

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

*For internal agency use only.*

Oregon Department of Human Services (ODHS)  
Office of Developmental Disabilities Services (ODDS)

411

Agency and Division Name

Administrative Rules Chapter Number

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**FILING CAPTION**

*(15 words or less)*

**ODDS: Community Living Supports - Standard Model Agency (SB 1548)**

Agency Approved Date: [ June 22, 2022 ]

Effective Date: [ July 1, 2022 ] through [ December 27, 2022 ]

**RULEMAKING ACTION**

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

**AMEND:**

411-323-0020, 411-450-0020, 411-450-0070, 411-450-0080

**ADOPT:**

411-450-0090

**RULE SUMMARY:**

*Include a summary for each rule included in this filing.*

The Oregon Department of Human Services, Office of Developmental Disabilities Services (ODDS) is immediately updating the following rules in OAR chapter 411, divisions 323 and 450 about community living supports delivered by a standard model agency or a community living supports agency to implement the fully funded new rate models on July 1, 2022 as directed by the Legislature and Senate Bill (SB) 1548 (2022 Regular Session).

OAR 411-323-0020 about "Definitions and Acronyms" for agency certification and endorsement is being immediately amended to update the definition of "Program Rules" to refer to community living supports delivered by a standard model agency or a community living supports agency.

OAR 411-450-0020 about "Definitions and Acronyms" for community living supports is being immediately amended to define "Community Living Supports Agency", "Implementation Strategy", "Progress Report", "Scheduled Support", and "Standard Model Agency".

OAR 411-450-0070 about "Community Living Supports Providers and Provider Requirements" is being immediately amended to include provider agencies endorsed to operate as either a community living supports agency or a standard model agency and specify a provider agency can't simultaneously be a community living supports agency and a standard model agency.

OAR 411-450-0080 about "Minimum Standards for Provider Agencies Delivering Community Living Supports" is being immediately amended to:

- Include provider agencies endorsed to deliver community living supports as a community living supports agency or a standard model agency.
- Specify service rates for a community living supports agency are identified in the expenditure guidelines.
- Require all provider agencies to deliver community living supports through employees of the provider agency no later than January 1, 2023.

OAR 411-450-0090 is being immediately adopted to set "Standard Model Agency Requirements".

#### **STATEMENT OF NEED AND JUSTIFICATION**

**Need for the Rule(s):**

ODDS needs to temporarily update the following rules in OAR chapter 411, divisions 323 and 450 about community living supports delivered by a standard model agency or a community living supports agency to implement the fully funded new rate models on July 1, 2022 as directed by the Legislature and SB 1548.

OAR 411-323-0020 about "Definitions and Acronyms" for agency certification and endorsement needs to be immediately amended to update the definition of "Program Rules" to refer to community living supports delivered by a standard model agency or a community living supports agency.

OAR 411-450-0020 about "Definitions and Acronyms" for community living supports needs to be immediately amended to define "Community Living Supports Agency", "Implementation Strategy", "Progress Report", "Scheduled Support", and "Standard Model Agency".

OAR 411-450-0070 about "Community Living Supports Providers and Provider Requirements" needs to be immediately amended to include provider agencies endorsed to operate as either a community living supports agency or a standard model agency and specify a provider agency can't simultaneously be a community living supports agency and a standard model agency.

OAR 411-450-0080 about "Minimum Standards for Provider Agencies Delivering Community Living Supports" needs to be immediately amended to:

- Include provider agencies endorsed to deliver community living supports as a community living supports agency or a standard model agency.
- Specify service rates for a community living supports agency are identified in the expenditure guidelines.
- Require all provider agencies to deliver community living supports through employees of the provider agency no later than January 1, 2023.

OAR 411-450-0090 needs to be immediately adopted to set "Standard Model Agency Requirements".

ODDS needs to proceed by filing temporary rule changes and is unable to proceed through the permanent rulemaking process because ODDS needs to implement the fully funded new rate models on July 1, 2022 as directed by the Legislature and SB 1548.

**Justification of Temporary Filing:**

Failure to act promptly and temporarily update the rules in OAR chapter 411, divisions 323 and 450 about community living supports delivered by a standard model agency or a community living supports agency will result in serious prejudice to provider agencies delivering developmental disabilities services and ODDS.

The rules in OAR chapter 411, divisions 323 and 450 need to be updated promptly to implement the fully funded new rate models on July 1, 2022 as directed by the Legislature and SB 1548. The temporary rules create two types of provider agencies to deliver community living supports (in-home hourly attendant care). Provider agency rates will correspond to the service delivery model the two different provider agency types are expected to operationalize including, but not limited to, workforce support capacity, training, and documentation standards.

