no contact is requested.

(j) The notification to the family member regarding the decision of the individual must be within 60 business days from the receipt of the information form from the family member.

(k) The decision by the individual is not appealable.

Stat. Auth.: ORS 127.765, 409.050, 427.104, 427.105, 427.115, 427.154, 430.662, 430.731

Stats. Implemented: ORS 127.765, 427.007, 427.104, 427.105, 427.115, 427.121, 427.154, 427.160, 430.212, 430.215, 430.610, 430.620, 430.662, 430.664, 430.731-430.768

411-415-0055 Abuse and Serious Incident Management

(Amended 04/01/2021)

(1) Once certified by the Department to be a CAM user, a CME must ensure that all serious incidents related to an individual enrolled in developmental disabilities services are recorded using the CAM system.

(a) All reports of abuse and serious incidents must be entered into CAM regardless of the date of the incident.

(b) A serious incident must be entered into CAM within seven calendar days of the CME becoming aware that a serious incident has occurred.

(c) A complaint of abuse may only be entered into CAM by an abuse investigator.

(d) Every serious incident entered into CAM must be closed in CAM no more than 30 calendar days from the date the incident was entered into CAM.

(e) The CME must form an incident management team to review serious incidents for evidence of trends. The CME must submit findings to the Department quarterly on a format determined by the Department.

(A) The incident management team at a CDDP must include at a minimum three people, including an abuse investigator and a management level staff member.

(B) The incident management team at a Brokerage must include at a minimum three people, including a personal agent and a management level staff member.

(2) When a CME is notified that an individual has had serious illness, serious injury, or has died, the CME must assure that notification is made to all of the following (as applicable) within one business day of becoming aware of the serious illness, serious injury, or death:

(a) All paid provider agencies and common law employers.

(b) The individual's legal representative, designated representative, family, and other significant person identified by the individual to be contacted under these circumstances.

(c) A Brokerage, in the event of the death of an individual, must immediately, but not later than one business day, notify all of the following:

(A) The Department.

(B) An abuse investigator at the local CDDP.

(3) If an abuse investigator does not make an attempted initial contact following a complaint of abuse, an abuse investigator may require an attempted initial contact be completed by an individual's CME. When a CME is instructed by an abuse investigator to attempt an initial contact, the CME must assure that an initial contact with an alleged victim is made within the end of the next business day of receiving a complaint of abuse. The initial contact must be completed consistent with OAR 407-045-0295 to assess adult protective service needs and determine if the adult is in danger or in need of immediate protective services.

(4) If an abuse investigator does not inform an individual's legal representative of a complaint of abuse, an abuse investigator may require a CME to notify the individual's legal representative within one business day of the complaint of abuse.

Stat. Auth.: ORS 409.050, 427.104, 427.105, 427.115, 427.154, 430.662, 430.731

Stats. Implemented: ORS 409.010, 427.007, 427.104, 427.105, 427.115, 427.121, 427.154, 427.160, 430.212, 430.215, 430.610, 430.620, 430.662, 430.664, 430.731-430.768

411-415-0060 Assessment Activities

(Amended 12/28/2018)

For the purpose of this rule, "supervisor" means an employee of a CME who provides management level oversight of an assessor and is trained and qualified to conduct an ONA according to OAR chapter 411, division 425.

- (1) An ONA must be conducted according to the standards described in OAR chapter 411, division 425.
- (2) A CME must assure an individual has an initial ONA from an assessor or supervisor prior to receiving Community First Choice state plan or waiver services.
- (3) The Department may require an ONA to be completed by an assessor employed or identified by the Department.
- (4) For each individual who has an authorized ISP, a CME must assure an ONA is conducted by:
 - (a) An assessor or supervisor:
 - (A) For each individual who has not had a functional needs assessment using the ONA when a functional needs assessment or ICF/IID Level of Care determination is required.
 - (B) Any time there may be a significant change in an individual's support needs.
 - (C) At a frequency or at specific ages as determined by the Department.
 - (D) Upon a request for reassessment by an individual or the individual's legal or designated representative.
 - (E) When a child who has been determined to be eligible for developmental disabilities services according to OAR 411-320-0080 and is enrolled to the Medically Involved Children's Program or Medically Fragile Children's Program and will be turning 18 in the next year and expects to receive Community First Choice state plan or waiver services as an adult.
 - (b) A case manager, an assessor, or a supervisor, when none of the conditions in subsection (a) of this section are present.

(5) Each individual whose services are authorized in an ISP must have a completed ONA by June 30, 2019.

(6) An ONA must be completed:

(a) Not more than 12 months from a previously completed ONA, ICF/IID Level of Care determination, or functional needs assessment.

(b) Within 45 calendar days from the date an individual, or as applicable their legal or designated representative, requests a new ONA.

(c) Within 45 calendar days from the date the CME acquires information that the support needs of an individual may have changed significantly.

(7) No fewer than 14 calendar days prior to conducting an ONA, the CME must mail a notice of the assessment process to the individual to be assessed. The notice must include a description and explanation of the assessment process and an explanation of the process for appealing the results of the assessment.

(8) An assessment for State Plan Personal Care must be completed by a case manager as described in OAR chapter 411, division 455.

Stat. Auth.: ORS 409.050, 427.104, 427.105, 427.115, 427.154, 430.662
Stats. Implemented: ORS 427.007, 427.104, 427.105, 427.115, 427.121, 427.154, 427.160, 430.212, 430.215, 430.610, 430.620, 430.662, 430.664

411-415-0070 Service Planning

(Amended 11/01/2019)

This rule prescribes standards for the development and implementation of an ISP or Annual Plan.

(1) An ISP must meet the following requirements:

(a) Be developed using a person-centered planning process consistent with OAR 411-004-0030 and in a manner that addresses issues of independence, integration, and provides opportunities to

seek employment and work in competitive integrated employment settings, in order to assist with establishing outcomes, planning for supports, and reviewing and redesigning support strategies.

(b) Be designed to enhance an individual's quality of life.

(c) Be consistent with the following principles:

(A) Adult individuals have the right to make informed choices about the level of family member participation.

(B) The preferences of an individual, and when applicable a child's legal representative or family, must serve to guide the ISP team. The case manager must facilitate active participation of the individual throughout the planning process.

