

**CHAPTER 411
DIVISION 32**

OREGON PROJECT INDEPENDENCE

411-032-0000 Definitions
(Amended 5/2/2003)

For purposes of these rules:

(1) "Activities of Daily Living" (ADL) means those personal functional activities required by an individual for continued well-being, health and safety. This includes eating, dressing/grooming, bathing/personal hygiene, mobility, bowel and bladder management, and cognition.

(2) "Administrative Costs" means those expenses associated with the overall operation of the Oregon Project Independence (OPI) Program which are not directly attributed to a service.

(3) "Adult Day Care" means a structured comprehensive program designed to meet the needs of functionally and/or cognitively impaired adults. Adult day care provides individually planned care, supervision, social and related support services, and health monitoring in a protective setting during any part of a day, but less than 24-hour care.

(4) "Advisory Council" means an advisory council of the authorized agencies.

(5) "Alzheimer's Disease and Other Related Disorders" means a progressive and degenerative neurological disease which is characterized by dementia including the insidious onset of symptoms of short-term memory loss, confusion, behavior changes and personality changes. It includes dementia caused from any one of the following disorders:

- (a) Multi-Infarct Dementia (MID);
- (b) Normal Pressure Hydrocephalus (NPH);
- (c) Inoperable Tumors of the Brain;

- (d) Parkinson's Disease;
- (e) Creutzfeldt-Jakob Disease;
- (f) Huntington's Disease;
- (g) Multiple Sclerosis;
- (h) Uncommon Dementia such as Pick's Disease, Wilson's Disease, and Progressive Supranuclear Palsy; or
- (i) All other related disorders recognized by the National Alzheimer's Association.

(6) "Area Agency" means the agency designated by the Department as an Area Agency on Aging which is charged with the responsibility to provide a comprehensive and coordinated system of services to the elderly and possibly the disabled in a planning and service area. For purposes of these rules, the term "Area Agency" (AAA) is inclusive of both Type A and B Area Agencies on Aging as defined in ORS 410.040 to 410.350.

(7) "Area Plan" means the approved plan for providing authorized services under Oregon Project Independence.

(8) "Assisted Transportation" means escort services which provides assistance to a person who has difficulties (physical or cognitive) using regular vehicular transportation.

(9) "Authorized Service" means any service designated by the Department and these rules to be eligible for Oregon Project Independence funding.

(10) "Case Management" means a service designed to individualize and integrate social and health care options for or with a person being served. Its goal is to provide access to an array of service options to assure appropriate levels of service and to maximize coordination in the service delivery system. Case management must include four general components: entry, assessment, service implementation, and evaluation.

(11) "Case Management Costs" means those expenses associated with

individualizing and integrating social and health care options for or with a person receiving a service. Costs elements should include time spent with the client, travel to and from a client's home, mandated training time, case recording, reporting, time spent arranging for and coordinating services for the client, supervision and staffing time related to a client, and time spent in the initial assessment of a person who does not become an OPI client.

(12) "Chore Service" means assistance with heavy housework, yard work or sidewalk maintenance for persons who need assistance with these activities to assure safety.

(13) "Client-Employed Provider" (CEP) refers to the program wherein the provider is directly employed by the client and provides hourly services.

(14) "Client's Adjusted Income" means the income for all household members after deductions for household medical expenses as defined in OAR 411-032-0020(5).

(15) "Department of Administrative Services" means the Department of Administrative Services for the State of Oregon.

(16) "Department" means the Oregon Department of Human Services, Seniors and People with Disabilities, unless otherwise specifically defined.

(17) "Department of Revenue" means the Oregon Department of Revenue.

(18) "Diagnosed" means, for purposes of these rules, that the client's physician has reason to believe and indicates that the client has Alzheimer's Disease or a Related Disorder.

(19) "Direct Service Costs" means those expenses for direct labor which are attributable to a client-related service. For example, the direct service cost of home care is the cost of time actually spent providing home care services in the home. Other direct service costs are those which are directly attributable to a client-related function. For example, the cost of mileage for the service worker to get to the client's home.

(20) "Eligibility Determination" means the process of deciding if a prospective client meets the requirements necessary to receive authorized services under Oregon Project Independence.

(21) "Exception or Variances" means that an agency or individual contractor or subcontractor is not required to meet one or more specific requirements of these rules.

(22) "Fiscal Records and Data" means all information pertaining to the financial operation of an agency or program.

(23) "Gross Income" means household income from salaries, interest and dividends, pensions, Social Security, railroad retirement benefits, and any other income prior to any deductions.

(24) "Health Services" means the Department of Human Services, Health Services.