Failure to act promptly and temporarily update the rules in OAR chapter 411, divisions 323 and 450 will prevent ODDS from implementing the fully funded new rate models on July 1, 2022 as directed by the Legislature and SB 1548. In addition, provider agencies will not be reimbursed commensurate to the type of service they provide which may negatively impact the direct support workforce.

**Documents Relied Upon, and where they are available:**

SB 1548 (2022 Regular Session). Available at:

<https://olis.oregonlegislature.gov/liz/2022R1/Downloads/MeasureDocument/SB1548/Enrolled>

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

**CHAPTER 411  
DIVISION 323**

**AGENCY CERTIFICATION AND ENDORSEMENT TO DELIVER  
DEVELOPMENTAL DISABILITIES SERVICES IN COMMUNITY-BASED  
SETTINGS**

**411-323-0020 Definitions and Acronyms**

*(Temporary Effective 07/01/2022 - 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 323. If a word or term is defined differently in OAR 411-317-0000, the definition in this rule applies.

(1) "Applicant" means a person, agency, corporation, or governmental unit who applies for certification and endorsement to operate an agency delivering services to individuals with intellectual or developmental disabilities.

(2) "Audit" means an inspection completed by a Certified Public Accountant using standards and accepted practices of accounting.

(3) "Board of Directors" means the group of people formed to set policy and give directions to an agency designed to provide services to individuals with intellectual or developmental disabilities. A Board of Directors may include local advisory boards used by multi-state organizations.

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

(5) "Certificate" means the document issued by the Department to an agency that certifies the agency is eligible to receive state funds for the delivery of services in an endorsed program.

(6) "Denial" means the refusal of the Department to issue:

(a) A certificate to operate an agency because the Department has determined the agency is not in compliance with these rules or the corresponding program rules; or

(b) An endorsement for an agency to operate a program because the Department has determined the agency is not in compliance with these rules or the corresponding program rules.

(7) "Endorsement" means the authorization to operate a program that delivers services. An endorsement is issued by the Department to a certified agency that has met the qualification criteria outlined in these rules and the corresponding program rules.

(8) "Executive Director" means the person designated by a Board of Directors or corporate owner of an agency that is responsible for the administration of the services delivered by the agency.

(9) "Financial Statements" means a balance sheet and statement of income as filed with the Internal Revenue Service.

(10) "Fiscal Year" means the period beginning on July 1st through June 30th the following year.

(11) "Informal Conference" means the discussion between the Department and an applicant or an agency that is held prior to a hearing to address any matters pertaining to the hearing. An administrative law judge does not participate in an informal conference. The informal conference may result in resolution of the issue.

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

(13) "ODDS" means "Office of Developmental Disabilities Services".

(14) "Ownership Interest" means, as defined in 42 CFR 455.101, the possession of equity in the capital, the stock, or the profits of the disclosing entity as determined by 42 CFR 455.102. A person with an ownership or control interest means a person or corporation that:

(a) Has an ownership interest totaling 5 percent or more in a disclosing entity;

- (b) Has an indirect ownership interest equal to 5 percent or more in a disclosing entity;
- (c) Has a combination of direct and indirect ownership interests equal to 5 percent or more in a disclosing entity;
- (d) Owns an interest of 5 percent or more in any mortgage, deed of trust, note, or other obligation secured by the disclosing entity if that interest equals at least 5 percent of the value of the property or assets of the disclosing entity;
- (e) Is an officer or director of a disclosing entity that is organized as a corporation; or
- (f) Is a partner in a disclosing entity that is organized as a partnership.

(15) "Program" means the services delivered by a provider agency as described in:

- (a) OAR chapter 411, division 304 for professional behavior services.
- (b) OAR chapter 411, division 325 for 24-hour residential programs and settings.
- (c) OAR chapter 411, division 328 for supported living programs.
- (d) OAR chapter 411, division 345 for employment services.
- (e) OAR chapter 411, division 348 for host home programs and settings.
- (f) OAR chapter 411, division 380 for direct nursing services.
- (g) OAR chapter 411, division 450 for community living supports.

(16) "Program Rules" mean the following rules:

- (a) OAR chapter 411, division 304 for professional behavior services.

(b) OAR chapter 411, division 325 for 24-hour residential programs and settings.

(c) OAR chapter 411, division 328 for supported living programs.

(d) OAR chapter 411, division 345 for employment services.

(e) OAR chapter 411, division 348 for host home programs and settings.

(f) OAR chapter 411, division 380 for direct nursing services.

(g) OAR chapter 411, division 450 for community living supports delivered by a standard model agency as defined in OAR 411-450-0020.

