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

Department of Human Services, Aging and People with Disabilities (APD)		411
Agency and Division Name		Administrative Rules Chapter Number
Kristina Krause	apd.rules@dhsoha.state.or.us	503-339-6104
Rules Coordinator	Email	Telephone
Jonathan D. Tilford	Jonathan.d.tilford@dhsoha.state.or.us	541-529-9660
Filing Contact	Email	Telephone

FILING CAPTION
(Must be 15 words or fewer)

APD: Addition of Healthier Oregon Program recipients to long-term services and supports program

Agency Approved Date: [06/06/2022]

Effective Date: [07/01/2022] through [12/27/2022]

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

AMEND: 411-015-0005, 411-015-0008, 411-015-0010, 411-015-0015, 411-015-0030, 411-015-0100

RULE SUMMARY:
Include a summary for each rule included in this filing.

The Oregon Department of Human Services (ODHS), Aging and People with Disabilities Program (APD) is immediately amending rules in chapter 411, division 015 that governs long-term care service priorities for individuals served by APD. The amendments include the following:

Amend: OAR 411-015-0005
Rule Title: Definitions
Rule Summary: Added new definitions for “Healthier Oregon Program or HOP” and “Medicaid”. Changes to other definitions to incorporate the

Healthier Oregon Program along with minor grammar, formatting, punctuation, and housekeeping issues.

Amend: OAR 411-015-0008
Rule Title: Assessments
Rule Summary: Amended rule to remove “Medicaid” from Medicaid Long Term Care Services and Supports (MLTSS) and included Healthier Oregon Program recipients. Minor grammar, formatting, punctuation, and housekeeping issues are also being addressed.

Amend: OAR 411-015-0010
Rule Title: Priority of Paid Services
Rule Summary: Clarified language for service level priority 18 to align with intent and remove outdated language.

Amend: OAR 411-015-0015
Rule Title: Current Limitations
Rule Summary: Clarified language to align with intent.

Amend: OAR 411-015-0030
Rule Title: Extended Waiver Eligibility (EWE)
Rule Summary: Amended rule to remove references to “Medicaid” when referencing eligibility for EWE and included, “An individual receiving home and community-based services as a recipient of HOP may be eligible for EWE.” Minor grammar, formatting, punctuation, and housekeeping issues are also addressed.

Amend: OAR 411-015-0100
Rule Title: Eligibility for Nursing Facility or Home and Community-Based Services
Rule Summary: Amended rule to allow for inclusion of “Healthier Oregon Program” recipients and removed “Medicaid” reference when it pertained specifically to the eligibility for nursing facility or home and community-based services.

STATEMENT OF NEED AND JUSTIFICATION

Need for the Rule(s):

The Oregon Legislature has allocated funding for the Healthier Oregon Program which creates a medical benefit for individuals who would otherwise not be eligible for traditional Medicaid due to their citizenship status. This fund provides financial assistance to individuals who are recipients of the Healthier Oregon Program and who may be eligible for nursing facility or home and community-based care through the Oregon Department of Human Services, Office of Aging and People with Disabilities.

Justification of Temporary Filing:

Failure to act promptly and immediately amend OAR chapter 411, division 015 will result in serious prejudice to the public interest, the Department, local offices, and consumers. These rules need to be adopted promptly so that the Department can meet the legislative requirements to allow recipients of the Healthier Oregon Program who may be eligible for nursing facility or home and community-based services to apply and receive these benefits beginning July 1, 2022. The rules also need to be changed immediately for the Department to align rule to current policy. These rules will impact individuals eligible for Oregon Project Independence and the future Oregon Project Independence Medicaid and Family Caregiver Assistance Program. System changes to reflect the purpose of Service Priority Level 18 will be updated on July 1, 2022, and the rules need to be consistent with the changes to the varying systems used for determining program eligibility.

OAR chapter 411, division 015 needs to be amended promptly because the current rules specifically exclude individuals who may now be eligible for the Healthier Oregon Program and will have rights to apply for nursing facility or home and community-based care benefits beginning July 1, 2022.

