

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

**CHAPTER 411
DIVISION 435**

DEVELOPMENTAL DISABILITIES ANCILLARY SERVICES

EFFECTIVE DECEMBER 27, 2022

411-435-0010 Statement of Purpose

(Amended 12/27/2022)

(1) The rules in OAR chapter 411, division 435 ensure:

(a) Individuals receiving ancillary services are able to maximize independence, empowerment, dignity, and human potential through the delivery of flexible, efficient, and suitable ancillary services.

(b) Equal access to individuals who are eligible for the ancillary services provided through these rules.

(2) Ancillary services are provided by the Oregon Department of Human Services, Office of Developmental Disabilities Services through the Community First Choice state plan, 1915(c) waivers, and family support funds.

Stat. Auth.: ORS 409.050, 427.104, 430.662

Stats. Implemented: ORS 409.010, 427.007, 427.104, 430.215, 430.610, 430.662

411-435-0020 Definitions and Acronyms

(Amended 12/27/2022)

In addition to the following definitions, OAR 411-317-0000 includes general definitions for words and terms frequently used in OAR chapter 411, division 435. If a word or term is defined differently in OAR 411-317-0000, the definition in this rule applies.

(1) "ADL" means "Activities of Daily Living" as defined in OAR 411-317-0000.

(2) "Ancillary Services" means the array of services described in these rules that may be authorized as stand-alone services, separate from attendant care, relief care, and skills training, and the rate paid to a residential program or a foster care provider.

(3) "Assistive Devices" means the items that increase an individual's ability to perform an ADL, IADL, or health-related task, or to communicate. Assistive devices are provided according to OAR 411-435-0050.

(4) "Assistive Technology" means the items that provide support for an individual to reduce or replace the need for direct intervention, or to maximize independence. Assistive technology is provided according to OAR 411-435-0050.

(5) "CDDP" means "Community Developmental Disabilities Program" as defined in OAR 411-317-0000.

(6) "Chore Services" means the deep cleaning services that restore a hazardous or unsanitary situation in an individual's home to a sanitary, safe environment. Chore services are provided according to OAR 411-435-0050.

(7) "CIIS" means "Children's Intensive In-Home Services" as defined in OAR 411-317-0000.

(8) "Community Nursing Services" means the nursing services that focus on an individual's chronic and ongoing health and safety needs. Community nursing services are provided according to OAR 411-435-0050, OAR chapter 411, division 048, and the rules for the Oregon State Board of Nursing in OAR chapter 851.

(9) "Community Transportation" means the ancillary service that enables an individual to gain access to community-based state plan and waiver services, activities, and resources, not medical in nature. Community transportation is provided in the area surrounding the home of the individual commonly used by people in the same area to obtain ordinary

goods and services. Community transportation is provided according to OAR 411-435-0050.

(10) "Cost Effective" is defined in OAR 411-317-0000.

(11) "Environmental Modifications" means the physical adaptations to the interior of an individual's home that are related to an ADL, IADL, or health-related task, or maximize independence around the home. Environmental modifications are provided according to OAR 411-435-0050.

(12) "Environmental Safety Modifications" means the physical adaptations to the exterior of an individual's home to ensure the individual's health, welfare, and safety, or maximize independence around the home. Environmental safety modifications are provided according to OAR 411-435-0060.

(13) "Expenditure Guidelines" is defined in OAR 411-317-0000.

(14) "Family Member" is defined in OAR 411-317-0000.

(15) "Family Support Funds" is defined in OAR 411-305-0205.

(16) "Family Training" means the training, education, or instruction for an individual's unpaid family member to increase the family member's capacity to understand the individual's disability, care for the individual, or support the individual at home. Family training is provided according to OAR 411-435-0060.

(17) "Healthier Oregon" is defined in OAR 411-317-0000.

(18) "HSD Medical Programs" is defined in OAR 411-317-0000.

(19) "IADL" means "Instrumental Activities of Daily Living" as defined in OAR 411-317-0000.

(20) "Independence" is defined in OAR 411-317-0000.

(21) "Individual-Directed Goods and Services" means the services, equipment, or supplies, not otherwise provided through other waiver or state plan services, that address an identified need in an ISP. Individual-

directed goods and services may include services, equipment, or supplies that maintain a child in the community. Individual-directed goods and services are provided according to OAR 411-435-0070.

(22) "ISP" means "Individual Support Plan" as defined in OAR 411-317-0000.

