

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

**CHAPTER 411
DIVISION 100**

**SELF-SUFFICIENCY TRUST FUND AND
THE DISABILITY TRUST FUND**

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THE DISABILITY TRUST FUND**

411-100-0000 Purpose and Scope *(Effective 2/1/1991)*

The purpose of these rules is to provide for the administration and implementation of [ORS 410.730 and 410.732](#), relating to the establishment of the Self-Sufficiency Trust Fund and the Disability Trust Fund.

Stat. Auth.: [ORS 410.730, 410.732](#)

Stats. Implemented: [ORS 410.730](#)

411-100-0005 Definitions *(Effective 2/1/1991)*

As used in 411-Division 100.

(1) "Agreement" means an agreement developed between a private, non-profit self-sufficiency trust and the Division on behalf of the State Self-Sufficiency Trust Fund which outlines the services expected to be required throughout the life of the beneficiary and projects when the supplementary services are likely to be needed. The agreement includes a financial plan indicating the amount of money required to be contributed to the State Self-Sufficiency Trust Fund to pay for the supplementary services, and the responsibility of the private, non-profit self-sufficiency trust.

(2) "Beneficiary" means a person who has a developmental disability, mental illness, or a physical disability or a person otherwise eligible for benefits or services due to a disability; is a resident of the State of Oregon; and is named by the private, non-profit self-sufficiency trust as a recipient for supplemental services.

(3) "Disability Trust Fund" means the trust fund established under [ORS 410.730](#) to provide supplemental services to low income and indigent

individuals with disabilities. The Disability Trust Fund is funded by no less than 50% of the remaining assets in the State Self-Sufficiency Trust Fund upon the death of the beneficiary, and by bequests and contributions from private donors, corporations or foundations. This fund is separate and distinct from the General Fund in the State Treasury.

(4) "Division" means the Seniors and People with Disabilities Division of the Oregon Department of Human Services.

(5) "Family" means parent, step-parent, sibling, grandparent, aunt, uncle, or niece, nephew, or cousin.

(6) "Indigent" means those individuals unable to provide for their basic necessities of food, shelter and clothing.

(7) "Individuals with Disabilities" mean those individuals who have a physical or mental impairment which substantially limits one or more major life activities.

(8) "Life Care Plan" means a written plan developed by the family of a beneficiary and a private, non-profit self-sufficiency trust which identifies the supplemental services expected to be needed by the beneficiary, including a financial plan describing the amount of principal required to be contributed to the trust to pay for the supplementary services.

(9) "Low Income" means those individuals who meet or are below the Supplemental Security Income (SSI) eligibility standards.

(10) "Developmentally Disabled" means an individual who has a severe, chronic disability which, is attributable to a mental or physical impairment or combination of mental and physical impairments; is manifested before the individual attains age twenty-two; is likely to continue indefinitely; results in substantial functional limitations in three or more of major life activities; and, reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

(11) "Mentally Ill" means an individual who has been diagnosed by a psychiatrist, a licensed clinical psychologist, or a nonmedical examiner

certified by the Mental Health and Developmental Disability Services Division as suffering from chronic schizophrenia, a chronic major affective disorder, a chronic paranoid disorder or another chronic psychotic mental disorder other than those caused by substance abuse.

(12) "Physically Disabled" means an individual who has a permanent and total bodily impairment. A "permanent" disability is one likely to continue without substantial improvement throughout life or for an indeterminate period of time. A total disability is one which prevents performance of substantially all the ordinary duties of occupations in which a disabled individual is capable of engaging, with regard to his/her training, experience and circumstances of the disabled individual.

(13) "Private, Non-Profit Trust" means a Self-Sufficiency Trust (Private, Non-Profit Trust) as defined in these rules.

(14) "Recipient" means an individual with disabilities receiving supplementary services paid by the Disability Trust Fund.

