

# Policy Transmittal Developmental Disabilities Services



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**Authorized signature**

**Number:** APD-PT-20-056  
**Issue date:** 4/6/2020

**Topic:** Developmental Disabilities

**Due date:**

**Transmitting (check the box that best applies):**

- New policy   
  Policy change   
  Policy clarification   
  Executive letter  
 Administrative Rule   
  Manual update   
  Other: COVID-19 Emergency Operations

**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"/> Support Service Brokerage Directors  | <input checked="" type="checkbox"/> Other (please specify): ODDS Licensing; Residential Service Setting Providers and Provider Organizations, including CPAO; ORA; and SEIU; Residential Facilities Ombudsman |
| <input checked="" type="checkbox"/> ODDS Children's Residential Services |                                                                                                                                                                                                               |
| <input type="checkbox"/> Child Welfare Programs                          |                                                                                                                                                                                                               |

<b>Policy/rule title:</b>	COVID-19 Related Temporary Waiver of Residential Setting HCBS Requirements		
<b>Policy/rule number(s):</b>	OAR 411-004; 411-325; 411-328; 411-346; 411-360 Executive Orders 20-03; 20-12 PT 20-028; 20-045	<b>Release number:</b>	v1
<b>Effective date:</b>	04/06/2020	<b>Expiration date:</b>	5/31/2020
<b>References:</b>			
<b>Web address:</b>			

**Discussion/interpretation:** Due to the current COVID-19 pandemic crisis, and in alignment with the Governor's Executive Order 20-12, some Home and Community Based Setting (HCBS) rule requirements specific to residential service settings may be waived. Providers are expected to continue to support individuals in the least restrictive, most appropriate manner possible and extend any and all freedoms and protections as reasonably possible in this crisis situation.

Providers are given the allowance of waiver to the following HCBS residential setting requirements as described in this transmittal or other referenced transmittals when deemed necessary to assure health and safety:

- Residency Agreements (for temporary housing arrangements)
- Visitors
- Control of Schedule and Activities
- Access to Personal Food
- Furnishing and décor
- Choice in Roommate

Providers and case managers are not required to have an Individually Based Limitation in place when implementing limitations on the above listed HCBS residential freedoms to assure health and safety during the COVID-19 pandemic emergency state.

Additionally, variances shall not be required for temporary practices related to the listed HCBS requirements where HCBS freedoms may be reasonably limited due to the current emergency situation.

ODDS expects that providers will discontinue limiting practices as soon as is reasonably safe to do so and/or such emergency state declarations and requirements are lifted.

\*\*\*Please note: The waiver of HCBS protections allowed during the COVID-19 crisis situation does not extend to the use of restraints on individuals in any setting.\*\*\*

Providers may take emergency measures to address imminent health and safety of individuals but may only use physical interventions when there is immediate danger and no other reasonable alternative available. Incident reporting and CAM policies continue to apply when physical interventions are utilized.

## Implementation/transition instructions:

Providers are expected to act in accordance with the directives issued by the State of Oregon Governor, leaders of local municipalities, Centers for Medicare and Medicaid Services (CMS) and the State of Oregon Office of Developmental Disabilities Services (ODDS). Following these directives will likely result in limitations to activities of individuals served by ODDS programs. Providers are given the allowance to waive some specific HCBS requirements in order to effectively comply with current COVID-19 pandemic directives.

Providers may temporarily implement reasonably restrictive practices support to individuals in being safe during this time, including the imposition of limitations on HCBS freedoms:

Residency Agreements: Residency Agreements are not required for temporary housing arrangements specific to the COVID-19 pandemic situation. Temporary stays in homes during this time are considered emergency relief care or respite placements and Residency Agreements need not be utilized.

Residency Agreements do continue to be required for those individuals who are considered permanent residents of a home, including those individuals moving into a new placement (not considered temporary) during the COVID-19 pandemic situation.

Visitors: Providers are directed to restrict visitors to the home to only allow essential service providers access to the home in accordance with the Governor's Executive Order 20-03 and as outlined in [PT 20-028- "DD Residential and Adult Foster Home Setting Visitation Restriction"](#).

### Control of Schedule and Activities:

Providers are expected to support individuals to remain in the home in accordance with the Governor's "Stay at Home" Executive Order 20-12 and [PT 20-045 "Stay at Home, Save Lives", Executive Order 20-12"](#) which describes activity and community access guidelines.

### Access to Personal Food:

Individuals should continue to have the freedom to have access to personal food as much as possible, however, ODDS acknowledges that there may be limited access to acquiring personal food during this emergency state. Providers may need to help individuals budget funds and ration preferred items to last due to extended lengths of times between shopping trips and limited product availability.

Providers may reasonably limit trips to the grocery store or other food

establishments to those critically necessary to maintain basic nutritional supplies. Guidelines related to accessing grocery stores is addressed in [PT 20-045 “Stay at Home, Save Lives”, Executive Order 20-12”](#).

#### Furnishing and Decorating:

Providers may place reasonable restrictions on items being brought into the home due to concerns of cross contamination and safety during the COVID-19 pandemic emergency situation.

Providers may also support individuals in cleaning their personal spaces to prevent potential infection and sanitation hazards. It is reasonable for providers to support individuals in organizing personal space to ensure safe access and movement, including ambulation and emergency exiting, in preparation to allow for safe support to the individual should the individual be infected or need to be isolated due to COVID-19 exposure.

#### Choice in Roommate:

There should be very minimal limitations placed upon individuals in this area. Individuals should not be required to share their personal bedroom space with other individuals without consent of the individual.

There may be some temporary allowances for rearrangement of sleeping designation and room assignment to accommodate the need for quarantine and to limit potential exposure to ill or infected persons in the household.

Providers do need the consent of an individual (or their guardian) to convert a private bedroom to a shared bedroom to allow for even temporary placements in the home.

Individual requests to change from a shared room to a private room or to have a different roommate may not be able to be accommodated in some circumstances due to limited resources and options during this crisis time. Providers should be responsive in validating individual requests and making accommodations where possible.

These emergency declaration limitations on HCBS residential setting freedom are temporary and specific to the COVID-19 pandemic emergency state. ODDS will revert to rule conditions and practices as stated in Oregon Administrative Rules 411-004, 411-325, 411-328, 411-346, and 411-360 relating to HCBS residential freedoms and requirements when it is determined that the emergency declaration is no longer necessary.

**Training/communication plan:**

Questions from provider may be sent to [ODDS.Questions@dhsoha.state.or.us](mailto:ODDS.Questions@dhsoha.state.or.us) and will be addressed during the April monthly webinar. Please register for the April Provider Expectations and Responsibilities Around COVID-19 - Webinar at 2 pm on April 16, 2020 at:

<https://attendee.gotowebinar.com/register/7518400443284415756>

After registering, you will receive a confirmation email containing information about joining the webinar.

Question from Case Management Entities may be sent to [ODDS.FieldLiaison@dhsoha.state.or.us](mailto:ODDS.FieldLiaison@dhsoha.state.or.us) and will be addressed during regularly scheduled weekly webinars for CMEs and COVID-19.

*If you have any questions about this policy, contact:*

Contact(s): ODDS COVID -19 team	
Phone	
Email: see above	