(23) "Natural Supports" means the unpaid resources and unpaid supports, such as relatives, friends, neighbors, and community resources, who are willing to voluntarily provide services to an individual, and that the individual is willing to accept.

(24) "OSIPM" means "Oregon Supplemental Income Program-Medical" as defined in OAR 411-317-0000.

(25) "Scope of Work" means the written statement of all proposed work requirements for an environmental modification or environmental safety modification.

(26) "Specialized Medical Supplies" means supplies of direct medical or remedial benefit to an individual that are not available through the state plan or a third-party payer. Specialized medical supplies are provided according to OAR 411-435-0060.

(27) "These Rules" mean the rules in OAR chapter 411, division 435.

(28) "Third-Party Payer" means a medical or financial resource that, under law, is liable to pay for medical services and items for an individual.

(29) "Transition Costs" means the costs, such as deposits, first month's rent and utilities, bedding, basic kitchen supplies, and other necessities, required for an individual to transition to a community-based home from the state hospital, a nursing facility, or an intermediate care facility. Transition costs are provided according to OAR 411-435-0050.

(30) "Vehicle Modifications" means the service that provides for the adaptations or alterations made to a vehicle that is the primary means of transportation for an individual in order to accommodate the individual's service needs. Vehicle modifications are provided according to OAR 411-435-0060.

Stat. Auth.: ORS 409.050, 427.104, 430.662

Stats. Implemented: ORS 409.010, 427.007, 427.104, 430.215, 430.610, 430.662

411-435-0030 General Eligibility for Ancillary Services

(Amended 12/27/2022)

(1) An individual may not be denied ancillary 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 ancillary services, an individual must meet the following requirements:

(a) Be an Oregon resident who meets the residency requirements in OAR 461-120-0010.

(b) Be enrolled with a case management entity.

(c) Be determined eligible for developmental disabilities services by the Community Developmental Disabilities Program of the county of origin as described in OAR 411-320-0080, except for those enrolled in the Medically Involved Children's Waiver or the Medically Fragile Children's Program as described in OAR chapter 411, division 300.

(A) A child enrolled in the Medically Involved Children's Waiver must be determined eligible for the waiver as described in OAR 411-300-0120(7).

(B) A child enrolled in the Medically Fragile Children's Program must meet the eligibility requirements described in OAR 411-300-0120(5).

(d) Be receiving one of the following:

(A) Family support services as described in OAR chapter 411, division 305. A child who is eligible for family support funds may

access ancillary services according to the conditions described in OAR 411-305-0230.

(B) A Medicaid Title XIX benefit package through OSIPM or HSD medical programs. Individuals receiving Medicaid Title XIX through HSD medical programs for services in a nonstandard living arrangement as defined in OAR 461-001-0000 are subject to the requirements in the same manner as if they were requesting these services under OSIPM, including the rules regarding:

(i) The transfer of assets as set forth in OAR 461-140-0210 through 461-140-0300.

(ii) The equity value of a home which exceeds the limits as set forth in OAR 461-145-0220.

(C) A benefit package through the Healthier Oregon medical program.

(e) Be determined to meet the level of care as defined in OAR 411-317-0000, except for individuals receiving family support services as described in OAR chapter 411, division 305.

(f) Demonstrate a need for an ancillary service as documented in an ISP or Annual Plan.

(g) For individuals with excess income, contribute to the cost of service in accordance with OAR 461-160-0610 and OAR 461-160-0620, except for individuals receiving family support services as described in OAR chapter 411, division 305.

(h) For services funded through the Community First Choice state plan or a 1915(c) waiver, participate in a functional needs assessment and provide information necessary to complete the functional needs assessment and reassessment within the time frame required by the Department.

(A) Failure to participate in the functional needs assessment or to provide information necessary to complete the functional

needs assessment or reassessment within the applicable time frame results in the denial or termination of service eligibility. In the event service eligibility is denied or terminated, a written Notification of Planned Action must be provided as described in OAR 411-318-0020.

(B) The Department may allow additional time if circumstances beyond the control of the individual or legal representative prevent timely participation in the functional needs assessment or timely submission of information necessary to complete the functional needs assessment or reassessment.

(3) An individual who meets the general eligibility criteria described in this rule and is enrolled to a residential program may be eligible for services equivalent to the ancillary services described in these rules through the residential program's rate.