(C) The planning process is designed to identify the types of services and supports necessary to achieve an individual's preferences, and when applicable a child's legal representative or family, identify the barriers to providing those preferred services, and develop strategies for reducing the barriers.

(D) Specify cost-effective arrangements for obtaining the required supports and applying public, private, formal, and alternative resources available to an eligible individual.

(E) When planning for a child in a 24-hour residential program foster home, or host home, the following must apply:

(i) Unless contraindicated, there must be a goal for family reunification.

(ii) The number of moves or transfers must be kept to a minimum.

(iii) Unless contraindicated, if the placement of a child is distant from their family, the case manager must continue to seek a placement that brings the child closer to their family.

(d) Be developed based on assessed need.

(e) For community living supports, be developed within the service level as defined in OAR 411-450-0020 and as determined by a functional needs assessment.

(2) An individual enrolled in waiver or Community First Choice state plan services must have an ISP, completed on a Department approved document, consistent with the outcome of the person-centered planning process and OAR 411-004-0030.

(a) An initial ISP may begin a transition period as defined in OAR 411-415-0020. During a transition period, the ISP must include the minimum necessary services and supports for an individual upon entry to a new program type, setting, or CME. The ISP during a transition period must include, at a minimum, the following:

(A) An authorization of necessary services.

(B) The supports needed to facilitate adjustment to the services offered.

(C) The supports necessary to ensure health and safety.

(D) The assessments and consultations necessary for further ISP development.

(b) An initial ISP has a duration of 12 full months, beginning the month following the authorization of the ISP.

(c) The duration of an annual ISP is 12 months. With an individual's consent, or as applicable their legal or designated representative, a start date for an initial ISP may be established within the 12 months when the individual enters or exits any of the following:

(A) A 24-hour residential program as described in OAR chapter 411, division 325. A transfer to a new setting within the same 24-hour residential program may not cause a new start date for an ISP.

(B) A host home program as described in OAR chapter 411, division 348. A transfer to a new setting within the same host home program may not cause a new start date for an ISP.

(C) A supported living program as described in OAR chapter 411, division 328. A transfer to a new setting within the same supported living program may not cause a new start date for an ISP.

(D) Foster care as described in OAR chapter 411, division 346 for children or OAR chapter 411, division 360 for adults.

(E) A CIIS program.

(d) All Department-funded developmental disabilities services included in an ISP must be consistent with the ISP manual, Department policy, and the Expenditure Guidelines, when applicable.

(e) For Community First Choice state plan and waiver services, the supports included in an ISP must reflect the services and supports that are important for the individual to meet the needs identified through an assessment of functional need, as well as what is important to the individual with regard to preferences for the delivery of such services and supports.

(3) INDIVIDUALLY-BASED LIMITATIONS.

(a) An initial or annual ISP authorized to begin on or after March 1, 2017 for individuals receiving services in a residential setting, must include any applicable individually-based limitations to the following freedoms:

(A) Support and freedom to access the individual's personal food at any time.

(B) Visitors of the individual's choosing at any time.

(C) A lock on the individual's bedroom, lockable by the individual.

(D) Choice of a roommate, if sharing a bedroom.

(E) Freedom to furnish and decorate the individual's bedroom as the individual chooses in accordance with the Residency Agreement.

(F) Freedom and support to control the individual's schedule and activities.

(b) An individually-based limitation must be in accordance with OAR 411-004-0040 and be supported by a specific assessed need due to threats to the health and safety of the individual or others.

(c) An initial or annual ISP authorized to begin on or after July 1, 2017 for individuals receiving services in any setting, must include any applicable individually-based limitations to an individual's freedom from restraint.

(d) An individually-based limitation must only include a safeguarding intervention that:

(A) Meets the definition found in OAR 411-317-0000 and complies with OAR 411-304-0150, OAR 411-304-0160, and applicable program rules.

(B) When used to address a challenging behavior, is directed in a Positive Behavior Support Plan written by a behavior professional qualified to author the safeguarding intervention according to ODDS-approved behavior intervention curriculum and certification as described in OAR 411-304-0150.

(C) When used to address a medical condition or medical support need, is included in a medical order written by an individual's licensed health care provider. The medical order may only indicate the use of safeguarding intervention to address a medical condition and must include all of the following:

(i) The medical need for the use of the safeguarding intervention.

(ii) Situations for when to use the safeguarding intervention.

(iii) The length of time or situations permitted for the use of the safeguarding intervention.

(e) An individually-based limitation must only include safeguarding equipment that:

(A) Meets the definition found in OAR 411-317-0000 and complies with OAR 411-304-0150 and applicable program rules.

(B) When used to address a challenging behavior, is directed in a Positive Behavior Support Plan written by a behavior professional as described in OAR 411-304-0150.

(C) When used to address a medical condition or medical support need, is included in a medical order written by an individual's licensed health care provider. The medical order may only indicate the use of safeguarding equipment to address a medical condition and must include all of the following:

(i) The medical condition the safeguarding equipment addresses.

(ii) The type of safeguarding equipment.

(iii) Situations for when to use the safeguarding equipment.

(iv) The length of time or situations permitted for the use of the safeguarding equipment.

(4) TEMPORARY EMERGENCY SAFETY PLAN. A Temporary Emergency Safety Plan described in OAR 411-304-0150 may be in effect for up to 90 calendar days. The date may be extended up to an additional 90 calendar days with approval from the individual and the individual's case manager to

allow additional time for the completion of a Functional Behavior Assessment and Positive Behavior Support Plan.

(5) CAREER DEVELOPMENT PLAN.

(a) A Career Development Plan must be completed as part of the ISP:

(A) When the individual is working age; or

(B) Prior to the expected exit from school for students eligible for services under the Individuals with Disabilities Education Act (I.D.E.A.). If a student leaves school prior to the expected exit, the student must have the opportunity to have a Career Development Plan within one year of the unexpected exit.

(b) The Career Development Plan must meet the following requirements:

(A) For an individual who uses employment services under OAR chapter 411, division 345, include goals and objectives related to obtaining, maintaining, or advancing in competitive integrated employment, or, at minimum, exploring competitive integrated employment or developing skills that may be used in competitive integrated employment.

(B) Be developed based on a presumption that, with the right support and job match, the individual may succeed and advance in an integrated employment setting and earn minimum wage or better.

