

**NOTICE OF PROPOSED RULEMAKING FILING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT**

Oregon Home Care Commission (OHCC)		418
Agency and Division Name		Administrative Rules Chapter Number
	ODHS, Aging and People with Disabilities 500 Summer Street NE, E-02 Salem, OR 97301	
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FILING CAPTION

*Extends training timelines for homecare workers, personal support workers,
and personal care attendants*

Last Date and Time for Public Comment: **Written comments are accepted until 5 p.m. on 09/20/2022** and should be sent to apd.rules@odhsoha.oregon.gov.

	TELECONFERENCE ONLY		
	+1 971-277-2343		
08/24/2022	10:00-10:30 a.m.	Conference ID: 149039297#	Staff
Hearing Date	Time	Address	Hearings Officer

HEARING NOTES: To provide oral testimony during this hearing, please contact apd.rules@odhsoha.oregon.gov to sign-up ahead of time. If you wish to provide comment, please call in to the teleconference number no later than 15 minutes after the start time listed.

Everyone has a right to know about and use ODHS programs and services. ODHS provides free help. Some examples of the free help ODHS can provide are sign language and spoken language interpreters, written materials in other languages, braille, large print, audio or other formats. If you need help or have questions, please contact Kristina Krause at 503-339-6104, apd.rules@odhsoha.oregon.gov or 711 TTY at least five business days before the hearing.

RULEMAKING ACTION

List each rule number separately (000-000-0000) below. Attach proposed, tracked changed text for each rule at the end of the filing.

AMEND:

418-020-0010, 418-020-0020, 418-020-0030, 418-020-0035,
418-020-0050, 418-020-0060

RULE SUMMARY:

Include a summary for each rule included in this filing.

The Oregon Department of Human Services (Department) and the Oregon Home Care Commission (Commission) are proposing to permanently amend rules in chapter 418, division 20 to extend the due date for homecare workers, personal support workers, and personal care attendants to complete required refresher training. The due date was extended to allow additional time for those in the process of completing training and to accommodate those who do not have access to technology the sufficient time to complete training offline. Training became required with the passage of Senate Bill 1534 (2018).

Amend: 418-020-0010

Rule Title: Definitions

Rule Summary: The definition of personal care attendant was added to rule to provide clarity and reflect the term preferred by individuals and providers participating in Medicaid in-home services through the Health Systems Division with the Oregon Health Authority. Personal care attendants are included in the definition of personal support worker found in ORS 410.600. However, to provide clarity and reflect program-specific differences, the definition of “personal support worker” was amended for the purpose of these rules to separate the provider types. The terms “provider” and “worker” were amended to include personal care attendants, and the term is used throughout the rule when applicable to homecare workers, personal support workers, and personal care attendants. The term “provider” is consistent with the term used in the collective bargaining agreement between SEIU, Local 503 (the union that represents this workforce) and the Oregon Home Care Commission.

Amend: 418-020-0020

Rule Title: Qualifications for Homecare and Personal Support Workers and Personal Care Attendants

Rule Summary: The minimum qualifications for providers were consolidated because the outlined qualifications are the same. References to program-specific rules that govern the enrollment criteria for each provider type were added. Outdated information about orientation was removed from rule.

Amend: 418-020-0030

Rule Title: Provider Training

Rule Summary: The requirement to have an acceptable attendance record to earn a certification was removed from rule. The no-show rate was calculated historically from the first course a provider registered to attend. This calculation prevented some providers who improved their attendance record to qualify for a certification. This removes a barrier to providers and allows them to earn a higher hourly rate of pay after obtaining a specific certification through OHCC. Ventilator Dependent Quadriplegia certification was added to rule.

Amend: 418-020-0035

Rule Title: Mandatory Training and Competency Evaluations – Effective 9/1/2021

Rule Summary: The due date for refresher training for workers enrolled prior to Sept.1, 2021 was extended from March 30, 2022, to June 30, 2022. The due date was extended to allow additional time for those in the process of completing training and to accommodate those who do not have access to technology sufficient time to complete training offline.

Amend: 418-020-0050

Rule Title: Registry

Rule Summary: The requirement for providers to update their profile in the Registry was changed from every 30 days to every 90 days. This increases the number of workers available for referral on the Registry to provide services and supports to individuals with disabilities.

Amend: 418-020-0060

Rule Title: Workers' Compensation

Rule Summary: For continuity, references to homecare and personal support workers were replaced with the term “providers.”

Other changes may be made to OAR chapter 418, division 020 to correct grammatical errors, ensure consistent terminology, address issues identified during the public comment period, and to improve the accuracy, structure, and clarity of the rule.

STATEMENT OF NEED

Need for Rule(s):

The Oregon Department of Human Services (Department) and the Oregon Home Care Commission (Commission) are proposing to permanently amend rules in chapter 418, division 20 to extend the due date for homecare workers, personal support workers, and personal care attendants to complete required refresher training. The due date was extended to allow additional time for those in the process of completing training and to accommodate those who do not have access to technology sufficient time to complete training offline. Training became required with the passage of Senate Bill 1534 (2018).

Other changes may be made to OAR chapter 418, division 020 to correct grammatical errors, ensure consistent terminology, address issues identified during the public comment period, and to improve the accuracy, structure, and clarity of the rule.