(15) "Self-Sufficiency Trust (Private, Non-Profit Trust)" is a trust established by a 501-C-3 organization under the United States Internal Revenue Code of 1954, for the purpose of providing for supplementary care, support, or treatment of one or more developmentally disabled, mentally ill, or physically disabled persons or persons otherwise eligible for benefits or services due to a disability, by depositing the proceeds in the Self-Sufficiency Trust Fund.

(16) "Self-Sufficiency Trust Fund (State Trust Fund)" means a separate fund no subject to appropriation and separate from the State General Fund, in which monies are deposited from private, non-profit self-sufficiency trusts pursuant to an agreement in which one or more beneficiaries are named as the recipients of specified supplemental care, support and care. Monies transferred into this fund shall not be from sources which would result in reduction, impairment, or diminishment of benefits to which a beneficiary is otherwise entitled by law.

(17) "Sponsor" means family as defined in these rules.

(18) "State Trust Fund" means a Self-Sufficiency Trust Fund (State Trust Fund) as defined in these rules.

(19) "Supplemental Services" mean care, support, or treatment services which are provided to a beneficiary or recipient by the Division as the result of the agreement or as authorized by the designated local Division office. The supplemental services cannot supplant the services provided by public assistance programs and cannot reduce, impair or diminish the benefits to which the beneficiary or recipient is otherwise entitled by law.

(20) "Unforeseen Hardship" means a situation in which the beneficiary's life may be threatened without supplemental services as provided by the agreement.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: [ORS 410.730, 410.732](#)

Stats. Implemented: [ORS 410.730](#)

411-100-0010 Services Provided *(Effective 2/1/1991)*

(1) State Trust Fund and Disability Trust Fund monies can be used to purchase additional services currently available in the state service delivery system which do not supplant services already provided by public assistance programs or to purchase new services deemed appropriate for the beneficiary or recipient. Such monies cannot provide for the same needs as those provided by public assistance programs, nor shall the supplementary services reduce, impair or diminish the benefits to which the beneficiary or recipient is otherwise entitled by law. Therefore, the following shall apply:

(a) State Trust Fund and Disability Trust Fund monies shall not be used to meet food, shelter, clothing, personal needs, room/board and medical needs of the beneficiary or recipient, unless it is in addition to such needs, or not otherwise provided by other entitlement programs;

(b) State Trust Fund and Disability Trust Fund monies shall not be made available as a direct payment to the beneficiary or recipient;

(c) State Trust Fund and Disability Trust Fund monies for supplementary services shall cease if the beneficiary or recipient

moves out of the state of Oregon, effective the date of the move. The funds in the beneficiary's State Trust Fund account shall be transferred back to the private, non-profit trust;

(d) All services purchased with State Trust Fund and Disability Trust Fund monies will be purchased by way of vouchers, approved by the Division, for supplementary services specified in the Agreement, or in the case of Disability Trust Fund monies, for supplementary services authorized by the designated local Division office;

(e) Individual Life Care Plans will define those supplemental services for which payment will be made for the beneficiary.

(2) Supplemental services may include, but are not limited to:

(a) Social Services;

(b) Rehabilitation and Remedial Services;

(c) Educational Services;

(d) Recreational Services and Programs;

(e) Respite Services;

(f) Habilitation Services;

(g) Training Program to assist in managing activities of daily living;

(h) Advocacy Services; and

(i) Other services which are deemed appropriate.

(3) Specific examples of supplemental services may include any of the following: additional food, clothing and health services not otherwise provided; birthday and holiday presents; radios; record players; computers; television sets; camping; vacations; athletic contests; health club membership; movies; trips; and other medical, health, recreational or safety needs.

(4) Additional health care needs not otherwise provided will vary depending upon what services are covered under the various public assistance programs. The Division will generate a list which specifies examples of allowable supplemental health care services.

