Policy Transmittal
Developmental Disabilities Services

Lilia Teninty

 Authorized signature

Number: DD-PT-21-075
Issue date: 9/1/2021

Topic: Disability Determination

Due date: 11/1/2021

Transmitting (check the box that best applies):

- New policy
- Policy change
- Policy clarification
- Executive letter
- Administrative Rule
- Manual update
- Other:

Applies to (check all that apply):

- All DHS employees
- Area Agencies on Aging: {Select type}
- Aging and People with Disabilities
- Self Sufficiency Programs
- County DD Program Managers
- Support Service Brokerage Directors
- ODDS Children’s Residential Services
- Child Welfare Programs
- County Mental Health Directors
- Health Services
- Office of Developmental Disabilities Services (ODDS)
- ODDS Children’s Intensive In Home Services
- Stabilization and Crisis Unit (SACU)
- Other (please specify): Eligibility Specialists

Policy/rule title: Eligibility Hearings Witness Testimony

Policy/rule number(s): OAR 411-320-0080
OAR 411-320-0030
OAR 411-001-0500
OAR 411-318-0025
OAR 411-318-0030

Release number:
Effective date: November 1, 2021
Expiration date:

References:

Web address:

Discussion/interpretation: Beginning no later than 11/1/2021 Community Developmental Disabilities Program Eligibility Specialists (ES) will act as the Department representative for eligibility hearings as described in Oregon Administrative Rule (OAR) 411-320 and 411-318-0025. Hearing related tasks may include activities such as participation in an informal pre-hearing conference, witness...
preparation and providing testimony during an administrative hearing as the eligibility determination witness when a hearing is requested related to an adverse action for developmental disabilities service eligibility.

The eligibility specialist is the primary examiner of the clinical evidence related to their eligibility determination process and/or denial of eligibility. In addition, the eligibility specialist has interacted with the claimant or the claimant’s representative, and when appropriate, various examining clinicians. Eligibility specialists will be providing testimony related to the reason an adverse decision was made. ODDS Diagnosis and Evaluation Coordinators will provide subject matter expert witness testimony regarding rule and policy interpretation as needed and appropriate.

The hearing process is a non-adversarial means for an individual to provide argument for why an individual should be found eligible for a service. An Administrative Law Judge (ALJ) with the Office of Administrative Hearings will hear from the claimant, their representative and any witnesses, and the Department to weigh all information against the Oregon Administrative Rule relevant to the decision.

Historical hearing data indicates a small number of I/DD eligibility denials result in hearing requests that move to a hearing in front of an ALJ. ODHS is collecting relative data and will update this section with eligibility data on the 2018 to 8/31/2021 denials, hearing requests, and actual hearings in front of an ALJ in the immediate future.

**Implementation/transition instructions:** ODDS will host several required trainings, review this transmittal at the monthly transmittal call, and provide technical support as needed.

**Training/communication plan:** ODDS and the Aging and People with Disabilities Hearings Unit will provide required trainings prepare eligibility specialists on the hearing process and providing testimony on eligibility determinations.

**Training Offerings are as follows:** Eligibility staff must register for required trainings offered in the Workday ODHS ODDS Eligibility Hearing Training series here: https://wd5.myworkday.com/oregon/learning/course/a94b1ff0d3ab01a5931ad9d40d0250d9?type=9882927d138b100019b6a2df1a46018b

1. **Required Pre-Requisite Hearing Testimony Workday training:** (An APD Hearing Testimony video has been revised for ODDS use; some references to APD case workers may not directly apply). This self-paced, 25-minute video **must be completed prior to September 22**

DHS 0079 (01.19)
2. **Live/Remote-training with ODDS & APD Hearing Unit:** Thursday, September 23rd, 2:30p.m. – 4:00p.m. Register on Workday in the ODDS ODDS Eligibility Hearing Training series link listed. Find and save the Zoom meeting link in the training registration information to your calendar.

3. **Fall ODDS Eligibility Core Competency training/Hearing Section:** A repeat of the September 23rd training will occur on Day 3, from 1:30 – 2:30p.m. Contact the ODDS D&E Coordinator to register (repeat of #2 training above) to attend the hearing section only.

4. **TBA -** An additional training may include additional recorded videos, presentations, or the opportunity to listen to a recorded hearing to aid in understanding the hearing experience.

**Eligibility Hearing Worker Guide:** A Worker Guide will be developed, and incorporate frequently asked questions, standard operating procedures, and references for Hearing OAR’s including due process and timelines, following the fall training sections.

**Local/branch action required:** Eligibility Specialists must begin providing hearing testimony for eligibility hearings during the fall of 2021. CDDP Program Managers, Eligibility Supervisors and Eligibility Specialists should review this policy, participate in required training, and implement necessary procedures to prepare for assuming eligibility hearing duties beginning November 1, 2020 so any new workload can be captured in the next Workload model Random Moment Sample Survey (RMSS).

The Department Hearing Representatives conduct case development and witness preparation prior to scheduled hearings, Eligibility Specialists may need to participate in the Informal Conference so the Department can identify if the appeal may be resolved without an Administrative Hearing.

For more detail related to this transmittal and stakeholder feedback see the Engagement and Innovation page here: [www.oregon.gov/dhs/SENIORS-DISABILITIES/DD/PROVIDERS-PARTNERS/Pages/Engage-Innovate-Archive.aspx](http://www.oregon.gov/dhs/SENIORS-DISABILITIES/DD/PROVIDERS-PARTNERS/Pages/Engage-Innovate-Archive.aspx)

**Communication/training:** This transmittal will be discussed during the next Monthly Transmittal Review. These meetings are held the second Wednesday of every month at 2 pm using the TEAMS platform. The link to participate is here: [Join Microsoft Teams Meeting](https://teams.microsoft.com/l/meeting/1?link=https%3A%2F%2Fteams.microsoft.com%2Fmeet%2Fj%3A%40dhsoha.state.or.us%2F468508153020220601), or you can call 971-277-2343 using conference ID: 468 508 153# to hear only the audio portion of the meeting. Please send questions in advance to ODDS.Questions@dhsoha.state.or.us.
Field/stakeholder review:  ☑ Yes  ☐ No
If yes, reviewed by:  Engagement and Innovation website and stakeholder feedback

Filing instructions:

If you have any questions about this policy, contact:

| Contact(s): | ODDS.DE@dhsoha.state.or.us |
| Phone: | Fax: |
| Email: | |