Documents Relied Upon, and where they are available:

Enrolled Senate Bill 1534 (2018) – available on the Oregon State Legislature’s website at <https://olis.oregonlegislature.gov/liz/2018R1/Downloads/MeasureDocument/SB1534/Enrolled>

EQUITY IMPACT STATEMENT Required by HB 2993 (2021 Regular Session)

Although the Department does not currently collect race and ethnicity data for homecare workers, personal support workers, or personal care attendants, SEIU, Local 503 provided race and ethnicity statistics based on a survey completed by providers. This information was self-reported by respondents who chose to participate in the survey and reflected amongst

respondents: 6% Black or African American; 10% Asian or Pacific Islander; 4% Indigenous; 11% Hispanic or Latinx; and 69% White.

According to the U.S. Census Bureau 2020, Oregon's 4.2 million population identifies their race in the following manner: 2% Black or African American; 6% Asian, Native Hawaiian, or Pacific Islander; 6% some other race alone; and 75% White. 13.9% identify as Hispanic or Latinx. 10% of Oregon's population identifies as two or more races. (see <https://data.census.gov/cedsci/table?q=0400000US41&tid=DECENNIALPL2020.P1>)

The proposed rule change is an elimination of the requirement for a training attendance record to meet a certain standard to earn an OHCC certification and a higher rate of pay. Eliminating the requirement removes a barrier for providers to earn a higher rate of pay. In addition, extending the due date for required refresher training benefits all providers and consumers who receive in-home services and supports.

As there is a disproportionate representation from the Black or African American, Asian, Native Hawaiian, or Pacific Islander communities, and the rule changes will benefit all impacted, the Department has estimated a positive racial equity impact to those communities.

The Department has made required and voluntary trainings and materials available in multiple languages and formats. Accommodations are also available.

FISCAL AND ECONOMIC IMPACT

Fiscal and Economic Impact:

The Oregon Home Care Commission does not anticipate a fiscal or economic impact based on the amended rules.

Statement of Cost of Compliance:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s).

State Agencies: The Commission estimates there will be no fiscal impact on state agencies.

Units of Local Government: The Commission estimates there will be no fiscal impact on units of local government.

Consumers: The Commission estimates there will be no fiscal impact to consumers.

Providers: The Commission estimates there will be no fiscal impact to providers.

Public: The Commission estimates there will be no fiscal or economic impact on the public.

(2) Effect on Small Businesses:

(a) Estimate the number and type of small businesses subject to the rule(s);

Small businesses, as defined by ORS 183.310, are not subject to these rules.

(b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s);

Small businesses, as defined by ORS 183.310, are not subject to these rules. Therefore, there are no reporting, recordkeeping, or administrative activities required.

(c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

Small businesses, as defined by ORS 183.310, are not subject to these rules. Therefore, there are no costs associated with professional services, equipment supplies, labor, or administration.

Describe how small businesses were involved in the development of these rule(s)?

A small business, or representative of a small business, as defined in ORS 183.310 participated on the Administrative Rule Advisory Committee. Small businesses will also be included in the public review and comment period.

Was an Administrative Rule Advisory Committee consulted? Yes or No?

Yes. A rule advisory committee was held via Zoom on June 27, 2022. Those who were unable to attend were given an opportunity to participate via email.

/s/ Cheryl Miller, Executive Director/Administrator, OHCC

Signature

07/23/2022

Date

OREGON HOME CARE COMMISSION
OREGON ADMINISTRATIVE RULES

CHAPTER 418
DIVISION 20

OREGON HOME CARE COMMISSION FUNCTIONS

418-020-0010 Definitions

(1) "Active" means an active homecare, ~~or~~ personal support worker, or personal care attendant who has:

(a) A current provider number;

(b) Worked and been paid with public funds in any of the past 12 months as a homecare or personal support worker or personal care attendant;

(c) A current credential; and

(d) Met the orientation and core training requirements of the program for which the ~~worker-provider~~ is enrolled.

(2) "Area Agency on Aging (AAA)" means the Department designated agency charged with the responsibility to provide a comprehensive and coordinated system of services to older adults and adults with disabilities in a planning and service area. The term is inclusive of both Type A and Type B Area Agencies on Aging as defined in ORS 410.040 and described in ORS 410.210 to 410.300.

(3) "Assessment" means a tool used to evaluate ~~a homecare or personal support worker's~~ a provider's knowledge of information learned during trainings required for Oregon Home Care Commission certifications as described in OAR 418-020-0030(3)(b) through (f).

(4) "Background Check" means a criminal records check and abuse check under OAR chapter 407, division 7.

(5) "Case Management Entity" has the meaning as defined in OAR 411-317-0000.

(6) "Case Manager" means an employee of a service delivery office who is responsible for determining service eligibility, offering service choices to eligible individuals, developing a plan of authorized services, and monitoring the effectiveness of services and supports. This term includes service coordinators and personal agents, as described in OAR chapter 411, division 317.

(7) "CMS' Core Competencies" means the set of 12 core competencies developed by the Center for Medicare and Medicaid Services (CMS) for the direct care workforce. The 12 competencies are found in Appendix E of the "The Roadmap of Core Competencies for the Direct Services Workforce" published at: <https://www.medicaid.gov/sites/default/files/2019-12/dsw-core-competencies-final-set-2014.pdf>.