Stat. Auth.: [ORS 410.730, 410.732](#)

Stats. Implemented: [ORS 410.730](#)

411-100-0020 Funding of Services for State Trust Fund (*Effective 2/1/1991*)

Supplemental services are paid by voucher from the individual beneficiary's account to fulfill the life care plan created. Each agreement must indicate the amount of money to be made available for the supplemental services. Once supplemental services commence, the private, non-profit trust will transfer the principal and interest from the beneficiary's fund to the State Trust Fund, to be deposited into a separate account for the beneficiary. The Division will authorize and implement the provision of the supplemental services to be provided and the State Executive Department will direct the payments from the State Trust Fund upon vouchers.

Stat. Auth.: [ORS 410.730, 410.732](#)

Stats. Implemented: [ORS 410.730](#)

411-100-0030 Administrative Procedures for State Trust Fund (*Effective 2/1/1991*)

(1) Life Care Plan. Prior to the execution of the life care plan between the sponsor(s) and the private, non-profit trust, the Division must review and approve the plan within 60 days of receiving the completed life care plan.

(2) Agreement. At the time a beneficiary becomes eligible to receive supplemental services, the private, non-profit trust shall enter into an agreement with the Division. The private, non-profit trust shall transfer the prescribed amount of the beneficiary's funds into the State Trust Fund. Monies transferred into the State Trust Fund shall not be from sources which would result in reduction, impairment, or diminishment of benefits to which a beneficiary is otherwise entitled by law. The agreement shall include the amount of money to be deposited into the beneficiary's account, the supplemental services to be provided, and the amount to be spent for

the supplemental services. Other provisions of the agreement shall include, but not be limited to:

(a) The Division shall indicate whether or not the list of supplemental services are currently being provided by public assistance programs and whether or not the supplemental services would in any way reduce, impair or diminish the benefits to which the beneficiary is otherwise entitled by law;

(b) Each agreement shall identify the beneficiary for which an account must be established in the State Trust Fund and to whom supplemental services will be provided;

(c) Each agreement shall cover the administrative process for implementing the private non-profit trust;

(d) Each agreement may be amended by addenda;

(e) Each agreement shall be reviewed annually and may be amended, as needed;

(f) Each agreement shall require that upon the death of the beneficiary, no less than 50 percent of the remaining assets in the State Trust Fund shall be transferred to the Disability Trust Fund; and

(g) Each agreement shall indicate whether monies from the private, non-profit trust will be transferred no more often than annually to the State Trust Fund, or be left to the discretion of the Division to determine how often monies can be transferred.

(3) The Division shall develop and maintain accounting records for each named beneficiary and shall credit each account monies deposited in the State Trust Fund. The Division shall allocate the interest accumulated to each account proportionately. The Division shall also debit each account when supplemental services are paid for the beneficiary.

(4) The Division shall assist the beneficiary in finding qualified service providers and other supplementary services as defined in the agreement. The Division shall choose the provider of the supplemental services, taking into consideration the needs and desires of the beneficiary.

(5) The Division shall ensure that the beneficiary's provider is notified of the specific services to be provided to the beneficiary, effective dates of such services and the appropriate procedures to be followed for reimbursement.

(6) The Division shall authorize payments for the supplementary services by vouchers.

(7) The agreement between the private, non-profit trust and the Division shall be amended by addenda, no later than 30 days after any change in type of services or provider of services is made.

(8) If the Division determines that the money in the account of a named beneficiary cannot be used for supplementary care, support or treatment of the beneficiary in a manner consistent with the agreement, the remaining money in the account, together with any accumulated interest, shall be promptly returned to the private, non-profit trust.

Stat. Auth.: [ORS 410.730, 410.732](#)

Stats. Implemented: [ORS 410.730](#)

411-100-0040 Self-Sufficiency Trust Responsibilities (Private, Non-Profit Trust) (Effective 2/1/1991)

(1) The private, non-profit self-sufficiency trust shall have all responsibility for the solicitation and enrollment of participants into the State Self-Sufficiency Trust Fund. Specific responsibilities include:

(a) Explaining the private, non-profit trust and State Trust Fund activities to all family members approaching the private, non-profit trust;

(b) Enrolling those wanting to participate through an application process;

(c) Gathering the necessary assessment and evaluation data pertaining to the beneficiary;

(d) Meeting with the family members to refine and prioritize the services needs of the beneficiary;

(e) Developing a life care plan based on the assessment conducted, projecting the specific services required, dates of such services and projected costs of such services by developing a financial plan. The financial plan must itemize the means in which services outlined are to be funded through contributions to the private, non-profit trust;

(f) Developing and executing all necessary contractual and legal requirements between the sponsor of the beneficiary and the private, non-profit trust; and

(g) Before executing the Life Care Plan, the private, non-profit trust must have received final approval by the Division.