Stat. Auth.: ORS 409.050, 427.104, 430.662

Stats. Implemented: ORS 409.010, 427.007, 427.104, 430.215, 430.610, 430.662

411-435-0040 Conditions of Purchase

(Amended 12/27/2022)

(1) Ancillary services must meet all of the following requirements:

- (a) Be of direct benefit to an individual.
- (b) Authorized in an individual's ISP or Annual Plan consistent with OAR 411-415-0070 and tied to an identified need.
- (c) Cost-effective. Items must be in new or certified refurbished in like-new condition.
- (d) Purchased in accordance with the Expenditure Guidelines.

(2) Department funds may not be used for:

- (a) A reimbursement to an individual, or the legal or designated representative or family member of the individual, for expenses related to ancillary services.
- (b) An advance payment of funds to an individual, or the legal or designated representative or family member of the individual, to obtain ancillary services.
- (c) Services, supports, materials, or activities that are illegal or in support of illegal conduct, experimental, or determined unsafe by the Department.
- (d) Services or activities that are carried out in a manner that constitutes abuse as defined in OAR 411-317-0000.
- (e) The purchase of a vehicle.
- (f) Health and medical costs that the general public normally must pay including, but not limited to:
 - (A) Medications.
 - (B) Health insurance co-payments.
 - (C) Mental health evaluation and treatment.
 - (D) Dental treatments and appliances.
 - (E) Medical treatments.
 - (F) Dietary supplements.
 - (G) Treatment supplies not related to nutrition, incontinence, or infection control.
- (g) Ambulance services.
- (h) Legal fees.
- (i) Services that do not meet:

(A) The description of ancillary services as described in these rules; or

(B) The definition of a social benefit in OAR 411-317-0000.

(j) Services or items available through third-party payers or that supplant services or items available through third-party payers.

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

(l) Services provided in a nursing facility, correctional institution, or hospital.

(m) Services when there is evidence to believe that an individual, a legal or designated representative of an individual (as applicable), or a provider, has engaged in fraud, misrepresentation, failed to use resources as agreed upon in an ISP or Annual Plan, refused to cooperate with documenting use of Department funds, or otherwise knowingly misused public funds associated with ancillary services.

(n) Items or services provided to a child that are necessary for a child of the same age without a disability or typical for a parent or guardian to provide.

(o) Services available through natural supports.

(p) A toy or outdoor play equipment that is not of direct benefit to an individual's identified support needs and does not meet the criteria in OAR 411-435-0050 for assistive devices or assistive technology.

(q) Items or services of general utility and not directly related to an individual's identified support needs.

Stat. Auth.: ORS 409.050, 427.104, 430.662

Stats. Implemented: ORS 409.010, 427.007, 427.104, 430.215, 430.610, 430.662

411-435-0050 Developmental Disabilities - Community First Choice Ancillary Services
(Amended 12/27/2022)

(1) The following ancillary services are available through the Community First Choice state plan:

- (a) Assistive devices as described in section (3) of this rule.
- (b) Assistive technology as described in section (4) of this rule.
- (c) Chore services as described in section (5) of this rule.
- (d) Community nursing services as described in section (6) of this rule.
- (e) Community transportation as described in section (7) of this rule.
- (f) Environmental modifications as described in section (8) of this rule.
- (g) Professional behavior services as described in OAR chapter 411, division 304.
- (h) Transition costs as described in section (9) of this rule.

(2) Assistive devices, assistive technology, community transportation, environmental modifications, and professional behavior services may also be available through family support funds within the service limits described in OAR 411-305-0230.

(3) **ASSISTIVE DEVICES.** Assistive devices are primarily and customarily used to assist and maximize an individual's independence in performing an ADL, IADL, or health-related task. The purchase, rental, or repair of an assistive device with Department funds must be limited to the types of equipment and accessories not excluded under OAR 410-122-0080.

- (a) Assistive devices include equipment, mechanical apparatuses, electrical appliances, or instruments of technology, including but not limited to:

- (A) Bath chairs.
- (B) Mobility aids.
- (C) Clocks or timers.
- (D) Adaptive utensils.
- (E) Adaptive switches.

(b) Prior Department approval is required for assistive device expenditures that are over \$5,000 per device, per plan year that are funded through the Community First Choice state plan.

(c) Any single purchase costing more than \$1,200, or any combination of items that meet a single assessed need totaling more than \$1,200, must be approved by the Department prior to expenditure.

(d) Approval is based on the service and support needs and goals of an individual and a determination by the Department of appropriateness and cost-effectiveness.