(h) OAR chapter 411, division 450, excluding OAR 411-450-0090, for community living supports delivered by a community living supports agency as defined in OAR 411-450-0020.

(17) "Revocation" means the action taken by the Department to rescind:

(a) A certificate to operate an agency after the Department has determined that the agency is not in compliance with these rules or the corresponding program rules; or

(b) An endorsement for an agency to operate a program after the Department has determined that the agency is not in compliance with these rules or the corresponding program rules.

(18) "Suspension" means an immediate temporary withdrawal of the:

(a) Certificate to operate an agency after the Department determines that the agency is not in compliance with these rules or the corresponding program rules; or

(b) Endorsement for an agency to operate a program after the Department determines that the agency is not in compliance with these rules or the corresponding program rules.

(19) "These Rules" mean the rules in OAR chapter 411, division 323.

Stat. Auth. ORS 409.050, [SB 1548 \(2022 OR Law, Ch. 91\)](#)

Stats. Implemented: ORS [409.010](#), 427.007, 430.215, [SB 1548 \(2022 OR Law, Ch. 91\)](#)



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

**CHAPTER 411  
DIVISION 450**

**COMMUNITY LIVING SUPPORTS**

**411-450-0020 Definitions and Acronyms**

*(Temporary Effective 07/01/2022 - 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 450. 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".

(2) "ANA-C" means the "Adult In-Home Support Needs Assessment, Version C". The Department incorporates the ANA-C into these rules by this reference. The ANA-C is maintained by the Department at:  
[http://www.dhs.state.or.us/spd/tools/dd/cm/ANA%20-%20Adult%20In-home%20-%20v\\_C.47r.xlsm](http://www.dhs.state.or.us/spd/tools/dd/cm/ANA%20-%20Adult%20In-home%20-%20v_C.47r.xlsm).

(3) "ANA/CNA Manual" means the document that describes how to administer an ANA and CNA. The Department incorporates the ANA/CNA Manual, Version 2 into these rules by this reference. The ANA/CNA Manual is maintained by the Department at:  
<http://www.dhs.state.or.us/spd/tools/dd/bpa/ana-cna-manual.pdf>.

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

(5) "CNA-C" means the "Child In-Home Support Needs Assessment, Version C". The Department incorporates the CNA-C into these rules by this reference. The CNA-C is maintained by the Department at:  
[http://www.dhs.state.or.us/spd/tools/dd/cm/CNA%20-%20Child%20In-home%20-%20v\\_C.47r.xlsm](http://www.dhs.state.or.us/spd/tools/dd/cm/CNA%20-%20Child%20In-home%20-%20v_C.47r.xlsm).

(6) "Class" means group attendant care that is regularly occurring,

organized, and structured around specific ADL/IADL supports intended to maintain or enhance an individual's skill level in the ADL/IADL.

(7) "Community Living Supports Agency" means a provider agency certified under OAR chapter 411, division 323 and endorsed to these rules, excluding OAR 411-450-0090, to deliver community living supports.

(78) "Day Support Activities" means attendant care supports, delivered by a provider agency, that happen during scheduled, intentional, structured activities in a non-residential setting. Day support activities focus on maintaining or enhancing the skills an individual needs to engage with the community.

(89) "DSA" means "Day Support Activities".

(910) "Facility-Based" means a service operated at a fixed site owned, operated, or controlled by a service provider where an individual has few or no opportunities to interact with people who do not have a disability except for paid staff.

(1011) "Family":

(a) Means a unit of two or more people that includes at least one individual, found to be eligible for developmental disabilities services, where the primary caregiver is:

(A) A family member as defined in OAR 411-317-0000; or

(B) In a domestic relationship where partners share the following:

(i) A permanent residence.

(ii) Joint responsibility for the household in general, such as child-rearing, maintenance of the residence, and basic living expenses.

(iii) Joint responsibility for supporting the individual when the individual is related to one of the partners by blood, marriage, or legal adoption.

(b) The term "family" is defined as described above for purposes of determining the service eligibility of an individual for community living supports as a resident in the family home.

(~~41~~12) "IADL" means "Instrumental Activities of Daily Living".

(13) "Implementation Strategy" means a written description of the steps a provider agency will take to assist an individual to achieve their desired outcomes, increase independence, and build or maintain skills, as identified in the individual's ISP or Service Agreement.

(~~42~~14) "ISP" means "Individual Support Plan".

(~~43~~15) "OCCS" means the "Office of Client and Community Services".

(~~44~~16) "OSIPM" means "Oregon Supplemental Income Program-Medical".

(~~45~~17) "Primary Caregiver" means the person identified in an ISP as providing the majority of services and support for an individual in the home of the individual.