(C) Prioritize competitive integrated employment in the general workforce.

(D) For an individual who has competitive integrated employment, person-centered planning must focus on maintaining employment, maximizing the number of hours an individual works consistent with their preferences and interests, improving wages and benefits, and promoting additional career or advancement opportunities.

(E) For an individual using job coaching or job development services, the Career Development Plan must document either a goal or discussion regarding opportunities for maximizing work hours and other career advancement opportunities. The recommended standard for planning job coaching and job development is the opportunity to work at least 20 hours per week. Individualized planning should ultimately be based on individual choice, preferences, and circumstances, and recognize that an individual may choose to pursue working full-time, part-time, or another goal identified by the individual.

(F) Document all employment service options presented, including the option to use employment services in a non-disability specific setting, meaning a setting that is not owned, operated, or controlled by a provider of home and community-based services.

(G) For individuals who use employment services in sheltered workshop settings, the Career Development Plan must document the individual has been encouraged to choose a community-based employment service option and not a sheltered workshop setting option.

(6) ISP REVIEWS.

(a) An ISP must be reviewed, revised, and re-authorized as needed:

(A) No more than 30 calendar days following a functional needs assessment conducted pursuant to OAR 411-415-0060.

(B) Prior to the expiration of the ISP.

(C) No later than the end of a transition period.

(D) When the circumstances or needs of an individual change significantly.

(E) At the request of an individual or as applicable their legal or designated representative.

(b) For an individual who changes CME, but remains in an in-home setting, the ISP authorized by the previous CME may be used as authorization for available services when the services in the new setting remain appropriate.

(7) TEAM PROCESS IN PERSON-CENTERED PLANNING. This section applies to an ISP developed for an individual receiving services in a residential program.

(a) The ISP is developed by the individual, their legal or designated representative (as applicable), and the services coordinator. Others may be included as a part of the ISP team at the invitation of the individual and as applicable their legal or designated representative. In order to assure adequate planning, provider representatives are necessary informants to the ISP team even when not ISP team members.

(b) In circumstances where an individual is unable to express their opinion or choice using words, behaviors, or other means of communication and the individual does not have a legal or designated representative, the following apply:

(A) On behalf of the individual, the ISP team is empowered to make a decision the ISP team feels best meets the health, safety, and assessed needs of the individual.

(B) Consensus amongst ISP team members is prioritized. When consensus may not be reached, majority agreement is used. For purposes of reaching a majority agreement each interested party, which may be represented by more than one person, is considered as one member of the ISP team. Interested parties may include, but are not limited to, the provider, family, services coordinator, and designated representative.

(C) No one member of an ISP team has the authority to make decisions for the ISP team.

(c) Any objections to decisions of the ISP team by a member of the ISP team must be documented in the ISP.

(d) A services coordinator must track the ISP timelines and coordinate the resolution of complaints and conflicts arising from ISP discussions.

(8) ISP AUTHORIZATION.

(a) An initial and annual ISP must be authorized prior to implementation.

(b) Unless noted otherwise in these or program rules, an initial ISP must include the Medicaid funded developmental disabilities services for which an individual is eligible and desires. An initial ISP must be authorized no more than 90 calendar days from the date of the request for the services when the individual making the request is enrolled in a Medicaid Title XIX benefit package. A completed application, as defined in OAR 411-317-0000 and submitted to the CDDP, is a request for services if the individual is enrolled in a Medicaid Title XIX benefit package at the time of the submission.

(c) A revision to an initial or annual ISP that involves the types of developmental disabilities services paid using Department funds must be authorized prior to implementation.

(d) A revision to an initial or annual ISP that does not involve the types of developmental disabilities services paid using Department funds does not require authorization. Documented agreement to the revision by the individual, or as applicable their legal or designated representative, is required prior to implementation of the revision.

(e) An initial ISP, and a revision to an initial or annual ISP requiring authorization, is authorized on the date:

(A) The signature of the individual, or as applicable their legal or designated representative, is present on the ISP, or documentation is present explaining the reason an individual who does not have a legal or designated representative may be unable to sign the ISP.

(i) Acceptable reasons for an individual without a legal or designated representative not to sign the ISP include physical or behavioral inability to sign the ISP.

(ii) Unavailability is not an acceptable reason for an individual, or as applicable their legal or designated representative, not to sign the ISP.

(iii) Documented oral agreement may substitute for a signature for up to 10 business days when a revision to an initial or annual ISP is in response to an immediate, unexpected change in circumstance, and the revision is necessary to prevent injury or harm to the individual.

(B) The signature of the case manager involved in the development of, or revision to, the ISP is present on the ISP.

(f) A renewing ISP signed as described in this section, is authorized to begin the first calendar day after the previous ISP expired.

(g) All authorized developmental disabilities services funded through the Community First Choice state plan or home and community-based services waivers must occur in a setting consistent with OAR 411-004-0020 by September 1, 2018.

(h) Community First Choice state plan and waiver services are only funded by the Department when the services are authorized in an ISP developed in a manner consistent with this rule.

(i) A legal or designated representative responsible for directing the development of the ISP on behalf of an individual (as applicable) may not be authorized to be a paid provider for the individual.

(j) An ISP may only have services authorized for personal support workers when the services are consistent with the payment limitations described in OAR 411-375-0040.

(k) The ISP for an adult enrolled in a foster home under OAR chapter 411, division 360, must include at least six hours of activities each

week that are of interest to the individual that do not include television or movies made available by the provider. Activities are those available in the community and made available or offered by the provider or the CDDP.

(A) Activities may include the following:

(i) Recreational and leisure activities.

(ii) Other activities required to meet the needs of an individual as described in the ISP for the individual.

(B) Activities that contribute to the six hours may not include any of the following:

(i) Rehabilitation.

(ii) Educational services.

(iii) Employment services.

(l) Not more than two weeks after authorization, the CME must provide a copy of the most current ISP to the individual, their legal and designated representative (as applicable), and others as identified by the individual. The ISP must be made available using language, format, and presentation methods appropriate for effective communication according to the needs and abilities of the individual receiving services and the people important in supporting the individual. When an authorized ISP must be translated from English, translation must be initiated within two weeks of authorization and the translated document must be provided to the individual by the CME upon receipt.