(8) "Collective Bargaining Agreement" or "CBA" means the ratified Collective Bargaining Agreement between the Oregon Home Care Commission and the Service Employees International Union, Local 503. The Collective Bargaining Agreement is maintained on the [Department's Commission's](https://www.oregon.gov/dhs/SENIORS-DISABILITIES/HCC/PSW-HCW/Pages/Collective-Bargaining.aspx) website at: <https://www.oregon.gov/dhs/SENIORS-DISABILITIES/HCC/PSW-HCW/Pages/Collective-Bargaining.aspx><http://www.dhs.state.or.us/spd/tools/cm/homecare/index.htm>.

(9) "Commission" means the Oregon Home Care Commission established and operated pursuant to Article XV, Section 11, of the Oregon Constitution, and ORS 410.595 to 410.625.

(10) "Commissioner" means one of the nine members of the Home Care Commission appointed by the Governor and confirmed by the Senate as

provided in ORS 171.562 and 171.565. Five members are either seniors older adults or individuals with disabilities who are receiving or who have received homecare services. One member is appointed to represent each of the following entities, or a successor entity, for as long as a comparable entity exists:

(a) Governor's Commission on Senior Services.

(b) Oregon Department of Human Services.

(c) Oregon Disabilities Commission.

(d) Oregon Association of Area Agencies on Aging and Disabilities.

(11) "Common Law Employer" means the employer of record responsible for the duties described in OAR 411-375-0055.

(12) "Community Health Worker" means an individual, as defined in ORS 414.025, who assists members of the community to improve their health and increase the capacity of the community to achieve wellness and meet the health care needs of its residents.

(13) "Competency Evaluation" means a tool to measure an individual's a provider's mastery of the information learned during orientation and mandatory trainings.

(14) "Consumer" or "Consumer-Employer" means an individual eligible for in-home and community-based services.

(15) "Consumer-Employer Training Services" means activities described in OAR 411-035-0090 that empower and inform consumer-employers, authorized representatives of consumer-employers, or a consumer's common law employer regarding their rights, roles, and responsibilities as employers of homecare or personal support workers or personal care

attendants. The consumer-employer training services program is known as Employer Resource Connection.

(16) "Consumer Authorized Representative" means an individual assigned by a consumer, or designated by a consumer's legal representative, to act as the consumer's decision-maker in matters pertaining to planning and implementing an in-home service plan or individual support plan.

(17) "Continuing Education" means Commission approved training mandated on an ongoing basis. Continuing education is separate from orientation or core training.

(18) "Core Training" means the mandated training, or series of trainings, required for ~~homecare and personal support workers~~providers.

(19) "Credential" means time-limited approval by ODHS or OHA for an individual to provide services as a ~~homecare or personal support worker~~provider, which includes a start date, designated by a service delivery office, no earlier than the individual's most recent background check and signed provider enrollment agreement, and an end date no later than 24 months from the ~~homecare or personal support worker's~~provider's most recent background check. This is also referred to as an approved to work credential.

(20) "Cultural Competency" is a set of congruent behaviors, attitudes, and policies that come together in a system, agency, or among professionals to enable effective work in cross-cultural situations.

(21) "Department" or "ODHS" means the Oregon Department of Human Services.

(22) "Enrolled" means an individual has met the initial enrollment requirements to become a Medicaid approved homecare or personal support worker or personal care attendant and has been issued a provider number. ~~The requirements are listed in OAR 418-020-0020(1)(a) through~~

~~(f) for homecare workers and OAR 418-020-0020(2)(a) through (e) for personal support workers.~~

(23) "Enrollment Agreement" means the program-specific document ~~an individual~~ a person must complete to be approved to provide services as a ~~homecare or personal support worker~~ provider.

(24) "Enhanced Homecare Worker" means a homecare worker, as defined in these rules, who is certified by the Commission to provide medically-driven services and supports, as defined in OAR 411-031-0020 to consumers who have been assessed by a case manager as needing the services and supports.

(25) "Enhanced Personal Support Worker" means a personal support worker, as defined in these rules, who is certified by the Commission to provide services to consumers who require advanced medically-driven services and supports as defined in OAR 411-375-0010 or behaviorally-driven services and supports as defined in OAR 411-375-0010 and identified through a functional needs assessment.

(26) "Exceptional Personal Support Worker" means a personal support worker, as defined in these rules, who is certified by the Commission to provide services for consumers who require staff to be awake more than 20 hours in a 24-hour period and who require extensive medically-driven services and supports as defined in OAR 411-375-0010 or behaviorally-driven services and supports as defined in OAR 411-375-0010, beyond the enhanced services provided by an enhanced personal support worker, as assessed by a functional needs assessment.

(27) "Functional Needs Assessment" means the comprehensive assessment tool defined in OAR 411-317-0000.

(28) "Grievance" means a formal allegation of acts, omissions, applications, or interpretations that are believed to be violations of the terms or conditions of the Collective Bargaining Agreement.