(18) "Progress Report" means a written document that summarizes an individual's progress towards achieving their desired outcomes, increased independence, and skill building or maintenance, that a provider agency is helping the individual to achieve, as identified in the individual's ISP or Service Agreement.

(~~46~~19) "PSW" means "Personal Support Worker".

(20) "Scheduled Support" means a community living support that a representative of a provider agency and an individual agree to at least 24 hours ahead of the anticipated service delivery.

(~~47~~21) "Service Level" means the maximum number of hours available to an individual for any combination of attendant care, skills training services, or state plan personal care. The service level is determined by a formula embedded in the ANA-C and CNA-C. The formula uses the individual items within the areas measured by the assessment to generate the service level.

(22) "Standard Model Agency" means a provider agency certified under OAR chapter 411, division 323 and endorsed to these rules, including OAR 411-450-0090, to deliver community living supports.

(~~1823~~) "These Rules" mean the rules in OAR chapter 411, division 450.

Stat. Auth.: ORS 409.050, 427.104, 430.662, SB 1548 (2022 OR Law, Ch. 91)

Stats. Implemented: ORS 409.010, 427.005, 427.007, 427.104, 430.610, 430.620, 430.662-430.670, SB 1548 (2022 OR Law, Ch. 91)

### **411-450-0070 Community Living Supports Providers and Provider Requirements**

*(Temporary Effective 07/01/2022 - 12/27/2022)*

Delivery of community living supports is limited to the following provider types:

(1) A PSW who meets the standards described in OAR chapter 411, division 375.

(a) A PSW is not an available provider type when there is not a common law employer as described in OAR 411-375-0070.

(b) A PSW may not provide community living supports to an individual when the PSW and individual reside together unless:

(A) The PSW is a family member;

(B) The PSW does not own or control the property; or

(C) The individual and the PSW have equal homeowner or rental property rights.

(2) A provider agency certified according to OAR chapter 411, division 323 with an endorsement to these rules to operate as either a community living supports agency or a standard model agency. A provider agency cannot simultaneously be a community living supports agency and a standard model agency.

- (3) A home health agency with a current license issued under ORS 443.015.
- (4) An in-home care agency with a current license issued under ORS 443.315.
- (5) A provider organization currently certified under OAR chapter 411, division 340 whose certificate was issued or applied for prior to January 1, 2016.
- (6) A provider agency certified under OAR chapter 411, division 323 and endorsed to OAR 411-340-0170 between January 1, 2016 and June 29, 2016.
- (7) An agency certified under OAR chapter 411, division 323 and endorsed to OAR chapter 411, division 328 for supported living programs or to OAR chapter 411, division 325 for 24-hour residential programs or OAR chapter 411, division 345 for employment may provide community living supports, excluding DSA, without an endorsement to these rules until the agency's certification is renewed following the adoption of these rules.
- (8) An adult foster home licensed under OAR chapter 411, division 360. This provider type may only deliver community living supports, excluding DSA:
- (a) When they are in or based out of the licensed setting. An adult foster home provider may not provide community living supports to an individual in or based out of the home of the individual.
  - (b) To an adult.
- (9) A child foster home licensed under OAR chapter 411, division 346. This provider type may only deliver community living supports, excluding DSA:
- (a) When they are in or based out of the licensed setting. A child foster home provider may not provide community living supports to a child in or based out of the home of the child.
  - (b) To a child.

(10) An agency certified under OAR chapter 411, division 323 and endorsed to OAR chapter 411, division 325 for 24-hour residential programs does not require endorsement to these rules to deliver community living supports, excluding DSA, when they are in or based out of the licensed setting. A provider of a 24-hour residential program may not provide community living supports to an individual in or based out of the home of the individual.

(11) Providers qualified to deliver community living supports under sections (5) through (10) of this rule are subject to OARs 411-450-0040, 411-450-0050, 411-450-0060, and sections (6) through (~~2628~~) of OAR 411-450-0080 when delivering community living supports.

Stat. Auth.: ORS 409.050, 427.104, 430.662, SB 1548 (2022 OR Law, Ch. 91)

Stats. Implemented: ORS 409.010, 427.005, 427.007, 427.104, 430.610, 430.620, 430.662-430.670, SB 1548 (2022 OR Law, Ch. 91)

#### **411-450-0080 Minimum Standards for Provider Agencies Delivering Community Living Supports**

*(Temporary Effective 07/01/2022 - 12/27/2022)*

(1) CERTIFICATION, ENDORSEMENT, AND ENROLLMENT. To be endorsed to operate a deliver community living supports program, a provider agency must have all of the following:

(a) A certificate and an endorsement, as set forth in OAR chapter 411, division 323, to operate a deliver community living supports program as a community living supports agency or a standard model agency as set forth in OAR chapter 411, division 323.