(m) A case manager may not knowingly authorize a community living supports agency to utilize an agency employee to deliver community living supports skills training or attendant care services, other than day support activities as defined in OAR chapter 411, division 450, to an individual that also engages the same person for services as the individual's personal support worker.

(9) DEVELOPMENTAL DISABILITIES SERVICE AUTHORIZATIONS.

(a) Developmental disabilities services may not be authorized or must be terminated in the following circumstances:

(A) The individual does not meet the service eligibility requirements in the program rule corresponding to the service.

(B) The case manager is not permitted to conduct a monitoring visit to the home as required in OAR 411-415-0090 if services can be expected to occur in the home.

(C) The individual fails to participate in, or be available for, the conducting of the components of an ONA within the timeframes identified in OAR 411-415-0060.

(b) The CME may deny, or must terminate, services from a provider, services in a setting, or a combination of services, selected by an eligible individual or the legal or designated representative of the individual in the following circumstances:

(A) The setting has dangerous conditions that jeopardize the health or safety of the individual and necessary safeguards are not available to improve the setting.

(B) Services may not be provided safely or adequately by the service provider based on:

(i) The extent of the service needs of the individual; or

(ii) The choices or preferences of the eligible individual or as applicable their legal or designated representative.

(C) Dangerous conditions in the service setting jeopardize the health or safety of the service provider authorized and paid for by the Department, and necessary safeguards are not available to minimize the dangers.

(D) The individual does not have the ability to express their informed decision, does not have a designated representative

to make decisions on their behalf, and the Department or CME are unable to take necessary safeguards to protect the safety, health, and welfare of the individual.

(c) The case manager must present the individual, or as applicable their legal or designated representative, with information on service alternatives and provide assistance to assess other choices when the service provider or service setting selected by the individual, or as applicable their legal or designated representative, is not authorized.

(d) A services coordinator employed by a CDDP, or a sub-contractor of a CDDP contracted to deliver case management, may authorize an eligible individual to receive the following developmental disabilities services:

(A) Community First Choice 1915(k) state plan services.

(B) Services described in the Adults' and Children's 1915(c) waivers.

(C) State Plan Personal Care as described in OAR chapter 411, division 455.

(D) Private duty nursing as described in OAR chapter 410, division 132 and OAR 411-300-0150.

(E) Family support services as described in OAR chapter 411, division 305.

(e) A personal agent may authorize an eligible individual to receive the following developmental disabilities services:

(A) Community First Choice 1915(k) state plan services, except services delivered as part of a residential program.

(B) Services described in the Adults' 1915(c) waiver.

(C) State Plan Personal Care as described in OAR chapter 411, division 455.

(D) Private duty nursing as described in OAR chapter 410, division 132 and OAR 411-300-0150.

(f) A CIIS services coordinator may authorize an eligible individual to receive the following developmental disabilities services:

(A) Community First Choice 1915(k) state plan services.

(B) Services described in the following 1915(c) waivers:

(i) Medically Involved Children's Waiver.

(ii) Medically Fragile (Hospital) Model Waiver.

(iii) Behavioral (ICF/IID) Model Waiver.

(C) State Plan Personal Care as described in OAR chapter 411, division 455.

(D) Private duty nursing as described in OAR chapter 410, division 132 and OAR 411-300-0150.

(g) The Department authorizes entry for children into residential programs, CIIS, and the Stabilization and Crisis Unit.

(10) ANNUAL PLANS. Individuals enrolled in case management services, but not accessing Community First Choice state plan or waiver services must have an Annual Plan.

(a) A case manager must develop an Annual Plan within 90 calendar days from the date of the enrollment of an individual into case management services, and annually thereafter if the individual is not enrolled in any Community First Choice state plan or waiver services.

(b) An Annual Plan must be developed as follows:

(A) For an adult, a written Annual Plan must be documented as an Annual Plan or as a comprehensive progress note in the service record for the individual and consist of the following:

- (i) A review of the current living situation of the individual.
- (ii) A review of the employment status of the individual and a summary of any related support needs.
- (iii) A review of any personal health, safety, or behavioral concerns.
- (iv) A summary of the support needs of the individual.
- (v) Actions to be taken by the case manager and others.

(B) For a child receiving family support services, a services coordinator must coordinate with the child and their parent or legal representative in the development of an Annual Plan. The Annual Plan for a child receiving family support services must be in accordance with OAR 411-305-0225.

(c) An Annual Plan must be kept current. A case manager must ensure that a current Annual Plan is maintained for each individual receiving services.

Stat. Auth.: ORS 409.050, 427.104, 427.105, 427.115, 427.154, 430.662, 430.731

Stats. Implemented: ORS 427.007, 427.104, 427.105, 427.115, 427.121, 427.154, 427.160, 430.212, 430.215, 430.610, 430.620, 430.662, 430.664, 430.731-430.768

411-415-0080 Accessing Developmental Disabilities Services

(Amended 03/01/2020)

(1) A CME is required to:

(a) Provide assistance in finding and arranging resources, services, and supports. When an individual or their legal or designated representative chooses to receive supports delivered by a personal support worker, the CME must not limit their choice of qualified providers, including all those available on the Home Care Commission Registry.

(b) Provide information and technical assistance to an individual, and as applicable the legal or designated representative of the individual, in order to make informed decisions. This may include, but is not limited to, information about support needs, settings, programs, and types of providers.

(c) Provide a brief description of the services available from the CME, including typical timelines for activities, required assessments, monitoring and other activities required for participation in a Medicaid program, and the planning process.

(d) Inform the individual, or as applicable the legal or designated representative of the individual, of any potential conflicts of interest between the CME and providers available to the individual.

(e) Inform providers of the responsibility:

(A) To carry out their duty as mandatory reporters of suspected abuse; and

(B) To immediately notify anyone specified by the individual of any incident that occurs when the provider is providing services when the incident may have a serious effect on the health, safety, physical, or emotional well-being, or level of services required.