(2) The private, non-profit trust shall transmit and communicate to the Division the final, executed Life Care Plan and other related information developed by the trust.

(3) The private non-profit trust shall meet with the Division prior to the beginning of each fiscal year to determine the following:

(a) Specific beneficiaries enrolled in the private, non-profit trust whose financial target has been reached or will be reached in the upcoming fiscal year;

(b) Specific services requested by beneficiaries and sponsors;

(c) A list of qualified providers and services;

(d) The amount of funds that will be transferred to the State Trust Fund for supplementary services to be provided to the individual beneficiaries; and

(e) The amount of the federal and state assistance funding that will be committed to services for the State Trust Fund beneficiary in the upcoming fiscal year.

(4) The private, non-profit trust shall have all responsibility in managing its funds to provide for sufficient earnings and protect the principal amount deposited by the sponsors.

(5) The private, non-profit trust shall transfer prescribed funds to the State Trust Fund when the beneficiary is 18 years of age or older or is emancipated, or the parents of the beneficiary have died, or in cases of extreme, unforeseen hardship.

(6) The private, non-profit trust may request the return of the remaining money, including any accumulated interest, in the State Trust Fund account if the money in the account of a named beneficiary cannot be used for supplementary care, support or treatment of the beneficiary in a manner consistent with the agreement.

(7) The private, non-profit trust shall submit to the Division an annual audited financial statement performed by its independent auditors.

Stat. Auth.: [ORS 410.730, 410.732](#)

Stats. Implemented: [ORS 410.730](#)

411-100-0100 Disability Trust Fund Eligibility *(Effective 2/1/1991)*

(1) In order to receive supplemental services through the Disability Trust Fund, an individual must:

(a) Be 18 years of age or older;

(b) Be disabled as defined in [OAR 411-100-0005](#);

(c) Be indigent and meet the Supplementary Security income eligibility standards; or

(d) Be a recipient of services from the Department of Human Services.

(2) Eligibility determination shall be required before any disabled individual may receive services.

(3) Responsibility for eligibility determination shall rest with the Division's designated local offices.

Stat. Auth.: [ORS 410.730, 410.732](#)
Stats. Implemented: [ORS 410.730](#)

411-100-0110 Supplemental Services Provided by the Disability Trust Fund *(Effective 2/1/1991)*

(1) Determination of Supplemental Services:

- (a) Allocation of the Disability Trust Fund monies shall be determined by the Division;
- (b) Supplemental services shall be provided annually to an eligible individual on a one-time basis. Individuals can annually reapply and may be eligible for supplemental services;
- (c) The supplemental services authorized and the amount of Disability Trust Fund monies allocated to each eligible individual shall be left to the local designated Division office's discretion, taking into consideration the amount of Disability Trust Fund dollars allocated by the Division;
- (d) Supplemental services provided for recipients are supplemental care, support, or treatment as defined in [OAR 411-100-0005](#).

(2) Administration of Supplemental Services:

- (a) The designated local Division office shall authorize the supplemental services to recipients on forms provided by the Division;
- (b) All authorized supplemental services will be purchased by Disability Trust Fund monies, by way of vouchers, approved by the Division;
- (c) Each designated local Division office shall keep separate accounts for each recipient of Disability Trust Fund services;
- (d) Each designated local Division office shall submit annually to the Division an accounting of the Disability Trust Funds used for supplementary services.

Stat. Auth.: [ORS 410.730, 410.732](#)
Stats. Implemented: [ORS 410.730](#)