(4) ASSISTIVE TECHNOLOGY Assistive technology is primarily and customarily used to provide additional security and support, reduce or replace the need for direct intervention, enable self-direction of care, or maximize independence.

(a) Assistive technology includes, but is not limited to the following:

- (A) Motion or sound sensors.
- (B) Two-way communication systems.
- (C) Automatic faucets and soap dispensers.
- (D) Incontinence and fall sensors.
- (E) Devices to secure assistance in an emergency in the community.

(F) Medication minders.

(G) Alert systems for ADL or IADL support.

(H) Mobile electronic devices or other electronic back-up systems, including the expense necessary for the continued operation of the assistive technology.

(b) Payment for ongoing electronic back-up systems or assistive technology costs must be paid to providers each month after services are received.

(A) Ongoing costs may include batteries or back-up generators to maintain electronic back-up systems, assistive technology, or assistive devices funded by the Department during a power outage.

(B) Ongoing costs may include data plans, electronic application subscriptions, and the services of a company to monitor emergency response systems.

(c) Prior Department approval is required for assistive technology expenditures that are over \$5,000 per device, per plan year that are funded through the Community First Choice state plan.

(d) Any single purchase costing more than \$1,200, or any combination of items that meet a single assessed need totaling more than \$1,200, must be approved by the Department prior to expenditure.

(e) Approval is based on the service and support needs and goals of an individual and a determination by the Department of appropriateness and cost-effectiveness.

(5) CHORE SERVICES.

(a) To be eligible to access chore services an individual must not be enrolled in a residential program, unless the enrollment is in a supported living program described in OAR chapter 411, division 328

and the dwelling is not a provider owned, controlled, or operated setting.

(b) Chore services include heavy household chores, such as the following:

(A) Washing floors, windows, and walls.

(B) Tacking down loose rugs and tiles.

(C) Moving heavy items of furniture for safe access and egress.

(D) Removal of hazardous debris in the home.

(c) Chore services may include yard hazard removal to ensure the outside of a home is safe for an individual to traverse and enter and exit the home.

(6) COMMUNITY NURSING SERVICES.

(a) In addition to the general eligibility criteria listed in OAR 411-435-0030, to access community nursing services, an individual may not be enrolled in a 24-hour residential program under OAR chapter 411, division 325. An individual enrolled in a supported living program under OAR chapter 411, division 328 is eligible to access community nursing services when the cost of the service is not included in the rate paid to the provider.

(b) Community nursing services include the following:

(A) Nursing assessments, including medication reviews.

(B) Care coordination.

(C) Monitoring.

(D) Development of a Nursing Service Plan.

(E) Delegation and training of nursing tasks to a provider and primary caregiver.

(F) Teaching and education of the provider and primary caregiver and identifying supports that minimize health risks while promoting the autonomy of an individual and self-management of healthcare.

(G) Collateral contact with a case manager regarding the community health status of an individual to assist in monitoring safety and well-being and to address needed changes to the ISP for the individual.

(c) Community nursing services exclude the direct nursing services described in OAR chapter 411, division 380 and the private duty nursing services described in OAR chapter 411, division 300.

(d) A Nursing Service Plan must exist if Department funds are used for community nursing services. A case manager must authorize the provision of community nursing services as identified in an ISP.

(e) After an initial nursing assessment, a nursing reassessment must be completed every six months or sooner if a change in a medical condition requires an update to the Nursing Service Plan.

(7) COMMUNITY TRANSPORTATION.

(a) Community transportation may only be authorized on an ISP when:

(A) An individual meets the general eligibility criteria in OAR 411-435-0030.

(B) Voluntary natural supports or volunteer services are not available.

(C) The individual is not enrolled in a residential program.

(D) It is not the responsibility of the parent of a child.

(E) The individual has one of the following identified in their ISP:

(i) An assessed support need for an ADL, IADL, or health-related task during transportation.

(ii) An assessed support need for an ADL, IADL, or health-related task at the destination or a need for waiver-funded services at the destination.

(b) Community transportation includes, but is not limited to the following:

(A) Community transportation provided by a common carrier, taxicab, or bus in accordance with standards established for these entities.

(B) Reimbursement on a per-mile basis for transporting an individual to accomplish an ADL, IADL, health-related task, or employment goal identified in an ISP.

(C) The purchase of a bus pass.

(c) Community transportation must be provided in the most cost-effective manner to meet the needs identified in the ISP for an individual.