(2) LICENSED OR CERTIFIED RESIDENTIAL PLACEMENT SETTING OPTIONS. In accordance with ORS 427.121, a case manager must present at least three appropriate licensed or certified residential setting options, including at least two different types of settings, to an adult individual eligible for and desiring to receive services in a licensed or certified residential setting, or to the legal representative, prior to the entry of the adult individual into a licensed or certified residential setting. The case manager is not required to present the licensed or certified residential placement setting options if:

(a) The case manager demonstrates that three appropriate licensed or certified residential placement settings or two different types of settings are not available within the geographic area where the individual wishes to reside;

(b) The individual selects a licensed or certified residential placement setting option and waives the right to be presented with other licensed or certified residential setting options; or

(c) The individual has an imminent risk to health or safety in the current licensed or certified residential setting.

(3) In accordance with the rules for home and community-based services in OAR chapter 411, division 004, an individual, or as applicable the legal or designated representative of the individual, must be advised regarding non-residential service options including employment services and non-residential community living supports. For services considered, a non-disability specific setting option must be presented and documented in the person-centered service plan.

(4) WRITTEN INFORMATION REQUIRED. A case manager must give the relevant content from the ISP that is necessary to for each provider to deliver the services the provider is authorized to deliver, prior to the start of services. The content must include the relevant risks included in the risk management plan. The risks are relevant when they may reasonably be expected to threaten the health and safety of the individual, the provider, or the community at large without appropriate precautions during the delivery of the service authorized for the provider to deliver. If an individual, or as applicable the legal representative of the individual, refuses to disclose the information, the CME must disclose the refusal to the provider, who may choose to refuse to deliver the services.

(a) The necessary information is conveyed on a Department approved Service Agreement containing the required content. For an agency provider or independent provider who is not a personal support worker, the ISP may be used in lieu of a Service Agreement with the consent of the individual.

(b) For agency operators of a residential program or employment program, the case manager must provide to the agency:

(A) A document indicating safety skills, including the ability of the individual to evacuate from a building when warned by a

signal device and adjust water temperature for bathing and washing;

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

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

(D) Copies of protocols, the risk tracking record or risk identification tool, and any support documentation (if applicable);

(E) Copies of documents relating to a health care representative or health care advocate; and

(F) A copy of the most recent Behavior Support Plan and assessment, Nursing Service Plan, and mental health treatment plan (if applicable).

(c) In addition to sub-section (b) of this section, residential programs must be given:

(A) A copy of the eligibility determination document;

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

(i) The results of the most recent physical exam;

(ii) The results of any dental evaluation;

(iii) A record of immunizations;

(iv) A record of major illnesses and hospitalizations; and

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

(C) A copy of the most recent functional needs assessment. If the needs of an individual have changed over time, the previous functional needs assessments must also be provided;

(D) Copies of documents relating to the guardianship or conservatorship, power of attorney, court orders, probation and parole information, or any other legal restrictions on the rights of the individual (if applicable);

(E) Written documentation that the individual is participating in out-of-residence activities, including public school enrollment for individuals less than 21 years of age; and

(F) A copy of any completed and signed forms documenting consent to an individually-based limitation described in OAR 411-004-0040. The form must be signed by the individual, or, if applicable the legal representative of the individual.

(d) In addition to sub-section (b) of this section, agency providers of employment services must be given:

(A) The Career Development Plan.

(B) Protocols that are necessary to assure the health and safety of the individual.

(e) When an individual is known to be accessing Vocational Rehabilitation services, the Vocational Rehabilitation counselor must be given the Career Development Plan.

(f) If the individual is being entered into a residential program from the family home and the information required in subsection (b) and (c) of this section is not available, the case manager must ensure that the residential program provider assesses the individual upon entry for issues of immediate health or safety.

(A) The case manager must develop and document a plan to secure the information listed in subsection (a) of this section no later than 30 calendar days after entry.

(B) The plan must include a written justification as to why the information is not available and a copy of the plan must be given to the provider at the time of entry.

(5) ENTRY MEETING. No later than the date of entry of an individual into a residential program, a case manager must convene a meeting of the ISP team to review referral material in order to determine appropriateness of entry. An entry meeting may be held for entry into services other than a residential program when a member of the ISP team requests one. A potential provider may request an entry meeting and may refuse entry to an individual who refuses to permit one. Findings of the entry meeting must be recorded in the service record for the individual and distributed to the ISP team members. The findings of the entry meeting must include, at a minimum:

- (a) The name of the individual proposed for services.
- (b) The date of the entry meeting.
- (c) The date determined to be the date of entry.
- (d) Documentation of the participants included in the entry meeting;
- (e) Documentation of information required by section (4) of this rule when entering a residential program.
- (f) Documentation of the decision to serve the individual requesting services.

(6) TRANSFER MEETING. A meeting of the ISP team must precede any transfer of an individual that was not initiated by the individual, or as applicable the legal representative of the individual, unless the individual declines to have a meeting. Findings of the transfer meeting must be recorded in the service record for the individual and include, at a minimum:

- (a) The name of the individual considered for transfer.
- (b) The date of the transfer meeting.
- (c) Documentation of the participants included in the transfer meeting.

- (d) Documentation of the circumstances leading to the proposed transfer.
- (e) Documentation of the alternatives considered instead of transfer.
- (f) Documentation of the reasons any preferences of the individual, or as applicable the legal or designated representative or family members of the individual, may not be honored.
- (g) Documentation of the decision regarding the transfer, including verification of the voluntary decision to transfer or a copy of the Notice of Involuntary Reduction, Transfer, or Exit.
- (h) The written plan for services for the individual after transfer.

(7) EXIT MEETING. A case manager must offer the individual, and legal or designated representative, an opportunity to convene the ISP team prior to an exit of an individual from a residential program or from agency provided employment services. Findings of the exit meeting must be recorded in the service record for the individual and include, at a minimum:

- (a) The name of the individual considered for exit.
- (b) The date of the exit meeting.
- (c) Documentation of the participants included in the exit meeting.
- (d) Documentation of the circumstances leading to the proposed exit.
- (e) Documentation of the discussion of the strategies to prevent the exit of the individual from services, unless the individual or legal representative is requesting the exit.
- (f) Documentation of the decision regarding the exit of the individual, including verification of the voluntary decision to exit or a copy of the Notice of Involuntary, Reduction, Transfer, or Exit.
- (g) The written plan for services for the individual after the exit.

(h) Requirements for an exit meeting may be waived if an individual or the individual's legal representative, if applicable, declines to have an exit meeting or is immediately removed from the applicable program under the following conditions:

(A) The individual or legal representative requests an immediate exit from the program; or

(B) The individual is removed by legal authority acting pursuant to civil or criminal proceedings other than detention for an individual less than 18 years of age.