(25) "Home Care or Homemaker Services" means all those ADL or IADL in-home services, requiring minimal to substantial assistance, necessary to help clients achieve the greatest degree of independent functioning.

(26) "Home Delivered Meal" means a meal paid from OPI funds and delivered to a client who is receiving at least one additional OPI service, excluding Case Management.

(27) "Home Health Agency" means a public or private agency providing coordinated home health services on a home visiting basis.

(28) "Home Health Service" means items and services furnished to an individual by a home health agency, or by others under arrangement with such agency, on a visiting basis in a place of temporary or permanent residence used as the individual's home for the purpose of maintaining that individual at home.

(29) "Household" means the client, spouse and any dependents as defined by the Internal Revenue Service.

(30) "In-home Care Agency" means a public or private agency providing coordinated home care service on a home visiting basis and licensed by the Department of Human Services, Health Services, under ORS 443.305 to 443.350.

(31) "Institutions" means any state, community or private hospital and any nursing facility.

(32) "Instrumental Activities of Daily Living (IADL)" means those self-management activities, other than activities of daily living, required by an individual to continue independent living; i.e., medication and oxygen assistance (except for administering medications, making judgments regarding dosage of prescription medications, and adjusting oxygen levels), providing transportation, preparing meals, shopping, housekeeping, paying bills and performing banking functions.

(33) "Personal Care Service" means in-home services provided to maintain, strengthen, or restore an elderly individual's functioning in their own home when an individual is dependent in one or more ADLs, or when an individual requires substantial assistance, and one or more of the following conditions exist:

- (a) Medical instability;
- (b) Potential for skin breakdown or pressure ulcers;
- (c) Multiple health problems or frailty with a strong possibility of deterioration; or
- (d) Potential for increased self-care, but client instruction and support are needed to reach goals.

(34) "Program Records and Data" means any information of a non-fiscal nature.

(35) "Program Support Costs" means those expenses associated with managing the services provided either through contract or directly by the area agency on aging, which are attributable to a specific service.

(36) "Registered Nurse Services" mean services provided by a registered nurse on a short-term or intermittent basis which include but are not limited to: interviewing the client and, when appropriate, other relevant parties; assessing the client's ability to perform tasks; preparing a care plan which includes treatment needed by the client; monitoring medication; training and educating care providers; and setting realistic goals and outcomes for

the client.

(37) "Respite" means paid temporary services to provide relief for families or other caregivers. In-home and out-of-home respite care may be provided on an hourly or daily basis, including 24-hour care for several consecutive days. Range of tasks to be provided may include: supervision, companionship and personal care services usually provided by the primary caregiver of the disabled adult. Services appropriate to the needs of individuals with dementing illnesses are also provided.

(38) "Seniors and People with Disabilities" means Seniors and People with Disabilities of the Department of Human Services.

(39) "Service Provider" means any agency or program that provides one or more authorized services under Oregon Project Independence.

(40) "Service Determination" means the process of determining the proper authorized service for each client.

(41) "Substitute Care" means services provided by adult foster homes, residential care facilities and specialized living facilities.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.410

411-032-0001 Goals

(Amended 5/2/2003)

The goals of Oregon Project Independence shall be to:

- (1) Promote quality of life and independent living among older persons;
- (2) Provide preventive and long-term care services to eligible individuals to reduce the risk for institutionalization and promote self-determination;
- (3) Provide services to frail and vulnerable older adults who are lacking or have limited access to other long-term care services; and
- (4) Optimize older individuals' personal and community support resources.

Stat. Auth.: ORS 410
Stats. Implemented: ORS 410.420

411-032-0005 Administration
(Amended 5/2/2003)

(1) Advisory Council. Each area agency shall show evidence that the advisory council of the area agency, and the community were involved in the identification of need, selection of services to be offered, and the development of the Area Plan.

(2) Area Plan

(a) Each area agency shall submit an Area Plan by a date specified and on forms provided by the Department.

(b) The Area Plan shall, at a minimum, contain:

(A) The types and amounts of authorized services to be offered;

(B) The costs of these services;

(C) How the agency will ensure timely response to inquiries for service;

(D) How clients will receive initial and ongoing periodic screening for other community services, including Medicaid;

(E) How eligibility will be determined;

(F) How the services will be provided;

(G) The agency policy for prioritizing OPI service delivery;

(H) The agency policy for denial, reduction or termination of services;

(I) The agency policy for informing clients of their right to grieve

adverse eligibility and/or service determination decisions or consumer complaints;

(J) How fees for services will be developed, billed, collected and utilized;

(K) The agency policy for addressing client non-payment of fees, including when exceptions will be made for repayment and when fees will be waived; and

(L) How service providers will be monitored and evaluated.