(29) "Homecare Worker" means a provider, as defined and described in OAR chapter 411, division 31, who is directly employed by a consumer or a consumer's authorized representative, to provide hourly services to the consumer.

(30) "Incumbent Worker" means a person who enrolled as a ~~homecare or personal support worker~~provider prior to September 1, 2021.

(31) "Independent Choices Program" means the program described in OAR Chapter 411, Division 30, which is a self-directed in-home services program where a participant is given a cash benefit to purchase goods and services that are identified in the participant's service plan and prior approved by Aging and People with Disabilities (APD) or an AAA.

(32) "Individual" means an older adult, an adult with a disability, or a child with a disability applying for or eligible for services. The term "individual" is synonymous with "client" and "consumer".

(33) "Individual Support Plan" or "ISP" means the plan defined in OAR 411-317-0000.

(34) "Mastery" means a ~~homecare or personal support worker~~provider has achieved the specific learning objectives of a training.

(35) "OHA" means the Oregon Health Authority.

(36) "Oregon Intervention System Certification" or "OIS" certification means a system of training to people who work with designated individuals to provide elements of positive behavioral support and non-aversive behavioral intervention.

(37) "Orientation" means a mandatory Commission-approved presentation for ~~homecare and personal support workers~~providers that provides

essential information required to provide safe and person-centered services and supports and comply with applicable program rules.

(38) "Personal Care Attendant" means a provider enrolled by OHA who is hired to provide personal care services to an individual with a behavioral health condition or disability who resides in their own home.

(398) "Personal Support Worker" means, for the purpose of these rules, a person, as defined in ORS 410.600:provider enrolled by ODHS who is hired or selected by an individual with a developmental disability, their designated common law employer, or proxy to provide services in the individual's home and community.

~~(a) Who is hired by an individual with a developmental disability or mental illness or a parent or guardian of an individual with a developmental disability or mental illness.~~

~~(b) Who receives monies from DHS or OHA for the purpose of providing services for the individual with a developmental disability or mental illness.~~

~~(c) Who provides services through the Independent Choices Program for an older adult or an individual with a physical disability.~~

~~(d) Whose compensation is provided in whole or in part through DHS or OHA, a case management entity or other public agency, and who provides services in the home or community.~~

(4039) "Program" means a program governed by Oregon Administrative Rules and administered by ODHS or OHA that authorizes services provided through public funding in an individual's home or in the community.

(410) "Provider" means a homecare or personal support worker or personal care attendant who is eligible to be hired by a consumer-employer, a

consumer's authorized representative, or the consumer's common law employer, to provide services authorized in the consumer's service plan in the individual's home or in the community.

(424) "Provider Number" means an identifying number issued to each homecare and personal support worker or personal care attendant who is enrolled as a provider through ODHS or OHA.

(432) "Refresher training" means a 12-hour course for incumbent workers that educates workers providers on the core competencies.

(443) "Registry" means the Commission's online tool used to match qualified homecare or personal support workers providers available for work with individuals seeking to hire workers providers.

(454) "Respite Worker" means a paid homecare or personal support worker provider who provides services in place of a family caregiver or other member of a consumer's natural support system who typically provides unpaid services.

(465) "Restricted Provider Number" means a number assigned by ODHS or OHA to a homecare or personal support worker provider who has restrictions placed on the worker's provider enrollment.

(476) "Service Delivery Office" means an APD or AAA office, case management entity, or Community Mental Health Program office that is responsible for case management and authorization of publicly funded services provided by homecare or personal support workers providers.

(487) "Service Plan" means a written plan of authorized services provided in an individual's home or in the community, developed in accordance with ODHS or OHA rules and policies, or an Individual Support Plan.

(~~498~~) "State Plan Personal Care Services" means the assistance with personal care and supportive services provided for an individual by a ~~homecare or personal support worker~~provider.

(~~4950~~) "Stipend" means an amount of money granted to a ~~homecare or personal support worker~~provider in accordance with Commission requirements described in OAR 418-020-0030(1)(b).

(~~5051~~) "Substitute Worker" means a ~~homecare or personal support worker~~provider who provides services in place of a ~~homecare or personal support worker~~provider who is unavailable.

(~~524~~) "These Rules" mean the rules in OAR chapter 418, division 20.

(~~532~~) "Worker" means a "Homecare Worker," ~~or~~ "Personal Support Worker," or "Personal Care Attendant."

Stat. Auth.: ORS 410.602

Stats. Implemented: ORS 410.600, 410.603, 410.605, 410.606, 410.608, 410.612

418-020-0020 Qualifications for Homecare and Personal Support Workers and Personal Care Attendants

(1) ~~Homecare Worker~~ Minimum Qualifications.

(a) Submit a complete application and provider enrollment agreement ~~to a service delivery office~~.

(b) Pass an ODHS background check and cooperate with a recheck every two years or when requested.

(c) Be capable of performing essential functions to safely provide necessary services or be capable of learning essential functions to safely provide necessary services.

