

**TEMPORARY FILING**  
**INCLUDING STATEMENT OF NEED & JUSTIFICATION**  
*For internal agency use only.*

Oregon Department of Human Services, Aging and People with Disabilities (APD)		411
Agency and Division Name		Administrative Rules Chapter Number
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**FILING CAPTION**  
*(Must be 15 words or fewer)*

***APD: Adding Adult Day Services to Enhanced Wage Add-on Program for Employee Retention***

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Agency Approved Date: [ 01/26/2023 ]

Effective Date: [ 01/27/2023 ] through [ 07/25/2023 ]

**RULEMAKING ACTION**

*List each rule number separately (000-000-0000). Attach clean text for each rule at the end of the filing*

**AMEND:**

411-027-0160

**RULE SUMMARY:**

*Include a summary for each rule included in this filing.*

The Oregon Department of Human Services, Aging and People with Disabilities Program is immediately amending rules in OAR chapter 411, division 27 to include Adult Day Services to the Enhanced Wage Add-on Program. The Program is designed to support Home and Community-Based Services providers with employee retention. The amendments include the following:

**411-027-0160 Enhanced Wage Add-on Program** – Amends the rule for the Enhanced Wage Add-on Program to include Adult Day Services effective January 1, 2023 through June 30, 2023.

## STATEMENT OF NEED AND JUSTIFICATION

Need for the Rule(s):

Due to ongoing and extraordinary issues around employee retention with the COVID-19 crisis, the Legislature and the Executive Branch authorized an Enhanced Wage Add-on Program. This Program gives a ten percent rate increase for Home and Community-Based Services providers who meet the wage criteria for all caregivers. The Program is adding in Adult Day Services effective January 1, 2023 through June 30, 2023. The Department is amending OAR chapter 411, division 027 to assist providers with employee retention through these unprecedented times.

Justification of Temporary Filing:

Failure to act promptly and immediately adopt and amend OAR chapter 411, division 27 could result in access to care for our aging population due to lack of staff and non-compliance with Executive decision. These rules need to be adopted promptly so that Oregon can continue to serve our vulnerable adults in Adult Day Service settings.

Documents Relied Upon, and where they are available:

None.

/s/ Nakeshia Knight-Coyle, Director, Aging and People with Disabilities

Signature

01/26/2023

Date

**OREGON DEPARTMENT OF HUMAN SERVICES  
AGING AND PEOPLE WITH DISABILITIES  
OREGON ADMINISTRATIVE RULES**

**CHAPTER 411  
DIVISION 27**

**PAYMENT LIMITATIONS IN HOME AND COMMUNITY-BASED  
SERVICES**

**411-027-0160 Enhanced Wage Add-on Program**  
*(Temporary effective 01/27/2023 through 07/25/2023)*

(1) For the purposes of this rule, Home and Community Based Services (HCBS) providers refer to Assisted Living Facilities, Residential Care Facilities, Memory Care (Endorsed Units Only) and In-Home Agencies. Effective January 1, 2023, this rule includes Adult Day Services providing full day services.

(2) ESTABLISHMENT. The Department establishes the Enhanced Wage Add-on Program (Program). The Program is designed to support Home and Community Based Services (HCBS) providers with retention of caregivers by paying a starting wage of \$15 per hour for all caregivers, with an increase to \$15.50 per hour by the second year of the 2021-2023 biennium (July 1, 2022).

(3) The Department will provide additional compensation to HCBS providers who meet the criteria contained in paragraph (4). Such compensation shall be an add-on of 10% of the Medicaid rate, as authorized in OAR 411-027-0170, during the effective dates of the Program. A HCBS provider may be eligible to apply between October 1, 2021 and June 30, 2023.

(4) CRITERIA. Criteria must be met in order for a HCBS provider to be eligible for the Enhanced Wage Add-on Program. The HCBS provider shall submit documentation supporting that it provides a starting wage of \$15 per hour or more for all caregivers, escalating up to \$15.50 per hour or more by the second year of the 2021-2023 biennium (July 1, 2022). Sufficient

documentation shall be submitted to the Department with the required form referenced in paragraph (6) and shall include at least one of the following:

(a) A copy of a collective bargaining agreement or addendums with such provisions;

(b) Amended policies that includes the wages for direct caregivers during the period of the Program;

(c) Notification to caregivers of wages during the period of the Program;

(d) Payroll records demonstrating rates of pay for caregivers equal to or higher than \$15.50 per hour; or

(e) Written communication to staff with wage criteria that includes reference to the Legislature establishing a wage add-on to Medicaid rates for the purpose of supporting caregiver wages in partnership with the Oregon Department of Human Services, the Oregon Health Care Association, SEIU Local 503, and other senior care advocates.

(5) PAYMENT. The Department will provide the Enhanced Wage Add-on equal to 10% of the Medicaid rate, as authorized in OAR 411-027-0170, between October 1, 2021 and June 30, 2023, for providers who meet the criteria contained in paragraph (4). The documentation of the criteria being met shall be submitted with the form by the 15th of the month for which the provider is requesting to be approved. The wage add-on rate will not be effective until the Department provides written approval to the provider.

(6) FORM. HCBS providers shall submit a claim for the Enhanced Wage Add-on Program on the form created by the Department. The documentation of the criteria being met shall be submitted with the form by the 15th of the month for which the provider is requesting to be approved.

(7) APPLICABILITY. The Department will only provide the Enhanced Wage Add-on rate for services provided during the period of October 1, 2021 to June 30, 2023, in which the provider was in compliance with the criteria contained in paragraph (4).

(8) TIMELINESS. Forms for the Enhanced Wage Add-on rate may be submitted during the effective dates of the Program. The documentation of the criteria being met shall be submitted with the form by the 15th of the month for which the provider is requesting to be approved.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070