(8) When services are provided by an independent provider:

(a) The case manager must provide the individual, and as applicable the designated representative of the individual, a brief description of the responsibilities for use of public funds.

(b) Using a Department approved service agreement, the CME must inform an independent provider engaged to provide supports of:

(A) The type and amount of services authorized in the ISP for the independent provider to deliver; and

(B) Behavioral, medical, known risks, and other information about the individual that is required for the provider to safely and adequately deliver services to the individual.

(c) COMMON LAW EMPLOYER. The CME must assure that a person is identified to act as a common law employer for the personal support worker consistent with OAR 411-375-0055.

(A) The CME may require intervention as defined in OAR 411-375-0055.

(B) The CME may deny a request for an employer representative if the requested employer representative has:

(i) A history of substantiated abuse of an adult as described in OAR 407-045-0250 through 407-045-0370;

(ii) A history of founded abuse of a child as described in ORS 419B.005;

(iii) Participated in billing excessive or fraudulent charges;
or

(iv) Failed to meet the employer responsibilities described in OAR 411-375-0055, including previous termination as a result of failing to meet the employer.

(C) The CME shall mail a notice informing the individual, and as applicable the legal or designated representative of the individual, when:

(i) The CME denies, suspends, or terminates an employer from performing the employer responsibilities described in 411-375-0055; and

(ii) The CME denies, suspends, or terminates an employer representative from performing the employer responsibilities because the employer representative does not meet the qualifications of an employer representative.

(D) If an individual, or as applicable the legal or designated representative or employer representative of the individual, is dissatisfied with the decision of the CME to remove an employer or employer representative, the individual, or as applicable the legal or designated representative or employer representative of the individual, may request reinstatement as described in OAR 411-375-0055 or file a complaint with the CME or Department as described in OAR 411-318-0015.

Stat. Auth.: ORS 409.050, 427.104, 427.105, 427.115, 427.154, 430.662, 430.731

Stats. Implemented: ORS 427.007, 427.104, 427.105, 427.115, 427.121, 427.154, 427.160, 430.212, 430.215, 430.610, 430.620, 430.662, 430.664, 430.731-430.768

411-415-0090 Case Management Contact and Monitoring of Services
(Amended 11/01/2019)

(1) CASE MANAGEMENT CONTACT.

(a) Every individual who has an ISP must have a case management contact no less than once every three months.

(A) The purpose of a case management contact must be to assure one of the following:

(i) Known health and safety risks are adequately addressed.

(ii) The support needs of an individual have not significantly changed.

(iii) An individual and their designated representative are satisfied with the current services and supports.

(B) Over the course of an ISP year, the case manager must assure subsections (i) through (iii) of section (A) are met.

(b) Individuals with three or more significant health and safety risks as identified in the Risk Management Plan, or if determined to be necessary by the case manager, must have monthly case management contact.

(c) For a child, reciprocal contact with the child's parent or legal representative may substitute for contact with the child, except as specified in sub-section (d).

(d) At least one case management contact per year must be face to face with the individual, including when the individual is a child. If an individual or their legal representative agrees, other case management contact may be made by telephone or by other interactive methods.

(e) The outcome of all case management contact must be recorded in the individual's progress notes.

(2) MONITORING OF SERVICES: A case manager must conduct monitoring activities using the framework described in this section.

(a) A case manager is required to provide assistance to the individual or the legal or designated representative with monitoring and improving the quality of supports.

(b) For all individuals with an ISP that authorizes waiver or Community First Choice state plan services, monitoring must include an assessment of the following:

(A) Are services being provided as described in the ISP and do the services result in the achievement of the identified action plans?

(B) Are the personal, civil, and legal rights of the individual protected in accordance with OAR chapter 411, division 318?

(C) Are the personal desires of the individual, and as applicable the legal or designated representative or family of the individual, addressed?

(D) Do the services authorized in the ISP continue to meet the assessed needs of the individual and what is important to, and for, the individual?

(E) Do identified desired outcomes and associated goals and action plans remain relevant and are the goals supported and being met?

(F) Are technological and adaptive equipment and environmental modifications being maintained and used as intended?

(G) Have changing needs or availability of other resources altered the need for continued use of Department funds to purchase supports?

(H) Are the services delivered in a setting that is in compliance with OAR 411-004-0020(1)?

(I) Are all the necessary protocols or mitigation strategies present that are needed to keep the individual healthy and safe?

(c) For an individual receiving employment services, the case manager must:

(A) Assess the progress of the individual toward competitive integrated employment; and

(B) When an individual is receiving facility based employment path services, visit each setting at least twice per plan year, while the individual is present, to verify and document the progress being made to support the individual to achieve employment goals documented in the Career Development Plan. Visits must be at least three months apart.

(d) When a case manager receives an incident report documenting the use of an emergency physical restraint, the case manager must review the use for potential abuse.

(e) When a case manager becomes aware that a wrongful use of a physical or chemical restraint, as described in ORS 430.735, may have been employed, the case manager must document the following efforts:

(A) Direction to the provider, and as applicable the common law employer, that the use of such restraint must immediately cease.

(B) Notification to the individual and the individual's legal representative of their right to be free from unauthorized restraint.

(C) Report of potential abuse by the wrongful use of a physical or chemical restraint.

(f) When a case manager receives three incident reports in a six-month period documenting the use of an emergency physical restraint, the case manager must assess the effectiveness of existing services authorized in the individual's ISP and take appropriate action.

(g) When an individual or legal representative has consented to an individually-based limitation, service monitoring must include an evaluation of the ongoing need for the limitation.

(h) Unless specified in these rules, the minimum frequency of service monitoring must be determined by the case manager, based on the needs of an individual, not less than once per plan year.

(i) For an individual receiving only case management services and not enrolled in any other funded developmental disabilities services, the case manager must make contact with the individual at least once annually.

(A) Whenever possible, annual contact must be made in person. If annual contact is not made in person, a progress note in the service record must document how contact was achieved.

(B) If the individual has any identified high-risk medical issue including, but not limited to, risk of death due to aspiration, seizures, constipation, dehydration, diabetes, or significant behavioral issues, the case manager must maintain contact in accordance with planned actions as described in the Annual Plan.