(d) Community transportation expenses exceeding \$500 per month must be approved by the Department.

(e) Community transportation must be prior authorized by a case manager and documented in an ISP. The Department does not pay any provider under any circumstances for more than the total number of hours, miles, or rides prior authorized by the case manager and documented in the ISP. Personal support workers who use their own personal vehicle for community transportation are reimbursed as described in OAR chapter 411, division 375.

(f) Mileage reimbursement for community transportation is only authorized when a provider is also being paid for delivering community living supports or job coaching. Mileage may not be authorized as a stand-alone payment.

- (g) Community transportation services exclude the following:
- (A) Medical transportation.
 - (B) Purchase or lease of a vehicle.
 - (C) Routine vehicle maintenance and repair, insurance, and fuel.
 - (D) Ambulance services.
 - (E) Costs for transporting a person other than the individual.
 - (F) Transportation for a provider to travel to and from the workplace of the provider.
 - (G) Transportation not for the sole benefit of the individual.
 - (H) Transportation as part of a vacation or trips for relaxation purposes.
 - (I) Transportation provided by family members who are not personal support workers.
 - (J) Reimbursement for out-of-state travel expenses.
 - (K) Mileage reimbursement to the individual or a personal support worker when the individual owns the vehicle doing the transportation.
 - (L) Transportation normally provided by schools.
 - (M) Transportation normally provided by a primary caregiver for a child of similar age without disabilities.
 - (N) Transportation for a child typically the responsibility of a parent. Transportation for a child not typically a parental responsibility is limited to transportation:

(i) Concurrent with the delivery of relief care as described in OAR 411-450-0060; or

(ii) When included within the emergency crisis section of a Positive Behavior Support Plan as an isolated intervention strategy when a child is behaving in an unsafe manner that presents imminent danger of injury to self or others.

(8) ENVIRONMENTAL MODIFICATIONS.

(a) An individual may access environmental modifications if:

(A) The environmental modification is related to the completion of an ADL, IADL, or health-related task.

(B) The individual is not enrolled in a residential program, unless the enrollment is in a supported living program described in OAR chapter 411, division 328 and the dwelling is not a provider owned, controlled, or operated setting.

(b) Environmental modifications include, but are not limited to, the following:

(A) Installation of shatter-proof windows.

(B) Hardening of walls or doors.

(C) Specialized, hardened, waterproof, or padded flooring.

(D) An alarm system for doors or windows.

(E) Protective covering for smoke alarms, light fixtures, and appliances.

(F) Installation of ramps, grab-bars, and electric door openers.

(G) Adaptation of kitchen cabinets and sinks.

(H) Widening of doorways.

- (I) Handrails.
- (J) Modification of bathroom facilities.
- (K) Installation of non-skid surfaces.
- (L) Overhead track systems to assist with lifting or transferring.
- (M) Specialized electric and plumbing systems necessary to accommodate the medical equipment and supplies necessary for the welfare of an individual.
- (N) Adaptations to control the home environment, including lights and heat.
- (O) Adaptations or improvements to the home that are of general utility and directly related to the completion of an ADL, IADL, or health-related task.

(c) Environmental modifications exclude the following:

- (A) Adaptations or improvements to the home not directly related to the completion of an ADL, IADL, or health-related task.
- (B) Adaptations that add to the total square footage of the home.
- (C) Adaptations outside of the home, except for ramps that attach to the home for the purpose of entry or exit.
- (D) General repair or maintenance and upkeep required for the home.

(d) Department approval is required for environmental modification expenditures that are over \$5,000 per modification, per plan year that are funded through the Community First Choice state plan.

- (A) A case manager must request approval for additional expenditures through the Department prior to expenditure.

(B) Approval is based on the service and support needs and goals of an individual and a determination by the Department of appropriateness and cost-effectiveness.

(C) Separate environmental modification projects that cumulatively total up to over \$5,000 in a plan year must be submitted to the Department for review.

(e) Any modification requiring a permit must be inspected by a local inspector and certified as in compliance with local codes. A contractor must have the certificate prior to payment.

(f) Payment to the contractor is to be withheld until the work is complete and meets specifications.

(g) A scope of work must be completed for each identified environmental modification project. All contractors submitting bids must be given the same scope of work.

(h) For all environmental modifications, a case management entity must attempt to acquire at least three written bids from providers meeting the qualifications in OAR 411-435-0080. When it is not reasonable to obtain three written bids, exceptions to this requirement may be granted by the Department.