~~(d) Meet the in-home program specific guidelines.~~

~~(de) Be 18 years of age or older.~~

~~(ef) Attend orientation.~~

~~(fg) Complete mandated core training within specified timelines.~~

~~(gh) Complete and pass mandated orientation and core training competency evaluations.~~

~~(h) (i) Complete mandated continuing education within the specified timelines.~~

~~(i) Meet applicable provider enrollment requirements outlined in OAR chapter 411, division 31 (homecare workers), OAR chapter 411, division 375 (personal support workers), or OAR chapter 410, division 172 (personal care attendants).~~

~~(2) Personal Support Worker Minimum Qualifications.~~

~~(a) Submit a complete provider application and enrollment agreement.~~

~~(b) Pass a DHS or OHA background check and cooperate with a recheck when requested.~~

~~(c) Be capable of performing essential functions to safely provide necessary services or be capable of learning essential functions to safely provide necessary services.~~

~~(d) Be 18 years of age or older.~~

~~(e) Meet program specific guidelines, including attending applicable orientations.~~

~~(f) Complete mandated core training within specified timelines.~~

~~(g) Complete and pass mandated orientation and core training competency evaluations.~~

~~(h) Complete mandated continuing education within specified timelines.~~

~~(23) Homecare and Personal Support Worker~~Provider Orientation.
Orientation must:

(a) Occur on a frequent basis to prevent delays in a ~~worker's~~
provider's enrollment or continued employment as a ~~homecare or~~
~~personal support worker~~provider.

(b) Include a presentation and materials created or approved by the Commission and ODHS or OHA.

(c) Include information on the following topics:

(A) Abuse and mandatory reporting.

(B) Confidentiality.

(C) Consumer rights.

(D) Medication safety.

(E) Preventing Medicaid fraud.

(F) Providing person-centered services.

(G) Universal precautions and infection control.

(H) ~~Worker-Provider~~ requirements, roles, and responsibilities.

(I) Other information ODHS or the Commission deems appropriate for the professionalization of the ~~homecare and personal support worker~~provider workforce.

(J) The Commission reserves the right to remove training topics listed in OAR 418-020-0020(3)(c)(A) through (I) if it is deemed necessary.

(d) Be culturally-appropriate for ~~workers~~applicants of all language abilities.

(A) If orientation is not available in the ~~worker's~~applicant's preferred language, interpreter services shall be made available.

(B) Orientation presentation and materials shall be culturally appropriate and accessible to ~~workers~~applicants in their preferred language. Reasonable efforts shall be made to accommodate language requests when there is adequate demand for the presentation and materials in the preferred language.

(e) Provide reasonable accommodations in accordance with Title II of the Americans with Disabilities Act for ~~homecare and personal support~~applicants ~~workers~~ who experience a disability.

(f) Allow the Union to make presentations to potential members at orientations, at a mutually agreeable time, in accordance with the current collective bargaining agreement.

~~(g) Within 30 days of receiving a provider number, a homecare or personal support worker must attend an orientation that utilizes~~

~~materials provided or approved by the Commission. This provision is in effect until August 31, 2021.~~

~~(A) When completion of an orientation is not available at a local service delivery office or online within 30 days, orientation must be completed within 90 days of enrollment. This provision is in effect until August 31, 2021.~~

~~(B) If a homecare or personal support worker fails to complete an orientation within 90 days of provider enrollment, the provider number shall be inactivated and any authorization for service payments shall be discontinued, in accordance with OAR Chapter 411, Division 31 and OAR Chapter 411, Division 375.~~

~~(gh)~~ Effective September 1, 2021, an applicant is required to complete a minimum of a four-hour orientation, or online equivalency, and pass a competency evaluation prior to the issuance of a provider number and shall not be authorized to work until complete.

(A) An applicant may be granted an exception to begin working prior to attending orientation and passing a competency evaluation under the following circumstances:

(i) The applicant is selected by a specific consumer-employer or common law employer and the applicant's delayed enrollment poses an immediate risk to the individual's health and safety;

(ii) Orientation is not readily accessible; and

(iii) The applicant has met the enrollment criteria described in OAR 418-020-0020(1)(a) through ~~(ie)~~ ~~or OAR 418-020-0020(2)(a) through (d).~~

(B) Requests for exceptions shall be submitted to the Oregon Home Care Commission by the local APD or AAA service delivery office or case management entity for approval.

(i) The Commission shall approve or deny the request within one business day.

(ii) If an exception is approved by the Oregon Home Care Commission, the ~~homecare or personal support worker~~provider shall attend orientation within 120 days of enrollment. ~~Workers-Providers~~ who fail to attend orientation within the specified timeline shall not be authorized to work.

Stat. Auth.: ORS 410.602

Stats. Implemented: ORS 410.603, 410.604, Ch. 75 Oregon Laws 2018

418-020-0030 ~~Homecare and Personal Support Worker~~Provider Training

(1) Training is offered by the Commission to ~~homecare and personal support workers~~providers statewide to enhance ~~provider~~worker skills and cultural competence, as well as the quality of services provided to consumer-employers in their home or in the community.

(a) Training is provided without charge to ~~homecare and personal support workers~~providers, consumer-employers, consumer-representatives, appropriate service delivery staff, and the staff of adult foster homes licensed under OAR chapter 411, division 50.

(b) Stipends for actual hours in attendance at Commission-sponsored classes may be available to ~~homecare and personal support workers~~providers who have provided publicly funded services in any of the three months before training or during the month of the training. The Commission determines:

(A) The amount of a stipend and may provide a stipend for each eligible class once in a 12-month period.