(j) For an individual who is enrolled in a residential program the monitoring of services may be combined with the site visits described in section (3) of this rule. In addition:

(A) During the ISP year, the services coordinator must review, at least once, services specific to health, safety, and behavior, using questions established by the Department.

(B) A semi-annual review of the process by which an individual accesses and utilizes their own funds must occur, using questions established by the Department. The services coordinator must determine whether financial records, bank statements, and personal spending funds are correctly reconciled and accounted for.

(i) The financial review standards for 24-hour residential programs are described in OAR 411-325-0380.

(ii) The financial review standards for adult foster homes are described in OAR 411-360-0170.

(iii) Any misuse of funds must be reported to the CDDP and the Department. The Department determines whether a referral to the Medicaid Fraud Control Unit is warranted.

(C) The services coordinator must monitor reports of serious incidents.

(k) If State Plan Personal Care services are authorized in an Annual Plan, the services must be monitored as described in OAR chapter 411, division 455.

(3) SITE VISITS.

(a) The CDDP must ensure that quarterly site visits are conducted at each child or adult foster home, each host home, and each 24-hour residential program setting licensed by the Department to serve individuals with intellectual or developmental disabilities.

(b) The CDDP must establish an annual schedule for site visits to each site that is owned, operated, or controlled by:

(A) An employment program certified and endorsed under OAR chapter 411, division 345; and

(B) A community living supports program certified and endorsed under OAR chapter 411, division 450.

(c) The CDDP must conduct at least one visit annually to the home of an individual receiving services in a supported living setting.

(d) When services are anticipated to be delivered in an individual's home, the CME must conduct at least one visit annually to the individual's home.

(e) Site visits may be increased for any of the following reasons including, but not limited to the following:

(A) Increased certified and licensed capacity.

(B) New individuals receiving services.

(C) Newly licensed or certified and endorsed provider.

(D) An abuse investigation.

(E) A serious incident.

(F) A change in the management or staff of the licensed site or certified and endorsed program operator.

(G) An ISP team request.

(H) Significant change in the functioning of an individual who receives services at the site.

(f) The CME must develop a procedure for the conduct of the site visits.

(g) The CME must document site visits and provide information concerning the site visits to the Department upon request.

(h) If there are no Department-funded individuals at the site, a visit by the CME is not required.

(i) When a provider is a Department-contracted and licensed, certified, and endorsed 24-hour residential program for children and the children's residential services coordinator for the Department is

assigned to monitor services, the children's residential services coordinator and the CDDP shall coordinate the site visit. If the site visit is made by Department staff, Department staff shall provide the results of the site visit to the local services coordinator.

(j) The Department may conduct site visits on a more frequent basis than described in this section based on program needs.

(4) MONITORING FOLLOW-UP. A case manager and the CME are responsible for ensuring the appropriate follow-up to monitoring of services, except in the instance of children in 24-hour residential programs directly contracted with the Department when the Department conducts the follow-up.

(a) If the case manager determines that developmental disabilities services are not being delivered as agreed in the ISP for an individual, or that the service needs of an individual have changed since the last review, the case manager must initiate at least one of the following actions:

(A) Update the ISP of the individual.

(B) To remediate service delivery shortcomings, provide or refer technical assistance to an agency provider or common law employer for a personal support worker.

(b) If there are concerns regarding the ability of a provider to provide services, the CME must determine the need for technical assistance or other follow-up activities, such as coordination or provision of technical assistance, referral to the CDDP manager or brokerage director for consultation or corrective action, requesting assistance from the Department for licensing or other administrative support, or meeting with the executive director or board of directors of the provider.

(c) The CME must ensure that there is monitoring and follow-up on serious incidents.

(5) DEPARTMENT NOTIFICATION. The CME must notify the Department when:

(a) A provider demonstrates substantial failure to comply with any applicable licensing, certification, or endorsement rules for Department-funded programs.

(b) A personal support worker may have met any of the conditions identified in OAR 411-375-0070 that would cause the Department to inactivate or terminate the provider enrollment of the worker.

(c) The CME finds a serious and current threat endangering the health, safety, or welfare of individuals in a program.

Stat. Auth.: ORS 409.050, 427.104, 427.105, 427.115, 427.154, 430.662, 430.731

Stats. Implemented: ORS 427.007, 427.104, 427.105, 427.115, 427.121, 427.154, 427.160, 430.212, 430.215, 430.610, 430.620, 430.662, 430.664, 430.731-430.768

411-415-0100 Specialized Services in a Nursing Facility

(Amended 11/01/2019)

An individual residing in a nursing facility determined to require specialized services, as described in OAR 411-070-0043, must have an annual plan for specialized services incorporated with a plan of care by the nursing facility.

(1) A case manager must coordinate with the individual, the legal representative of the individual, the staff of the nursing facility, and other service providers, as appropriate, to provide or arrange the specialized services. The plan for specialized services must include:

(a) The name of the service provider.

(b) A description of the specialized services to be provided.

(c) The number of hours of service per month.

(d) A description of how the services must be tracked.

(e) A description of the process of communication between the specialized service provider and the nursing facility in the event of serious incidents, serious illness, absence, and emergencies.

(2) A case manager must complete an annual review of the plan for specialized services or when there has been a significant change in the level of functioning of the individual.

Stat. Auth.: ORS 409.050, 427.104, 427.105, 427.115, 427.154, 430.662, 430.731

Stats. Implemented: ORS 427.007, 427.104, 427.105, 427.115, 427.121, 427.154, 427.160, 430.212, 430.215, 430.610, 430.620, 430.662, 430.664, 430.731-430.768

411-415-0110 Record Requirements

(Amended 11/01/2019)

(1) In order to meet Department and federal record documentation requirements, the CME through the employees of the CME, must maintain a service record for each individual who receives services from the CME. The service record must include:

(a) Documentation of the functional needs assessment defining the support needs for ADL, IADL, and other health-related tasks. This may be a current ONA available in the Department's electronic payment and reporting system.

(b) Documentation of choice advising.

(c) Documentation that the individual is eligible for any service authorized in an ISP.

(d) Referral information or documentation of referral materials sent to a provider or another CME.

(e) Progress notes written by a case manager as described in section (2) of this rule.