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

(2) INSPECTIONS AND INVESTIGATIONS. A provider agency must allow inspections and investigations in accordance with OAR 411-323-0040.

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

(4) PERSONNEL FILES AND QUALIFICATION RECORDS. A provider agency must maintain written documentation of six hours of pre-service training prior to staff supervising individuals that includes mandatory abuse reporting, ISPs, and Service Agreements.

(5) CONFIDENTIALITY OF RECORDS. A provider agency must ensure the confidentiality of individuals' records in accordance with OAR 411-323-0060.

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

(7) For DSA, a provider agency must develop and share the following information with an individual and the individual's case manager:

(a) A written plan or implementation strategies. The written strategies for service implementation must be given to an individual and individual's case manager within 60 calendar days of providing services for the ISP year.

(b) A mitigation strategy or protocol that addresses each identified relevant risk. The risk mitigation strategies or protocols must be given to an individual and individual's case manager before services begin for the ISP year.

(c) Other documents requested by the ISP team.

(8) A provider agency must maintain progress notes regarding the community living supports provided. A progress note must include, at minimum, all of the following information regarding the service rendered:

(a) The date and time the service was delivered.

(b) The staff involved.

(c) Information regarding the nature of the support provided and how the support met an identified ADL or IADL support need or was a health-related task.

(9) Progress notes must be made available monthly and upon request by a case management entity.

(10) 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 payment.

(11) Records must be retained in accordance with OAR chapter 166, division 150, Secretary of State, Archives Division.

(a) Financial records, supporting documents, statistical records, and all other records (except individual records) must be retained for at least three years after the close of a contract period.

(b) Individual records must be kept for at least seven years.

(12) ABUSE AND INCIDENT HANDLING AND REPORTING. Complaints of abuse and the occurrence of serious incidents must be treated as described in OAR 411-323-0063.

(13) A provider agency must develop and implement policies and procedures required for administration and operation in compliance with these rules including, but not limited to, all of the following:

(a) INDIVIDUAL RIGHTS. A provider agency must have, and implement, written policies and procedures protecting the individual rights described in OAR 411-318-0010 and that:

(A) Provide for individual participation in selection, training, and evaluation of staff assigned to provide services to individuals;

(B) Protect individuals during hours of service from financial exploitation that may include, but is not limited to, any of the following:

(i) Staff borrowing from, or loaning money to, an individual.



(ii) Witnessing wills in which the staff or provider agency may benefit directly or indirectly.

(iii) Adding the name of a staff member or provider agency to the bank account or other personal property of an individual without the individual's approval or their legal representative (as applicable).

(b) Policies and procedures appropriate to scope of service including, but not limited to, those required to meet minimum standards set forth in sections ~~(1617)~~ ~~to through~~ ~~(2628)~~ of this rule and consistent with the ISPs or written Service Agreements for individuals currently receiving services.

(14) A provider agency must deliver services according to an individual's ISP or written Service Agreement.

(15) Unless a provider agency is endorsed to operate a standard model agency, Sservice rates as authorized in the Department's electronic payment and reporting systems for individuals authorized to receive community living supports and paid to providers for delivering services, as described in these rules, shall be based upon-reimbursed at the rate for a community living supports agency identified in the agency fee-scheduleexpenditure guidelines published by the Department.

(16) For a provider agency offering services to the general public, billings for Medicaid funds may not exceed the customary charges to private individuals for any like item or services charged by the provider agency.

(1617) SERVICE RECORD. A provider agency must maintain a current service record for each individual receiving services. The individual's service record must include all of the following:

(a) The individual's name, current home address, and home phone number.

(b) The individual's current ISP or written Service Agreement.

(c) Contact information for the individual's legal or designated

representative (as applicable) and any other people designated by the individual to be contacted in case of incident or emergency.

(d) Contact information for the case management entity assisting the individual to obtain services.

(e) Records of service provided, including type of services, dates, hours, and staff involved.

(f) As of January 1, 2020 for skills training, relief care services, and attendant care that does not meet the definition of DSA, an electronic system must record all of the following for a service provided at the time of service:

(A) Type of service provided.

(B) Individual receiving service.

(C) Date of service provided.

(D) Location of service.

(E) Staff member providing the service.

(F) Start time of the service.