(3) Contracts

(a) Contracts between the Department and area agencies for Oregon Project Independence shall be effective each year on July 1, unless otherwise agreed to by the Department. These contracts shall be based on the Area Plan and shall contain at a minimum:

(A) A budget showing the amounts of Oregon Project Independence funds;

(B) The types of authorized services to be offered;

(C) The stipulation that contracted authorized services will be in accordance with the standards and requirements provided in these rules, or in accordance with the In-Home Services Rules (OAR 411, Division 030), or the Home Health Agencies Rules (OAR 333, Division 027);

(D) The stipulation that required data will be gathered, reported and monitored in accordance with these rules and the Department;

(E) A section pertaining to general provisions as required by the Department of Administrative Services;

(F) A provision that area agencies will submit service provider contracts and amendments to the Department upon request from the Department; and

(G) Fee for service schedules developed in accordance with these rules.

(b) Contracts between area agencies and service providers shall be signed and kept on file by the area agencies for not less than three years for all services funded through Oregon Project Independence. The contracts shall, at a minimum, contain:

(A) A budget or a maximum amount of Oregon Project Independence funds, as well as all other resources devoted to Oregon Project Independence under the contract;

(B) The types and amounts of authorized services to be offered and the rate per unit for each authorized service;

(C) The stipulation that authorized services will be offered in accordance with the standards and requirements provided in these rules, or in accordance with the In-Home Services Rules, OAR 411, Division 030, or the Home Health Agency Rules, OAR 333, Division 027;

(D) The stipulation that required data will be gathered and reported in accordance with these rules and the Department; and

(E) A section pertaining to general provisions as required by the Department of Administrative Services.

(c) All contracts as described in this rule can be amended with the consent of both parties.

(d) All contracts as described in this rule will contain provisions for cancellation of the contract for non-performance and violation of the terms of the contract.

(4) Personnel Practices and Procedures

(a) Each area agency and service provider shall maintain written personnel policies.

(b) The personnel policies shall contain all items required by state and federal laws and regulations, including such items as:

(A) An affirmative action plan; and

(B) Evidence that the area agency and service provider are equal opportunity employers.

(c) Each area agency and service provider shall maintain a personnel record on each employee.

(5) Non-Compliance

(a) Non-compliance to these rules, except in those cases where an exception or variance has been granted by the Department may result in a reduction or termination of Oregon Project Independence funding;

(b) The determination of the amount of reduced funding will be made by the administrator of the Department;

(c) Any funds which are either reduced or terminated from a funding grant will be reserved by the Department for redistribution at its discretion. At the end of the biennium, unexpended funds will be returned to the State General Fund.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.420, ORS 410.450 & ORS 410.460

411-032-0010 Authorized Services and Allowable Costs

(Amended 5/2/2003)

(1) Authorized Services

(a) Oregon Project Independence funds shall only be expended for administration and direct service for the following authorized services:

(A) Homemaker (Home Care);

- (B) Chore;
- (C) Assisted Transportation (Escort);
- (D) Home Health;
- (E) Personal Care;
- (F) Adult Day Care;
- (G) Respite;
- (H) Case Management;
- (I) Registered Nurses;
- (J) Home Delivered Meals, only when an individual also receives other OPI funded services; and
- (K) Other services authorized by the administrator of the Department or his/her designee.

(b) Home health services shall meet the standards and requirements of the Home Health Agencies Rules (OAR 333, Division 027), and can only be offered through a home health agency licensed by the Department of Human Services, Health Services.

(c) Services provided by a home care agency shall meet the standards and requirements of In-Home Care Agencies under ORS 443.305 to 443.350, and can only be offered through a home care agency licensed by the Department of Human Services, Health Services.

(d) Services provided by a Client Employed Provider (CEP) shall meet the standards and requirements of the Home Care Commission under ORS 410.600 to 410.614.

(e) Area agencies shall not directly provide authorized services to clients, unless they are providing such services on the effective date

of these rules, or unless direct provision is required to assure an adequate supply of service. Those area agencies already providing direct services shall not be required to seek a variance or exception as defined in these rules. The provision of authorized services shall be contracted to service providers by area agencies.

(2) Computation of Allowable Costs - Allowable costs by area agencies are those associated with the direct provision of services to clients and such administrative costs as may be required to assure adequate services and to provide information to the Department.

