

**TEMPORARY FILING
INCLUDING STATEMENT OF NEED & JUSTIFICATION**

For internal agency use only.

Oregon Department of Human Services, Developmental Disabilities 411

Agency and Division Name

Administrative Rules Chapter Number

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Rule Coordinator/Filing Contact

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FILING CAPTION

(15 words or less)

ODDS: Child Foster Homes - Eligibility for Medicaid Service Payment (COVID-19)

Agency Approved Date: [September 16, 2020]

Effective Date: [September 17, 2020] through [March 15, 2021]

RULEMAKING ACTION

List each rule number separately (000-000-0000). Attach clean text for each rule at the end of the filing

ADOPT:

411-346-0250

RULE SUMMARY:

Include a summary for each rule included in this filing.

Due to the Coronavirus (COVID-19) state of emergency, the Oregon Department of Human Services, Office of Developmental Disabilities Services (ODDS) has been granted temporary permission from the Centers for Medicare and Medicaid Services to allow developmental disabilities service providers to deliver attendant care while an individual is hospitalized under certain circumstances.

ODDS is adopting OAR 411-346-0250 about Eligibility for Medicaid Service Payment for Child Foster Home Providers to:

- Allow for attendant care in an acute care hospital when authorized in a child's Individual Support Plan; and
- Codify expectations for service payment claims.

STATEMENT OF NEED AND JUSTIFICATION

Need for the Rule(s):

ODDS needs to immediately adopt OAR 411-346-0250 to allow for attendant care in an acute care hospital when authorized in a child's Individual Support Plan and codify expectations for service payment claims. ODDS needs to proceed by filing temporary

rulemaking to provide immediate protection to children receiving services during the COVID-19 state of emergency.

Justification of Temporary Filing:

Failure to act promptly and immediately adopt OAR 411-346-0250 will result in serious prejudice to the public interest, ODDS, child foster home providers, and children receiving developmental disabilities services in child foster homes.

Failure to act promptly and immediately adopt OAR 411-346-0250 will prevent ODDS from allowing attendant care in an acute care hospital when authorized in an Individual Support Plan and codifying expectations for service payment claims.

OAR 411-346-0250 needs to be immediately adopted to allow for attendant care in an acute care hospital when authorized in a child's Individual Support Plan and codify expectations for service payment claims.

Documents Relied Upon, and where they are available:

Governor's Executive Order 20-03, Declaration of Emergency Due to Coronavirus

Available at: https://www.oregon.gov/gov/Documents/executive_orders/eo_20-03.pdf

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

**CHAPTER 411
DIVISION 346**

**FOSTER HOMES FOR CHILDREN WITH INTELLECTUAL OR
DEVELOPMENTAL DISABILITIES**

411-346-0250 Foster Provider Eligibility for Medicaid Service Payment
(Temporary Effective 09/17/2020 - 03/15/2021)

(1) A foster provider must have an approved prior authorization for services in the Department's electronic payment and reporting system prior to entering a claim for a day of service. The prior authorization includes the dates of authorized services and the funding amount allocated for the services.

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

(a) A child sleeps in the child foster home overnight; or

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

(A) Providing intermittent physical support or care.

(B) Providing stand-by support with the ability to respond in person within the response times agreed upon by the ISP team.

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

(3) A foster provider is not eligible to enter a claim for a day of service when a child:

(a) Has been admitted to an acute care hospital unless the child's ISP authorizes attendant care for the child in an acute care hospital and the day of service criteria in section (2)(b) of this rule is met. An ISP may only authorize attendant care for a child who has been admitted to an acute care hospital when the child has one of the following:

(A) Challenging behavior that interferes with getting medical care. The challenging behavior must require specific training or experience to support and must be able to be mitigated by the foster provider to an extent that medical care is improved.

(B) An inability to independently communicate with hospital staff that interferes with getting medical care. This must not be solely due to limited or emerging English proficiency.

(C) Support with one or more activities of daily living that may only be adequately met by someone familiar with the child.

(b) Has been admitted to a nursing facility;

(c) Has been admitted to a mental health facility;

(d) Is held in detention or jail; or

(e) Is outside the United States.

Stat. Auth.: ORS 409.050, 427.104, 443.835

Stats. Implemented: ORS 409.010, 427.007, 427.104, 430.215, 443.830, 443.835