

Developmental Disabilities Services

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Number: APD-IM-16-079
Issue date: 8/26/2016
Topic: Developmental Disabilities

Subject: June 29, 2016 DD Oregon Administrative Rule Changes

Applies to (check all that apply):

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|--|--|
| <input type="checkbox"/> All DHS employees | <input type="checkbox"/> County Mental Health Directors |
| <input type="checkbox"/> Area Agencies on Aging | <input type="checkbox"/> Health Services |
| <input type="checkbox"/> Aging and People with Disabilities | <input checked="" type="checkbox"/> Office of Developmental Disabilities Services(ODDS) |
| <input type="checkbox"/> Self Sufficiency Programs | <input checked="" type="checkbox"/> ODDS Children's Intensive In Home Services |
| <input checked="" type="checkbox"/> County DD Program Managers | <input checked="" type="checkbox"/> Stabilization and Crisis Unit (SACU) |
| <input checked="" type="checkbox"/> ODDS Children's Residential Services | <input checked="" type="checkbox"/> Other (<i>please specify</i>): DD Service Coordinators; DD Brokerage personal Agents; DD Brokerage Directors |
| <input type="checkbox"/> Child Welfare Programs | |

Message:

The Achieving a Better Life Experience (ABLE) Act of 2014 was passed by Congress and signed into law by President Obama in December, 2014. The ABLE Act allows states to set up special accounts under Section 529 of the Internal Revenue Code for people with disabilities who qualify. These accounts are monitored and regulated nationally by the Internal Revenue Service, and when Oregon's ABLE Act program is implemented in early 2017, they will be monitored and regulated by the Oregon Department of the Treasury. Other states have already implemented the ABLE Act, so APD must implement eligibility policy for those individuals in Oregon who open an account in another state immediately. Effective July 1, 2016 APD authorized the [ABLE Act Policy Transmittal](#) and implemented OAR 461-145-0000 which outlines the requirements regarding review of ABLE Act accounts for the purposes of Medicaid benefits.

Individuals who inquire at a CDDP or Brokerage offices or to their Services Coordinators or Personal Agents about how to open an ABLE Act account should be directed to Oregon's 529 program at 1-866-772-8464.

Individuals may qualify to open an ABLE Act account (or have one opened for them) if:

1. The individual is blind or has a disability that does or would qualify them to receive SSI or Social Security based on blindness or disability; and
2. The onset of the blindness or the disability occurred before the age of 26.

To establish an ABLE Act account with a *financial institution*, individuals who are not receiving SSI or Social Security based on blindness or disability can self-attest in writing that they meet the blindness or disability requirements for an ABLE Act account. However, self-attestation for purposes of obtaining an ABLE Act account does not establish blindness or disability as a basis of need for OSIPM or any other program administered by Developmental Disability Services (ODDS), or APD offices.

In order to be considered blind or disabled for OSIPM eligibility services, an individual must still be eligible for SSI or SSB, with a disability finding by the Social Security Administration (SSA), have a favorable determination from PMDDT, or meet the other requirements of OARs 461-125-0310, 461-125-0330 and 461-125-0370. In order to qualify for ODDS services an individual must still apply in their county of origin and meet all requirements in OAR 411-320-0080. Typically individuals who are eligible for I/DD services will qualify for ABLE. However, they must still review the criteria and self-attest to meeting the requirements. An individual who is re-determined and no longer meets eligibility under OAR 411-320-0080 for services through ODDS may still qualify for ABLE and should review the requirements.

More information regarding the Oregon specific ABLE Act program will be available shortly through Oregon's 529 program. In the meantime, if an individual or individual's family member reports an ABLE account to a CDDP/Brokerage or Services Coordinator/Personal Agent, the individual should be reminded that they need to report their account to APD upon any determination or re-determination of benefits and also to report to the treasury department as required by federal law. Please see the attached transmittal issued by APD for additional details on reporting requirements.

Further information will be shared as it is available.

If you have any questions about this information, contact:

Contact(s):	Acacia McGuire Anderson	
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