(G) End time of the service.

| (1718) A provider agency must ensure staff, contractors, and volunteers receive appropriate and necessary training.

| (1819) A provider agency regulated by these rules must be a drug-free workplace.

| (1920) A provider agency that owns or leases a site, delivers services to individuals at the site, and regularly has individuals' present and receiving services at the site, must meet all of the following minimum requirements:

(a) A written emergency plan must be developed and implemented and must include instructions for staff and volunteers in the event of

fire, explosion, accident, or other emergency, including evacuation of individuals receiving services.

(b) Posting of emergency information including, but not limited to, posting the following telephone numbers by designated telephones:

(A) Local fire, police department, and ambulance service, or "911".

(B) Agency director and other people to be contacted in case of emergency.

(c) A documented safety review must be conducted quarterly to ensure the service site is free of hazards. Safety review reports must be kept in a central location by a provider agency for three years.

(d) When an individual begins receiving services at a service site, a provider agency must deliver training to the individual to leave the site in response to an alarm or other emergency signal and to cooperate with assistance to exit the site.

(A) A provider agency must conduct an unannounced evacuation drill each month when individuals are present.

(B) Exit routes must vary based on the location of a simulated fire.

(C) Any individual failing to evacuate the service site unassisted within the established time limits set by the local fire authority for the site must be provided specialized training or support in evacuation procedures.

(D) Written documentation must be made at the time of the drill and kept by the provider agency for at least two years following the drill. The written documentation must include all of the following:

(i) Date and time of the drill.

(ii) Location of the simulated fire.

(iii) Last names of all individuals and staff present at the time of the drill.

(iv) Amount of time required by each individual to evacuate if the individual needs more than the established time limit.

(v) Signature of the staff conducting the drill.

(E) In sites delivering services to individuals who are medically fragile or have severe physical limitations, requirements of evacuation drill conduct may be modified. The modified plan must:

(i) Be developed with the local fire authority, the individual or the individual's legal or designated representative (as applicable), and the provider agency's director; and

(ii) Be submitted as a variance request according to OAR 411-450-0100.

(e) A provider agency must provide necessary adaptations to ensure fire safety for sensory and physically impaired individuals.

(f) At least once every five years, a provider agency must conduct a health and safety inspection.

(A) The inspection must cover all areas and buildings where services are delivered to individuals, including administrative offices and storage areas.

(B) The inspection must be performed by:

(i) The Oregon Occupational Safety and Health Division;

(ii) A provider agency's worker's compensation insurance carrier;

(iii) An appropriate expert, such as a licensed safety

engineer or consultant as approved by the Department; or

(iv) The Oregon Health Authority, Public Health Division, when necessary.

(C) The inspection must cover all of the following:

(i) Hazardous material handling and storage.

(ii) Machinery and equipment used at the service site.

(iii) Safety equipment.

(iv) Physical environment.

(v) Food handling, when necessary.

(D) The documented results of the inspection, including recommended modifications or changes and documentation of any resulting action taken, must be kept by the provider agency for five years.

(g) A provider agency must ensure each service site has received initial fire and life safety inspections performed by the local fire authority or a Deputy State Fire Marshal. The documented results of the inspection, including documentation of recommended modifications or changes and documentation of any resulting action taken, must be kept by the provider agency for five years.

(h) Direct service staff must be present in sufficient number to meet health, safety, and service needs specified in the individual written agreements of the individuals present. When individuals are present, at least one staff member on duty must have the following minimum skills and training:

(A) CPR certification.

(B) Current First Aid certification.

(C) Training to meet other specific medical needs identified in

individual ISPs or Service Agreements.

(D) Training to meet other specific behavior support needs identified in individual ISPs or Service Agreements.

(2021) A provider agency delivering services to individuals that involve assistance with meeting health and medical needs must:

(a) Develop and implement written policies and procedures addressing all of the following:

(A) Emergency medical intervention.

(B) Treatment and documentation of illness and health care concerns.

(C) Administering, storing, and disposing of prescription and non-prescription drugs, including self-administration.

(D) Emergency medical procedures, including the handling of bodily fluids.

(E) Confidentiality of medical records.

(b) Maintain a current written record for each individual receiving assistance with meeting health and medical needs that includes all of the following:

(A) Health status as known.

(B) Changes in health status observed during hours of service.

(C) Any remedial and corrective action required and when such actions were taken if occurring during hours of service.

(D) A description of any known restrictions on activities due to medical limitations.

(c) If providing medication administration when an individual is unable to self-administer medications and there is no other responsible

person present who may lawfully direct administration of medications, the agency must:

(A) Have a written order or copy of the written order, signed by a physician or physician designee, before any medication, prescription or non-prescription, is administered;

(B) Administer medications per written orders;

(C) Administer medications from containers labeled as specified per physician written order;

(D) Keep medications secure and unavailable to any other individual and stored as prescribed;

(E) Record administration on an individualized Medication Administration Record (MAR), including treatments and PRN, or "as needed", orders;

(F) Not administer unused, discontinued, outdated, or recalled drugs; and

(G) Not administer PRN psychotropic medication. PRN orders may not be accepted for psychotropic medication.