(i) A case manager must assure the processes outlined in the Expenditure Guidelines are followed for contractor bids and the awarding of work.

(j) All dwellings must be in good repair and have sound structure to safely support the environmental modification.

(k) The identified home may not be in foreclosure or be the subject of legal proceedings regarding ownership.

(l) Environmental modifications must only be completed to the primary residence of an individual.

(m) Environmental modifications are subject to Department requirements regarding material and construction practices based on industry standards for safety, liability, and durability, as referenced in building codes, materials, manuals, and industry and risk management publications.

(n) RENTAL PROPERTY.

(A) Environmental modifications to a rental property may not substitute or duplicate services otherwise the responsibility of the landlord as outlined in the landlord tenant laws, the Americans with Disabilities Act, or the Fair Housing Act.

(B) Environmental modifications made to a rental structure must have written authorization from the owner of the rental property prior to the start of the work.

(C) The Department does not fund work to restore a rental property to the condition it was in prior to the installation of an environmental modification.

(9) TRANSITION COSTS.

(a) To be eligible to access transition costs, an individual must not be enrolled in a residential program.

(b) Transition costs are limited to an individual transitioning from residing in the state hospital, a nursing facility, or an intermediate care facility, to residing in a community-based home when the cost for the transition is not included in the rate paid to a provider or typically provided by a residential program.

(c) Transition costs are based on the assessed need of an individual determined during the person-centered planning process and must support the desires and goals of the individual receiving services and supports.

(d) Final approval for transition costs must be through the Department prior to expenditure.

(e) Financial assistance for transition costs is limited to the following:

(A) Moving and move-in costs, including movers, cleaning and security deposits, payment for background or credit checks (related to housing), or initial deposits for heating, lighting, and phone.

(B) Payment of previous utility bills that may prevent the individual from receiving utility services.

(C) Basic household furnishings, such as a bed.

(D) Other items necessary to re-establish a home.

(f) Transition costs are provided no more than twice annually.

(g) Transitions costs for basic household furnishings and other items included under subsections (e)(C) and (D) are limited to one time per year.

(h) Transition costs may not supplant the legal responsibility of the parent or guardian of a child. In this context, the term parent or guardian does not include a designated representative.

Stat. Auth.: ORS 409.050, 427.104, 430.662

Stats. Implemented: ORS 409.010, 427.007, 427.104, 430.215, 430.610, 430.662

411-435-0060 Developmental Disabilities - Waiver Ancillary Services
(Amended 12/27/2022)

(1) The following ancillary services are available through the Children's and Adults' 1915(c) Waivers, Medically Involved Children's Waiver, Medically Fragile (Hospital) Model Waiver, and Behavioral (ICF/IDD) Model Waiver:

(a) Environmental safety modifications as described in section (3) of this rule.

(b) Family training as described in section (4) of this rule.

(c) Specialized medical supplies as described in section (5) of this rule.

(d) Vehicle modifications as described in section (6) of this rule.

(2) Environmental safety modifications, family training, and specialized medical supplies may also be available through family support funds within the service limits described in OAR 411-305-0230.

(3) ENVIRONMENTAL SAFETY MODIFICATIONS.

(a) To be eligible for environmental safety modifications, an individual must not be enrolled in a residential program, unless the enrollment is in a supported living program described in OAR chapter 411, division 328 and the dwelling is not a provider owned, controlled, or operated setting.

(b) Fencing may not exceed 200 linear feet without approval from the Department.

(c) Environmental safety modifications exclude the following:

(A) Large gates, such as automobile gates.

(B) Adaptations or improvements to the home not directly connected to the identified needs of an individual.

(C) Adaptations adding to the total square footage of the home.

(D) Adaptations prohibited by local codes and ordinances or neighborhood Covenants, Conditions, and Restrictions (CCR).

(d) Environmental safety modifications must relate to the health, welfare, or safety of an individual or increase independence in the home.

(e) Department approval is required for environmental safety modification expenditures that are over \$5,000 per plan year that are funded through the Children's and Adults' 1915(c) Waivers, Medically

Involved Children's Waiver, Medically Fragile (Hospital) Model Waiver, and Behavioral (ICF/IDD) Model Waiver.

(A) A case manager must request approval for additional expenditures through the Department prior to expenditure.

(B) Approval is based on the service and support needs and goals of an individual and a determination by the Department of appropriateness and cost-effectiveness.