(3) Administrative Costs - Administrative costs shall not exceed ten percent of Oregon Project Independence funds.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.420 & ORS 410.460

411-032-0015 Data Collection, Records, and Reporting

(Amended 5/2/2003)

(1) Data Collection

(a) The collection of required program and fiscal data associated with Oregon Project Independence shall be on forms and data systems as approved by the Department.

(b) Each area agency and service provider shall collect data as required by the Department on eligible clients receiving authorized service.

(c) All authorized service data collected on individual clients, supported by Oregon Project Independence, shall contain the client's Social Security Number and date of birth.

(d) For clients under the age of 60, documentation shall be placed in the client's file that the client has been diagnosed as having Alzheimer's Disease or other related disorder. Documentation must come verbally or in writing from the client's physician. The type of "other related disorder" shall also be specified in this documentation.

(2) Records

(a) Each area agency and service provider shall maintain all books, records, documents and accounting procedures which reflect all administrative costs, program support costs, direct service costs, and case management costs expended on Oregon Project Independence. These records shall be retained for not less than three years.

(b) These records shall be made available upon request to representatives from the Department, or to those duly authorized by them.

(3) Fiscal and Program Reporting

(a) Fiscal and program reports shall be completed on forms provided by the Department.

(b) Fiscal and program reports shall be submitted to the Department by the specified due dates.

(c) Fiscal/Program reports shall, at a minimum include:

(A) Current cumulative expenditures;

(B) Cost per unit of authorized service;

(C) Administrative costs;

(D) Program support costs;

(E) Case management costs;

(F) Direct service costs;

(G) The amount of fee for service assessed, billed, expended and collected and other funds received;

(H) Number of unduplicated clients year to date served for each authorized service year to date, and unduplicated case count

year to date;

(I) Number of units of service for each authorized service; and

(J) Demographic, social, medical, physical, functional, and financial data on individual clients as required by the Department on the SPD Client Assessment/Planning System (CA/PS).

(4) Confidentiality. The use or disclosure by any party of any information concerning a recipient or client of authorized services described in these rules, for any purpose not directly connected with the administration of the responsibilities of the Department, area agency or service provider is prohibited except with written consent of the recipient, or their legal representative. Disclosure of client or recipient information shall meet Department requirements.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.470 & ORS 410.480

411-032-0020 Eligibility and Determination of Services

(Amended 5/2/2003)

(1) Eligibility

(a) In order to qualify for services from an area agency or service provider, each client or recipient must:

(A) Be 60 years old or older; or be under 60 years of age and be diagnosed as having Alzheimer's Disease or a related disorder;

(B) Not be receiving financial assistance or Medicaid, except Food Stamps, Qualified Medicare Beneficiary or Supplemental Low Income Medicare Beneficiary Programs; and

(C) Meet the requirements of the Long-Term Care Services Priority Rule, OAR 411, Division 015.

(b) Eligibility determination shall be required before any client may receive services from an area agency or service provider. The documentation required by OAR 411-032-0015(1)(d) must be obtained before a client under the age of 60 may be determined to be eligible.

(c) Eligibility determination shall be the responsibility of the area agency. In those instances when eligibility determination is performed by an agency other than the area agency, the area agency shall have in place a system for evaluating the eligibility determination process, including an independent review by the area agency of a representative sample of cases.

(d) Any person residing in a nursing facility shall not be eligible for authorized services. This shall not restrict the ability to move a client from such institutions to their home to receive care, when judged more appropriate, based on medical, financial, physical, functional, and social considerations.

(e) The Department shall determine the factors which constitute a client being at risk of institutionalization. These factors are currently defined in the Long-Term Care Services Priority Rules, OAR Chapter 411, Division 015. These factors shall be utilized by each area agency and service provider.

(f) Applicants shall receive written notification of eligibility determination.

(2) Determination of Services

(a) Determination of services shall rest with the area agency. In those instances when determination of services is performed by an agency other than the area agency, the area agency shall have in place a system for evaluating the determination of service process, including an independent review by the area agency of a representative sample of cases.

(b) The determination of services shall be based on each client's financial, physical, functional, medical, and social need for such services.

(c) Determination of services provided under Oregon Project Independence shall be limited to the authorized services allowed by these rules.

(d) The determination of services shall be made:

(A) After eligibility determination; and

(B) At regular intervals but not less than once every twelve months.

(e) Clients shall receive written notification of determination of services:

(A) Notice shall include the maximum monthly hours of service authorized, the hourly and maximum monthly client fee, the service rate, and provider contact information.

(B) Written service notification shall be provided to the client upon initial determination of services, at annual reassessment and when there are changes to the determination of services.

