

Information Memorandum Transmittal Developmental Disabilities Services



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Number: APD-IM-18-057

Issue date: 6/28/2018

Topic: Developmental Disabilities

Due date:

Subject: Oregon Administrative Rule Temporary Changes

Applies to (check all that apply):

- | | |
|--|---|
| <input type="checkbox"/> All DHS employees | <input type="checkbox"/> County Mental Health Directors |
| <input type="checkbox"/> Area Agencies on Aging: {Select type} | <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>): Support Service Brokerages |
| <input type="checkbox"/> Child Welfare Programs | |

Message:

Effective July 1, 2018, ODDS is adopting temporary administrative rules that reflect changes related to the use of the Oregon Needs Assessment (ONA) tool and updates to the 1915(c) Waivers and 1915(k) Community First Choice State Plan Amendment ("K Plan"). The following is a summary of the changes by OAR division. Please read the actual rules for a complete picture, they can be found at ([LINK TO WEB](#)).

OAR Chapter 411, Division 317 (Definitions):

- The definition for Functional Needs Assessment (FNA) is being amended to include the ONA as an FNA, alongside the existing FNAs. The ANA/CNA/SIS/SNAP are being retained in the definition for the time being while they are phased out.
- The term "In Home Expenditure Guidelines" is being modified to "Expenditure Guidelines" to reflect that the guidelines apply to more than only in-home services. The definition is being updated to show that version 8 is the applicable version as of July 1, 2018.

OAR Chapter 411, Division 318 (Rights, Complaints, etc.):

- Rule 0020(2)(d) now requires that a NOPA issued due to an assessment outcome must identify the specific question(s) and the response(s) that caused a person to score as not needing assistance in an area. For now, this will only be relevant for denials or terminations related to not meeting ICF/IDD Level of Care (LOC). NOPA templates to assist with this are under development.

OAR Chapter 411, Division 320 (CDDP) and Division 340 (Brokerage):

- These rules are being updated to include the requirement that these Case Management Entities employ a qualified assessor or have a formal arrangement assuring the availability of a qualified assessor to conduct ONAs.

OAR Chapter 411, Division 345 (Employment):

- Benefits Counseling is added to Employment Path Community Services. Rule changes clarify certification and training requirements for providers delivering Benefits Counseling, and the service outcome requirements.

OAR Chapter 411, Division 415 (Case Management):

- Choice advising for a newly eligible individual, including the offer of choice of HCBS or institutional care, will no longer be connected to the initial LOC, but will now be required before the initial ISP (0050) (9)(a).
- Rule 0060, Assessment Activities, has been extensively rewritten, reflecting that a completed ONA is the LOC and FNA.
 - Neither the LOC nor FNA is tied to the ISP in terms of timelines. As long as an ONA is completed at least every 12 months, it can happen any time during the ISP year.
 - It requires that every FNA/LOC conducted as of October 1, 2018 is done using the ONA.
 - It describes who must do the ONA – an assessor for the person’s first ONA, when the individual’s supports needs may have changed significantly, when the individual requests reassessment, periodically as determined by Department policy. A case manager who has been trained can complete it annually when an assessor is not required to complete it.

OAR Chapter 411, Division 425 (ONA). This is a new division that covers requirements related to the ONA:

- It minimizes conflict of interest by disallowing assessments to be performed by

anyone who has been a case manager within the last six months for the individual being assessed.

- It describes the qualifications of an assessor – the basic qualifications are the same as for a case manager, but the training requirements are different.
- It establishes that the ONA determines ICF/IDD LOC and how it makes the determination (the individual has to need support in 50% of the relevant areas of the assessment).
- It establishes the ONA as the FNA
- It establishes if an individual's support needs are enhanced or exceptional for the purposes of PSW wage determination.
- Defines that a completed ONA is one that is submitted into eXPRS. The submission date is used for ONA-related timelines.
- An ONA must be completed over the course of not more than 30 days.

OAR Chapter 411, Division 435 (Ancillary Services):

- Updated to reflect that Special Diets are no longer a service in the Support Services (Adult's) waiver.

OAR Chapter 411, Division 450 (Community Living Services):

- Changes have been made to eliminate references of the ANA/CNA as the FNA, but preserves the ANA/CNA as the tool that sets service levels.
- It encodes the current mandate to not lower a service level below what it was on October 31, 2016, or any higher levels determined since.

A Rules Advisory Committee will be formed for permanent rulemaking in the near future.

If you have any questions about this information, contact:

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