(B) Which classes are approved for stipends for ~~homecare and personal support workers~~providers.

(2) Public Availability of Training. When classes are not filled, members of the public may attend, after registering and paying training fees determined by the Commission. Members of the public are not eligible for stipends.

(3) Certifications for ~~Homecare and Personal Support Workers~~Providers.

(a) Cardio Pulmonary Resuscitation (CPR) and First Aid Certification:

(A) The Commission pays for CPR and First Aid training for active ~~homecare and personal support workers~~providers who meet the qualifications established by the Commission.

(B) ~~Homecare and personal support workers~~Providers must submit a written request to the Commission for authorization to attend CPR and First Aid training paid for by the Commission.

(C) The Commission does not reimburse ~~homecare or personal support workers~~providers who have paid for CPR and First Aid classes.

(b) Professional Development Certification. To be eligible for Professional Development Certification, ~~homecare or personal support workers~~providers must:

(A) Have an active, unrestricted provider number.

(B) Complete core, safety, and elective training classes and pass training specific assessments.

(C) Have a current Adult CPR and First Aid certification prior to and throughout the certification period.

~~(D) Have an acceptable attendance record with a no-show rate of 20 percent or less at Commission-sponsored classes.~~

~~(DE)~~ Submit an application.

~~(EF)~~ Certification may be renewed by completing the requirements found in OAR 418-020-0030(3)(b)(A) through (D) between the 13th and 24th month of the certification period.

~~(FG) Homecare or personal support workers~~Providers who have an unexpired Oregon Certified Nursing Assistant (CNA) certification, and provide proof of certification, may substitute their CNA certification in place of the safety-type and elective courses and corresponding assessments required for the initial professional development certification process. ~~Homecare and personal worker~~Providers with a CNA certification must meet the requirements in OAR 418-020-0030(3)(b)~~(EF)~~ to renew their professional development certification.

(c) Enhanced Homecare Worker Certification.

(A) To be certified as an enhanced homecare worker, a homecare worker must:

(i) Have an active, unrestricted provider number.

(ii) Have and maintain a current CPR and First Aid Certification.

(iii) Submit an application.

(iv) Once accepted, successfully complete enhanced homecare worker coursework and assessments.

~~(v) Have an acceptable attendance record with a no-show rate of 20 percent or less at Commission sponsored classes.~~

(B) Enhanced homecare workers are eligible for an enhanced hourly service payment rate only when providing services for a consumer-employer assessed by ODHS as having enhanced needs.

(C) For ongoing enhanced homecare worker certification, a homecare worker must:

(i) Maintain an active homecare worker credential and current Adult CPR and First Aid certification.

(ii) Complete required enhanced certification courses before the end of the 24-month certification period.

(d) Enhanced Personal Support Worker Certification.

(A) To be certified as an enhanced personal support worker, a personal support worker must:

(i) Have an active, unrestricted provider number.

(ii) Have and maintain a current CPR and First Aid certification.

(iii) Submit an application.

(iv) Once accepted, successfully complete enhanced personal support worker coursework and pass assessments.

~~(v) Have an acceptable attendance record with a no-show of 20 percent or less at Commission sponsored classes.~~

(B) Enhanced personal support workers are eligible for an enhanced hourly service payment rate only when providing services for a consumer-employer assessed by a case management entity as having enhanced needs.

(C) For ongoing enhanced personal support worker certification, a personal support worker must:

(i) Maintain an active personal support worker credential and current CPR and First Aid certification.

(ii) Complete required enhanced certification courses before the end of the 24-month certification period.

(e) Exceptional Personal Support Worker Certification:

(A) To be certified as an exceptional personal support worker, a personal support worker must:

(i) Have and maintain a valid enhanced personal support worker certification as described in this rule.

(ii) Submit an application.

(iii) Have a current Oregon Intervention System general or parent level certification, as appropriate.

(iv) If accepted, complete required exceptional personal support worker coursework and pass course assessments.

(B) For ongoing exceptional personal support worker certification, a personal support worker must:

(i) Maintain an active personal support worker credential, CPR and First Aid certification, and Oregon Intervention System certification.

(ii) Complete requirements for recertification before the end of the 24-month certification period.

(C) Exceptional personal support workers are eligible for an exceptional service payment rate only when providing services for a consumer-employer assessed by a case management entity as having exceptional needs.

(f) Community Health Worker Certification:

(A) To be certified as a community health worker, a ~~homecare or personal support provider~~ worker must:

(i) Have an active, unrestricted provider number.

(ii) Have a current professional development certification.

(iii) Have and maintain a current CPR and First Aid certification.

(iv) Submit an application.

(v) Complete required community health worker certification courses.

(B) For ongoing community health worker certification, a ~~homecare or personal support~~provider ~~worker~~ must:

(i) Maintain an active ~~homecare or personal support~~workerprovider credential and have a current CPR and First Aid certification.

(ii) Complete 20 hours of required training approved by the Commission within the 24-month certification period.

(iii) Have and maintain professional development certification.

(g) Ventilator Dependent Quadriplegia Certification.