(d) Maintain a MAR (if required). The MAR must include all of the following:

(A) The name of the individual.

(B) The brand name or generic name of the medication, including the prescribed dosage and frequency of administration as contained on physician order and medication.

(C) Times and dates the administration or self-administration of the medication occurs.

(D) The signature of the staff administering the medication or monitoring the self-administration of the medication.

(E) Method of administration.

(F) Documentation of any known allergies or adverse reactions to a medication.

(G) Documentation and an explanation of why a PRN, or "as needed", medication was administered and the results of such administration.

(H) An explanation of any medication administration irregularity with documentation of a review by the provider agency's executive director or their designee.

(e) Provide safeguards to prevent adverse medication reactions including, but not limited to, all of the following:

(A) Maintaining information about the effects and side-effects of medications the provider agency has agreed to administer.

(B) Communicating any concerns regarding any medication usage, effectiveness, or effects to the individual or the individual's legal or designated representative (as applicable).

(C) Prohibiting the use of one individual's medications by another individual or person.

(f) Maintain a record of visits to medical professionals, consultants, or therapists if facilitated or delivered by the provider agency.

| (2122) A provider agency that owns or operates vehicles that transport individuals must:

(a) Maintain the vehicles in safe operating condition;

(b) Comply with the laws of the Department of Motor Vehicles;

(c) Maintain insurance coverage on the vehicles and all authorized drivers;

(d) Carry a first aid kit in each vehicle; and



(e) Assign drivers who meet the applicable requirements of the Department of Motor Vehicles to operate vehicles that transport individuals.

(~~22~~23) If assisting with management of funds, a provider agency must have and implement written policies and procedures related to the oversight of the individual's financial resources that includes the following:

(a) Procedures that prohibit inappropriately expending an individual's personal funds, theft of an individual's personal funds, using an individual's funds for staff's own benefit, commingling an individual's personal funds with the provider agency's or another individual's funds, or the provider agency becoming an individual's legal or designated representative.

(b) The provider agency's reimbursement to an individual of any funds that are missing due to theft or mismanagement on the part of any staff of the provider agency, or of any funds within the custody of the provider agency that are missing. Such reimbursement must be made within 10 business days of the verification that funds are missing.

(~~23~~24) Additional standards for assisting individuals to manage difficult behavior.

(a) PROFESSIONAL BEHAVIOR SERVICES. A provider agency must have and implement written policies and procedures to assure professional behavior services are delivered by a qualified behavior professional in accordance with OAR chapter 411, division 304.

(b) BEHAVIOR SUPPORTS. A provider agency must have and implement written policies and procedures for the delivery of behavior supports that prohibits abusive practices and assures behavior supports are included in a Positive Behavior Support Plan.

(A) A provider agency must inform each individual, and as applicable their legal or designated representative, of the behavior support policies and procedures at the time of entry and as changes occur.

(B) A decision to alter an individual's behavior must be made by the individual or their legal or designated representative.

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

(A) Prescribed by a physician through a written order; and

(B) Monitored by the prescribing physician for desired responses and adverse consequences.

(2425) Additional standards for supports that involve restraints. For the purpose of this section, a designated person is the person implementing the behavior supports identified in an individual's Positive Behavior Support Plan.

(a) SAFEGUARDING INTERVENTIONS AND SAFEGUARDING EQUIPMENT.

(A) A designated person must only utilize a safeguarding intervention or safeguarding equipment when:

(i) BEHAVIOR. Used to address an individual's challenging behavior, the safeguarding intervention or safeguarding equipment is included in the individual's Positive Behavior Support Plan written by a qualified behavior professional as described in OAR 411-304-0150 and implemented consistent with the individual's Positive Behavior Support Plan.

(ii) MEDICAL. Used to address an individual's medical condition or medical support need, the safeguarding intervention or safeguarding equipment is included in a medical order written by the individual's licensed health care provider and implemented consistent with the medical order.

(B) The individual, or as applicable their legal representative, must provide consent for the safeguarding intervention or

safeguarding equipment through an individually-based limitation in accordance with OAR 411-004-0040.

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

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

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

(D) A designated person must not utilize any safeguarding intervention or safeguarding equipment not meeting the standards set forth in this rule even when the use is directed by the individual or their legal or designated representative, regardless of the individual's age.

(b) EMERGENCY PHYSICAL RESTRAINTS.