(3) Priority of Services

(a) Eligible clients shall receive authorized services on a priority basis, with highest priorities receiving services first.

(b) Area Agencies on Aging may establish local priorities for service authorization. This rule shall take precedence over local priorities. Local priorities shall not conflict with this rule.

(c) Priority for authorized services shall be:

(A) Maintaining clients already receiving authorized service as long as their condition indicates the service is needed.

(B) Clients who will immediately be placed in an institution if needed authorized services are not provided and meet the Long-Term Care Services Priority Rules, OAR Chapter 411,

Division 015.

(C) Clients who are probably to be placed in an institution if needed authorized services are not provided.

(4) Appeals

(a) Persons for whom services are denied, disallowed, or reduced through eligibility determination or service determination shall be entitled to request review of the decision through the Area Agency on Aging grievance review procedure, set forth in agency policy.

(b) Clients shall continue to receive services until the disposition of the local agency grievance review.

(c) The Area Agency shall provide the applicant with written notification of the grievance review determination decision.

(d) Applicants that disagree with the results of the Area Agency grievance review have a right to an Administrative Review with the Department of Human Services, Seniors and People with Disabilities, pursuant to ORS Chapter 183. This information shall be provided to the applicant in a written notification at the time of the grievance review decision.

(e) Applicants requesting an Administrative Review from the Department shall not be eligible for continued services through Oregon Project Independence.

(5) Fee for Services

(a) The Department shall establish a fee for service schedule. The schedule shall be applied to each client for all OPI services except Home Delivered Meals and Case Management.

(b) A recommended donation shall be established for OPI-funded Home Delivered Meals and implemented in the same manner as for the Older Americans Act meal programs.

(c) A minimum income level and fee for service schedule will be

established and reviewed annually by the Department after consulting with the Governor's Commission on Senior Services.

(d) Fees for service will be charged based on a sliding fee schedule to all clients whose annual income exceeds the minimum, as established by the Department.

(e) Area agencies shall develop procedures for assessing, billing, collecting, and expending fees.

(f) The fee for service schedule shall be applied to the local rate specific to the service and the type of provider for the client.

(g) For purposes of these rules, a client's gross annual income shall include:

(A) Salaries from the household;

(B) Interest and dividends from the household;

(C) Pensions, annuities, Social Security, and railroad retirement benefits from the household; and

(D) Any other income from the household.

(h) All medical costs including prescription drugs, which are the responsibility of the household, may be deducted from the client's gross annual income.

(i) Fees for service shall be used to expand services under Oregon Project Independence. Expansion of services shall be limited to services authorized in OAR 411-032-0010(1)(a) as identified in the agency's area plan.

(j) A record of all fees for service will be kept by each area agency and reported monthly to the Department.

(A) Fee for service determination forms shall be a part of each client case record.

(B) Fee for service determination forms shall meet minimum requirements for documentation, as defined by the Department.

(C) The maximum monthly authorized fee shall be recorded on each client's Oregon ACCESS record upon initial service determination and at least annually thereafter, at time of reassessment.

(D) Client's shall receive written notification of the hourly and maximum monthly authorized fee upon initial service determination and whenever there is a change.

(k) Nothing in these rules will prevent any client of Oregon Project Independence, or client's family, from making a donation or contribution. Such donations will also be used to expand services under Oregon Project Independence. Expansion of services shall be limited to services authorized in OAR 411-032-0010(1)(a) as identified in the agency's area plan.

(l) The decision to terminate Oregon Project Independence services for non-payment of assessed fees for service shall be the responsibility of the local area agency.

(A) The Area Agency shall establish a written policy addressing client non-payment of fees to be reviewed and approved in the agency area plan.

(B) Clients shall be given a copy of the agency policy pertaining to client non-payment of fees upon initial eligibility determination.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.430 & ORS 410.450

411-032-0044 Fee For Service Schedule

(Amended 5/2/2003)

(1) Fees start at the federal poverty level net monthly income and increase by approximately \$25 income increments up to 200% of the federal poverty

level. Families with net monthly incomes over 200% of the federal poverty level shall pay the full hourly rate of services provided. The Department, after consultation with the Governor's Commission on Senior Services, shall develop and publish a fee schedule for services based on the federal poverty level and distribute the schedule to the area agencies once a year.

(2) Maximum monthly fees shall not be greater than 30% of net monthly income for a family of one, and 40% of net monthly income for families of two or more.

(3) Area agencies and providers shall not be required to make a second attempt to collect Oregon Project Independence fees for service of less than \$5.00 per month.

Stat. Auth.: ORS 410.470

Stats. Implemented: ORS 410.470