(A) This certification is available to homecare workers. To obtain ventilator dependent quadriplegia certification, a homecare worker must:

(i) Have an active, unrestricted provider number.

(ii) Have and maintain a current CPR and First Aid certification.

(iii) Once accepted, successfully complete all ventilator dependent quadriplegia certification coursework.

(B) Homecare workers with ventilator dependent quadriplegia certification are eligible for an hourly service payment rate only when providing services for a consumer-employer assessed by ODHS as having ventilator dependent quadriplegia needs.

(C) For ongoing ventilator dependent quadriplegia certification, a homecare worker must:

(i) Maintain an active homecare worker credential and current Adult CPR and First Aid certification.

(ii) Complete required ventilator dependent quadriplegia certification courses between the 13th and 24th month of the certification period.

Stat. Auth.: ORS 410.602

Stats. Implemented: ORS 410.603, 410.604, 410.625, Ch. 75 Oregon Laws 2018

418-020-0035 Mandatory Training and Competency Evaluations – Effective 9/1/2021

(1) Training curricula shall be reviewed and approved by the Commission prior to use at mandatory training.

(2) Mandatory training shall be geographically accessible in all areas of the state.

(3) Mandatory training shall be culturally appropriate for ~~workers-providers~~ of all language abilities.

(a) If a training is not available in the ~~worker's-provider's~~ preferred language, interpreter services shall be made available.

(b) Training materials shall be culturally appropriate and accessible to ~~workers-providers~~ in their preferred language. Reasonable efforts shall be made to accommodate language requests when there is adequate demand for the materials in the preferred language.

(c) Reasonable accommodations shall be provided in accordance with Title II of the Americans with Disabilities Act for ~~homecare and personal support workersproviders~~ who experience a disability.

(4) Mandatory core training.

(a) Effective September 1, 2021, ~~homecare and personal support workers~~providers are required to complete eight hours of core training within 120 days of enrolling as a Medicaid provider.

(b) ~~Homecare and personal support workers~~Providers are exempt from 418-020-0035(4)(a) if they have a current certification awarded by the Commission as described in 418-020-0030(3) and continue to meet the on-going certification requirements.

(c) Core training topics include, but are not limited to:

(A) Safety and emergency measures.

(B) Understanding requirements for providers paid with Medicaid funds.

(C) Providing person-centered services and supports.

(D) Understanding how to support the physical and emotional needs of the individual receiving services.

(E) Managing medications.

(F) Providing personal care and assistance with activities of daily living.

(d) In addition to the core training topics described in OAR 418-020-0035(4)(c)(A) through (F), ODHS and the Commission may establish other training topics deemed appropriate for the professionalization of ~~the homecare and personal support worker~~this workforce.

(5) Continuing education.

(a) ~~Homecare and personal support workers~~Providers with an approved to work end date of September 1, 2023 or later, are required to complete 12 hours of continuing education by the end of the ~~worker's provider's~~ 24-month approved to work credential on an ongoing basis.

(b) ~~Homecare and personal support workers~~Providers are exempt from 418-020-0035(5)(a) if they have a current certification awarded by the Commission as described in 418-020-0030(3) and continue to meet the on-going certification requirements.

(c) ~~Homecare and personal support workers~~Providers are required to complete cultural competency training as part of their continuing education requirements.

(6) Orientation and core training competency evaluations.

(a) Competency evaluations shall be based on the CMS Direct Service Workforce Core Competencies.

(b) Competency evaluations shall measure a ~~homecare or personal support worker's~~provider's mastery of the skills and knowledge acquired through training.

(c) ~~Homecare and personal support workers~~Providers enrolled on or after September 1, 2021 shall complete competency evaluations after the completion of orientation and core training.

(d) ~~Homecare and personal support workers~~Providers enrolled on or after September 1, 2021 must pass competency evaluations to receive credit for completing orientation and core training.

(e) Competency evaluations shall be available in a manner that accommodates an ~~individual's~~provider's literacy skills and preferred language.

(f) The methodology and standards used for competency evaluations must be reviewed and approved by the Oregon Home Care Commission.

(7) Refresher Training. Incumbent workers are required to complete a refresher training by ~~March 31, 2022~~June 30, 2022.

(8) Training Pilot. ~~Homecare and personal support workers~~Providers who participate in the ODHS-approved training pilot between March 8, 2020 and

August 31, 2021 shall be granted equivalent credit when training becomes mandatory on September 1, 2021.

Stat. Auth.: ORS 410.602

Stats. Implemented: ORS 410.603, 410.604, 410.625, Ch. 75 Oregon Laws 2018

418-020-0050 Registry

The Commission maintains an online Registry of qualified and active ~~homecare and personal support workers~~providers to provide routine, emergency, and substitute referrals to consumer-employers.

(1) Service Delivery Office Responsibilities. Staff must enter information into the Registry within five business days:

(a) The date and location a ~~homecare worker or personal support worker~~provider completed orientation.

(b) The expiration dates of CPR and First Aid certifications for ~~homecare or personal support workers~~providers who present original documents at the service delivery office.