(C) Separate environmental safety modification projects that cumulatively total up to over \$5,000 in a plan year must be submitted to the Department for review.

(f) Environmental safety modifications must be completed by a state licensed contractor with a minimum of \$1,000,000 liability insurance. Any modification requiring a permit must be inspected by a local inspector and certified as in compliance with local codes. A contractor must have the certificate prior to payment.

(g) Payment to the contractor is to be withheld until the work meets specifications.

(h) A scope of work must be completed for each identified environmental safety modification project. All contractors submitting bids must be given the same scope of work.

(i) For all environmental safety modifications, a minimum of three written bids are required from providers meeting the qualifications in OAR 411-435-0080. When it is not reasonable to obtain three written bids, exceptions to this requirement may be granted by the Department.

(j) A case manager must assure the processes outlined in the Expenditure Guidelines are followed for contractor bids and the awarding of work.

(k) All dwellings must be in good repair and have sound structure to safely support the environmental safety modification.

(l) The identified home may not be in foreclosure or the subject of legal proceedings regarding ownership.

(m) Environmental safety modifications must only be completed to the primary residence of an individual.

(n) Environmental safety modifications are subject to Department requirements regarding material and construction practices based on industry standards for safety, liability, and durability, as referenced in building codes, materials, manuals, and industry and risk management publications.

(o) RENTAL PROPERTY.

(A) Environmental safety modifications to a rental property may not substitute or duplicate services otherwise the responsibility of the landlord as outlined in the landlord tenant laws, the Americans with Disabilities Act, or the Fair Housing Act.

(B) Environmental safety modifications made to a rental structure must have written authorization from the owner of the rental property prior to the start of the work.

(C) The Department does not fund work to restore a rental property to the condition it was in prior to the installation of an environmental modification.

(4) FAMILY TRAINING.

(a) To be eligible to access family training, an individual must not be enrolled in a residential program.

(b) Family training services include the following:

(A) Instruction about supports, medications, and use of equipment specified in an ISP or Annual Plan.

(B) Information, education, and training about the disability, medical, or behavioral conditions of an individual.

(C) Registration fees for organized conferences and workshops specifically related to the intellectual or developmental disability of an individual or the identified, specialized, medical, or behavioral support needs of an individual.

(c) Family training services exclude the following:

(A) Mental health counseling, medical treatment, or therapy.

(B) Training for a paid provider, including a paid family member.

(C) Legal fees.

(D) Training for a family member to carry out educational activities in lieu of school.

(E) Vocational training for family members.

(F) Paying for training to carry out activities or interventions the Department deems to constitute abuse of an individual.

(G) Travel, food, and lodging expenses.

(5) SPECIALIZED MEDICAL SUPPLIES. Specialized medical supplies include, but are not limited to:

(a) Various medical items, such as incontinence, nutrition, and infection control supplies.

(b) Supplies necessary to the proper functioning of life support equipment.

(c) Supplies that address physical conditions.

(d) Supplies necessary for the continued operation of augmentative communication devices or systems.

(6) VEHICLE MODIFICATIONS.

- (a) To be eligible to access vehicle modifications, an individual must not be enrolled in a residential program.
- (b) Vehicle modifications may only be made to the vehicle primarily used by an individual to meet the unique needs of the individual.
- (c) Vehicle modifications may include a lift, interior alterations to seats, head and leg rests, belts, special safety harnesses, other unique modifications to keep an individual safe in the vehicle, and the upkeep and maintenance of a modification made to the vehicle.
- (d) Vehicle modifications exclude the following:
 - (A) Adaptations or improvements to a vehicle that are of general utility.
 - (B) The purchase or lease of a vehicle.
 - (C) Routine vehicle maintenance and repair.
- (e) Department approval is required for vehicle modification expenditures that are over \$5,000 per plan year that are funded through the Children's and Adults' 1915(c) Waivers, Medically Involved Children's Waiver, Medically Fragile (Hospital) Model Waiver, and Behavioral (ICF/IDD) Model Waiver.
 - (A) A case manager must request approval for additional expenditures through the Department prior to expenditure.
 - (B) Approval is based on the service and support needs and goals of an individual and a determination by the Department of appropriateness and cost-effectiveness.
 - (C) Separate vehicle modification projects that cumulatively total up to over \$5,000 in a plan year must be submitted to the Department for review.
- (f) Vehicle modifications must meet applicable standards of manufacture, design, and installation.