(A) The use of an emergency physical restraint when not written into a Positive Behavior Support Plan, not authorized in an individual's ISP, and not consented to by the individual in an individually-based limitation, must only be used when all of the following conditions are met:

(i) In situations when there is imminent risk of harm to the individual or others or when the individual's behavior has a probability of leading to engagement with the legal or justice system;

(ii) Only as a measure of last resort; and

(iii) Only for as long as the situation presents imminent danger to the health or safety of the individual or others.

(B) The use of an emergency physical restraint must not include any of the following characteristics:

- (i) Abusive.
- (ii) Aversive.
- (iii) Coercive.
- (iv) For convenience.
- (v) Disciplinary.
- (vi) Demeaning.
- (vii) Mechanical.
- (viii) Prone or supine restraint.
- (ix) Pain compliance.
- (x) Punishment.
- (xi) Retaliatory.

| (2526) A provider agency may not knowingly allow an agency employee to provide community living supports skills training or attendant care services other than DSA to an individual that also engages their services as a personal support worker.

| (2627) A provider agency may not allow:

(a) The parent of a minor child to provide services as an employee of the agency to the employee's own child unless, for the duration of the COVID-19 public health emergency, the child:

(A) Meets the enrollment criteria for any of the Children's Intensive In-Home Services programs; or

(B) Has a service level of at least 240 hours per month.

(b) The spouse of an individual receiving services to provide services as an employee of the agency to the employee's spouse.

(28) No later than January 1, 2023, a provider agency must only deliver community living supports through employees of the provider agency.

Stat. Auth.: ORS 409.050, 427.104, 430.662, SB 1548 (2022 OR Law, Ch. 91)

Stats. Implemented: ORS 409.010, ~~427.005~~, 427.007, 427.104, 430.610, 430.620, 430.662-430.670, SB 1548 (2022 OR Law, Ch. 91)

### **411-450-0090 Standard Model Agency Requirements**

*(Temporary Effective 07/01/2022 - 12/27/2022)*

(1) For a provider agency to be endorsed to deliver community living supports as a standard model agency, the provider agency must meet the additional requirements in this rule.

(2) A standard model agency must develop and implement policies and procedures that minimize:

(a) The loss of agency employee income when an individual cancels a scheduled support; and

(b) The loss of supports to an individual when an agency employee is unavailable to deliver a scheduled support.

(3) While an employee of a standard model agency is delivering a scheduled support, the agency employee must have timely access to a supervisor.

(4) A standard model agency must develop or acquire, maintain, and follow written protocols, specific to an individual, designed to mitigate known risks, identified in the individual's ISP. The standard model agency must provide to agency employees who support the individual, an orientation to the protocols. These protocols must be available to agency employees when they are supporting the individual.

(5) Beginning January 1, 2023:

(a) A standard model agency must develop, and update as needed, an individualized implementation strategy and provide an individual's implementation strategy to the individual's case manager within:

(A) Sixty business days of the start of the individual's ISP; or

(B) Sixty calendar days of agreeing to deliver community living supports as shown by the dated signature of an agency representative on the individual's ISP or Service Agreement.

(b) A standard model agency must provide to agency employees who support an individual an orientation to the individual's implementation strategy.

(6) Beginning January 1, 2023, a standard model agency must submit a monthly, written progress report to each individual's case management entity.

(7) Employees of a standard model agency who deliver community living supports must have 12 hours per year of training related to the delivery of community living supports in addition to the requirements in OAR 411-323-0050(8)(f).

(8) A standard model agency may not require an individual or the individual's family to coordinate the schedules of the agency's employees who support the individual.

(9) Only a provider agency with a current endorsement to deliver community living supports that attests, before October 1, 2022, that the provider agency meets the requirements of this rule shall be eligible to receive the Department's rate for a standard model agency prior to completing the endorsement application process described in OAR 411-323-0035. The attestation must be made on the form created by the Department for this purpose and signed by a provider agency representative. Services shall be reimbursed at the standard model agency rate July 1, 2022, or the date the provider agency becomes compliant with this rule, whichever is later.

(10) The Department may recoup the difference between the rate published in the Department's expenditure guidelines for a standard model agency and a community living supports agency if a standard model agency is found by the Department:

(a) To have been reimbursed for community living supports at the rate for a standard model agency; and

(b) The standard model agency was not in compliance with this rule at the time services were delivered.

Stat. Auth.: ORS 409.050, 427.104, 430.662, SB 1548 (2022 OR Law, Ch. 91)

Stats. Implemented: ORS 409.010, 427.007, 427.104, 430.610, 430.620, 430.662-430.670, SB 1548 (2022 OR Law, Ch. 91)