(f) The findings from service monitoring.

- (g) Medical information, as appropriate.
- (h) Entry and exit meeting documentation related to residential programs, including plans developed as a result of the meeting.
- (i) Current and previous ISP or Annual Plan, including support documents and documentation that the plan is authorized by a case manager.
- (j) A Nursing Service Plan must be present when Department funds are used to purchase services requiring the education and training of a licensed professional nurse.
- (k) Copies of any incident reports initiated by a CME representative for a serious incident.
- (l) Documentation of a review of serious incidents received from providers. Documentation of the review of serious incidents must be made in CAM, for a CME certified as a CAM user, and progress notes and a copy of the incident report must be maintained by the CME.
- (m) Documentation of Medicaid eligibility, if applicable.
- (n) For individuals whose level of care was determined before July 1, 2018, the initial and, when present, the annual level of care determination on a form prescribed by the Department.
- (o) The CDDP must maintain a copy of the initial level of care determination form completed by the CDDP. For an individual whose level of care was determined before July 1, 2018 and is receiving CIIS or services in a 24-hour residential program for children, the CDDP must maintain a copy of annual level of care determinations or maintain documentation of attempts to obtain them.
- (p) Legal records, such as guardianship papers, civil commitment records, court orders, and probation and parole information (as appropriate).

(q) A case manager must maintain documentation of the referral process of an individual to a provider and if applicable, include the reason the provider preferred by the individual declined to deliver services to the individual.

(r) An information sheet or reasonable alternative must be kept current and reviewed at least annually for each individual receiving case management services. Information must include:

(A) The name of the individual, current address, date of entry into the CME, date of birth, gender, marital status (for individuals 18 or older), religious preference, preferred hospital, medical prime number and private insurance number (where applicable), and guardianship status; and

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

(i) For an adult, the legal or designated representative, family, and other significant person of the individual (as applicable), and for a child, the parent or guardian and education surrogate (if applicable);

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

(iii) The dentist preferred by the individual;

(iv) The school, day program, or employer of the individual (if applicable);

(v) Other agency representatives providing services to the individual; and

(vi) Any court ordered or legal representative authorized contacts or limitations from contact for individuals living in a foster home, supported living program, or 24-hour residential program.

(2) PROGRESS NOTES. Progress notes must include documentation of the delivery of case management services provided to an individual by a

case manager. Progress notes must be recorded chronologically in the order they are made and documented consistent with CME policies and procedures. All late entries must be appropriately noted as such. At a minimum, progress notes must include:

- (a) The month, day, and year the services were rendered and the month, day, and year the entry was made if different from the date services were rendered;
- (b) The name of the individual receiving service;
- (c) The name of the CME, the person providing the services (i.e., the signature and title of the case manager), and the date the entry was recorded and signed;
- (d) The nature and content of the case management services delivered and whether goals specified in the service plan have been achieved;
- (e) Place of service. Place of service means the county where the CME or agency providing case management services is located, including the main address. The place of service may be a standard heading on each page of the progress notes; and
- (f) For notes pertaining to meetings with or discussions about the individual, the names of other participants, including the titles and agency representation of the participants, if any.

(3) For individuals living in their own or family home, the CME must maintain a minimum acceptable record of expenditures for at least three years that includes:

- (a) Itemized invoices and receipts to record the purchase of any single item.
- (b) A trip log indicating purpose, date, and total miles to verify vehicle mileage reimbursement.
- (c) Pay records to record employee services, including timesheets signed by both employee and employer.

(d) Itemized invoices for any services purchased from independent contractors, provider agencies, and professionals. Itemized invoices must include:

(A) The name of the individual to whom services were provided;

(B) The date of the services;

(C) The amount of services; and

(D) A description of the services.

(e) Evidence confirming the receipt, and securing the use of, assistive devices, environmental safety modifications, and environmental modifications.

(A) When an assistive device is obtained for the exclusive use of an individual, the CME must record the purpose, final cost, and date of receipt.

(B) The CME must secure use of equipment or furnishings costing more than \$500 through a written agreement between the CME and the individual or the legal representative of the individual that specifies the time period the item is to be available to the individual and the responsibilities of all parties if the item is lost, damaged, or sold within that time period.

(4) Verification that providers meet the requirements to deliver services they are authorized to deliver including:

(a) Verification of a valid license to drive for any personal support worker, and proof of current auto insurance for the vehicle used for transportation, upon authorization of community transportation services.

(b) Documentation supporting the rate paid to a provider when it is above the minimum described in rule, policy, Expenditure Guidelines, or the base rate for a personal support worker identified in the current

Collective Bargaining Agreement, including support for an enhanced and an exceptional personal support worker rate.

(5) Failure to furnish written documentation upon the written request from the Department, the Oregon Department of Justice Medicaid Fraud Unit, Centers for Medicare and Medicaid Services, or their authorized representatives, immediately or within timeframes specified in the written request, may be deemed reason to recover payments or deny further assistance.

Stat. Auth.: ORS 409.050, 427.104, 427.105, 427.115, 427.154, 430.662, 430.731

Stats. Implemented: ORS 427.007, 427.104, 427.105, 427.115, 427.121, 427.154, 427.160, 430.212, 430.215, 430.610, 430.620, 430.662, 430.664, 430.731-430.768

411-415-0120 Reimbursement for Case Management Services
(Amended 12/28/2018)

A CME is reimbursed for case management activities. Reimbursement may only be made when:

(1) The claim for reimbursement is for a service provided to an individual determined eligible for case management services.

(2) The person providing the service is a qualified case manager as described in OAR 411-415-0040 or an assessor as defined in OAR 411-317-0000.

(3) An individual is properly enrolled into the Department's electronic payment and reporting system.

(4) A claim has been made in the Department's electronic payment and reporting system.

(5) Case management has been authorized in an ISP or as part of an Annual Plan.

(6) The claim is for a qualifying case management service.

(7) A progress note is in the individual file supporting the delivery of a case management service.

Stat. Auth.: ORS 409.050, 427.104, 427.105, 427.115, 427.154, 430.662
Stats. Implemented: ORS 427.007, 427.104, 427.105, 427.115, 427.121, 427.154, 427.160, 430.212, 430.215, 430.610, 430.620, 430.662, 430.664