(2) Service Delivery Staff Use of Registry. ODHS and OHA Service Delivery office staff shall use the Registry exclusively to refer ~~homecare or personal support workers~~providers to consumer-employers:

(a) When a consumer-employer, consumer's authorized representative, or the consumer's common law employer requests names of ~~homecare or personal support workers~~providers, an individual employer profile shall be created and used for generating a Registry list of ~~homecare or personal support workers~~providers who best match the consumer's profile. Service delivery staff may not:

(A) Create generic lists for distribution to multiple consumer-employers.

(B) Recommend specific ~~homecare or personal support workers~~providers to consumer-employers or serve as employment references for such workers.

(b) Service delivery staff may refer consumer-employers, consumers' authorized representatives, or consumers' common law employers needing assistance with the Registry or locating ~~homecare or personal support workers~~providers to the Employer Resource Connection consumer training services program.

(3) Referral Requirements. For a ~~homecare or personal support worker's~~provider's name to appear on a Registry referral list, a ~~homecare or personal support worker~~provider must:

(a) Have an active, unrestricted provider number.

(b) Be seeking employment.

(c) Authorize release of information by selecting this option on the Registry or in writing to the appropriate service delivery office.

(d) Maintain a complete, accurate profile.

(e) Have a working telephone number and email address. If a ~~homecare or personal support worker~~provider does not have a working telephone number in the Registry, they will not be available for referral in the Registry and will be notified by the Commission via U.S. Mail or email.

(f) Update profile information at least every ~~30~~90 days.

(g) Update changes to availability, telephone number, or other information when changes occur.

(4) Appropriate Use. The purpose of the Registry is for individual consumer-employers, persons authorized to act on behalf of consumers, or individuals hiring in-home ~~workers~~providers privately, to find qualified ~~homecare or personal support workers~~providers.

(5) Inappropriate Employer Use. Employer profiles or help wanted advertisements placed for purposes other than for individual searches as described in this rule are not authorized.

(6) Inappropriate Use by ~~Homecare and Personal Support Workers~~Providers. ~~Homecare and personal support workers~~Providers may not use the Registry for purposes other than its intended use. ~~Homecare and personal support workers~~Providers may not:

(a) Use the Registry to refer other ~~homecare or personal support workers~~providers or contact other ~~homecare or personal support workers~~providers.

(b) Use the Commission's name on business cards or other promotional materials.

(c) Represent themselves in print, electronic, or social media as employees of the Commission, ODHS, OHA, or any service delivery office.

(7) Violations of OAR 418-020-0050(6) by ~~homecare or personal support workers~~providers shall be investigated by the Commission.

(a) Sanctions may be imposed for non-compliance with these rules. Depending on severity and recurrence of violation, a sanction may include one or more of the following actions:

(A) Written warning.

(B) Suspension of availability for Registry referral for a prescribed period.

(C) Suspension of availability for Registry referral until conditions for suspension are corrected.

(D) The requirement to attend Commission-sponsored trainings.

(b) Depending on the severity of allegations of misconduct or inappropriate use, the Commission may suspend availability for referral during investigation.

(c) Notice of Sanction. If the Commission imposes a sanction, the Commission shall attempt to serve a notice of sanction upon the ~~homecare or personal support worker~~provider by regular mail based on the last contact information provided by the workerprovider, or, if requested by the recipient of the notice, by electronic mail. The Notice of Sanction shall comply with OAR Chapter 137, Division 3 and OAR Chapter 411, Division 1, as applicable.

Stat. Auth.: ORS 410.602

Stats. Implemented: ORS 410.603, 410.604, 410.606

418-020-0060 Workers' Compensation

(1) The Commission elects workers' compensation coverage on behalf of consumer-employers who employ ~~homecare and personal support~~workersproviders.

(2) Consumer-employers and consumer representatives must:

(a) Sign required documents for a ~~homecare or personal support~~workerprovider to receive workers' compensation coverage.

(b) Report ~~homecare or personal support worker~~provider injuries to the Commission as soon as becoming aware of a worker's-provider's injury.

(c) Provide information to the Commission and workers' compensation carrier when ~~workers-providers~~ report an injury.

(3) Service delivery office staff shall:

(a) Collect from each consumer-employer, at time of eligibility for services, appropriate signed workers' compensation documents.

(b) Report injuries immediately to the Commission.

(c) Respond to requests for information from the Commission and workers' compensation carrier when ~~workers-providers~~ report injuries and when claims are filed.

(4) The Commission shall:

(a) Assist ~~homecare and personal support workers~~providers who are injured while performing service plan authorized tasks with filing claims.

(b) Work as the agent of consumer-employers while providing information to the insurance carrier's claims adjusters, attorneys, return-to-work specialists, and vocational rehabilitation administrators.

(5) ~~Homecare or personal support workers~~Providers injured while providing authorized services must:

(a) Report work injuries as soon as becoming aware of injuries to the:

(A) Consumer-employer, consumer's authorized representative, or the consumer's common law employer;

(B) Case manager; and

(C) Commission.

(b) Cooperate with the Commission and workers' compensation carrier by providing all required documents and returning phone calls timely.

(c) Keep the consumer-employer, consumer-representative, or consumer's common law employer informed regarding work restrictions resulting from injuries at work, medical appointments, and return to work dates.

Stat. Auth.: ORS 410.602

Stats. Implemented ORS 410.606, 410.625, 656.039