Stat. Auth.: ORS 409.050, 427.104, 430.662

Stats. Implemented: ORS 409.010, 427.007, 427.104, 430.215, 430.610, 430.662

411-435-0070 Developmental Disabilities - Other Waiver Ancillary Services for Children in CIIS

(Amended 11/01/2019)

INDIVIDUAL-DIRECTED GOODS AND SERVICES. Individual-directed goods and services are available through the Medically Involved Children's Waiver, Medically Fragile (Hospital) Model Waiver, and Behavioral (ICF/IID) Model Waiver.

(1) Only a child who meets the general eligibility criteria in OAR 411-435-0030 and enrolled in CIIS may access individual-directed goods and services.

(2) Individual-directed goods and services provide equipment and supplies not otherwise available through another source, such as waiver services or state plan services.

(3) Authorization of individual directed goods and services must be based on an assessed need.

(4) Individual-directed goods and services must directly address the disability related need of a child identified in their ISP.

(5) Individual-directed goods and services must:

(a) Decrease the need for other Medicaid services;

(b) Promote inclusion of a child in the community; or

(c) Increase the safety of a child in the family home.

(6) Individual-directed goods and services may not be:

(a) Otherwise available through another source, such as waiver services or state plan services;

(b) Experimental or prohibited treatment; or

(c) Goods or services that are normally purchased by a family for a typically developing child of the same age.

(7) Individual-directed goods and services purchased must be the most cost-effective option available to meet the needs of the child.

Stat. Auth.: ORS 409.050, 427.104, 430.662

Stats. Implemented: ORS 427.007, 427.104, 430.610, 430.620, 430.662-430.670

411-435-0080 Ancillary Service Provider Requirements

(Amended 11/01/2019)

(1) Providers of community nursing services.

(a) Independent providers are not personal support workers and must meet the minimum qualifications of an independent provider described in OAR chapter 411 division 375 and:

(A) Have a current Oregon nursing license;

(B) Be enrolled in the Long Term Care Community Nursing Program as described in OAR chapter 411, division 048; and

(C) Submit a resume to the case management entity indicating the education, skills, and abilities necessary to provide nursing services in accordance with state law.

(b) Agency providers must be enrolled in the Long Term Care Community Nursing Program as described in OAR chapter 411, division 048.

(2) Providers delivering goods or services to individuals and paid with Department funds must hold any current license appropriate to function required by the state of Oregon or federal law or regulation including, but not limited to:

(a) For providers of environmental modifications or environmental safety modifications involving building modifications or new construction, a current license and bond as a building contractor as required by OAR chapter 812 (Construction Contractor's Board) or OAR chapter 808 (Landscape Contractors Board) with a minimum of \$1,000,000 liability insurance.

(b) For environmental accessibility consultants, a current license as a general contractor as required by OAR chapter 812, including experience evaluating homes, assessing the needs of an individual, and developing cost-effective plans to make homes safe and accessible.

(c) For public transportation providers, the established standards.

(d) For private transportation providers other than personal support workers, a business license and a license to drive in Oregon.

(e) For vendors and medical supply companies providing assistive devices or specialized medical supplies, a current retail business license, including enrollment as Medicaid providers through the Oregon Health Authority if vending medical equipment.

(3) Services provided and paid for with Department funds must be limited to the services within the scope of the license of the general business provider.

(4) A provider who is a writer of a scope of work, a contractor who is chosen to complete environmental modifications or environmental safety modifications, a contractor completing a vehicle modification, or a provider of chore services cannot have a conflict of interest associated with the delivery of the service unless the conflict is waived by the Department prior to delivering the service. A conflict of interest exists when the provider is:

(a) Related by blood or marriage to the individual, or to any paid caregiver of the individual.

(b) Financially responsible for the individual.

(c) Empowered to make financial or health-related decisions on behalf of the individual.

(d) May benefit financially from the provision of the environmental or vehicle modification.

(5) Payment by the Department for ancillary services is considered full payment for the services rendered under Medicaid. A provider may not demand or receive additional payment for ancillary services from the individual, legal representative, or any other source, under any circumstances.

(6) Medicaid funds are the payer of last resort. A provider must bill all third party resources until all third party resources are exhausted.

(7) The Department reserves the right to make a claim against any third party payer before or after making payment to the provider.

Stat. Auth.: ORS 409.050, 427.104, 430.662

Stats. Implemented: ORS 427.007, 427.104, 430.610, 430.620, 430.662-430.670