Documents Relied Upon, and where they are available:

None

/s/ Mike McCormick, Interim Director, Aging and People with Disabilities 06/06/2022

Signature Date

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

CHAPTER 411
DIVISION 15

LONG-TERM CARE SERVICE PRIORITIES FOR INDIVIDUALS SERVED

411-015-0005 Definitions
(Temporary effective 07/01/2022 through 12/27/2022)

Unless the context indicates otherwise, the following definitions apply to the rules in OAR chapter 411, division 015:

(1) "AAA" means "Area Agency on Aging" as defined in this rule.

(2) "Activities of Daily Living (ADL)" mean those personal functional activities required by an individual for continued well-being, which are essential for health and safety. Activities include eating, dressing and grooming, bathing and personal hygiene, mobility, elimination, and cognition.

(3) "Adult" means any person at least 18 years of age.

(4) "Alternative Service Resources" means other possible resources for the provision of services to meet an individual's needs. Alternative service resources include, but are not limited to, natural supports, risk intervention services, Older Americans Act programs, or other community supports. Alternative service resources are not paid by Medicaid.

(5) "Architectural Modifications" means any service leading to the alteration of the structure of a dwelling to meet the specific service needs of an eligible individual.

(6) "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 Area Agency on Aging (AAA) is

inclusive of both Type A and Type B AAAs as defined in ORS 410.040 to 410.300.

(7) "Assistance Types" needed for activities of daily living and instrumental activities of daily living include the following:

(a) "Cueing" means giving verbal or visual clues during an activity to help an individual complete the activity without hands-on assistance.

(b) "Hands-on" means a provider physically performs all or parts of an activity because an individual is unable to do so.

(c) "Monitoring" means a provider must observe an individual to determine if intervention is needed.

(d) "Reassurance" means to offer an individual encouragement and support.

(e) "Redirection" means to divert an individual to another more appropriate activity.

(f) "Set-up" means getting personal effects, supplies, or equipment ready so that an individual may perform an activity.

(g) "Stand-by" means a provider is at the side of an individual ready to step in and take over the task if the individual is unable to complete the task independently.

(h) "Support" means to enhance the environment to enable an individual to be as independent as possible.

(8) "Assistive Devices" means any category of durable medical equipment, mechanical apparatus, electrical appliance, instrument of technology, service animal, general household items, or furniture used to assist and enhance an individual's independence in performing any activity of daily living.

(9) "Behavioral Care Plan" means a documented set of procedures, reviewed by the Department or AAA representative, which describes interventions for use by a provider to prevent, mitigate, or respond to

behavioral symptoms that negatively impact the health and safety of an individual or others in a home or community-based services setting. The preferences of an individual are included in developing a Behavioral Care Plan.

(10) "Business Days and Hours" means Monday through Friday and excludes Saturdays, Sundays, and state or federal holidays. Hours are from 8:00 AM to 5:00 PM.

(11) "CA/PS" means "Client Assessment and Planning System" as defined in this rule.

(12) "Care Setting" means a ~~Medicaid~~ Department contracted facility where an ~~Medicaid~~ eligible individual resides and receives services. Care settings include adult foster homes, residential care facilities, assisted living facilities, specialized living contracted residences, and nursing facilities.

(13) "Case Manager" means an employee of the Department or AAA who assesses the service needs of individuals, determines eligibility, and offers service choices to eligible individuals. The case manager authorizes and implements an individual's service plan and monitors the services delivered as described in OAR chapter 411, division 028.

(14) "Client Assessment and Planning System (CA/PS)" means:

(a) The single entry data system used for -

(A) Completing a comprehensive and holistic assessment;

(B) Surveying an individual's physical, mental, and social functioning; and

(C) Identifying risk factors, individual choices and preferences, and the status of service needs.

(b) The CA/PS documents the level of need and calculates the individual's service priority level in accordance with these rules, calculates the service payment rates, and accommodates individual participation in service planning.

(15) "Cognition" means the individual's mental functional ability to ensure their health, safety and basic needs are met. It includes the individual's understanding of the need to perform and manage ADLs and IADLS. It does not refer to choices an individual may make that others may deem to be unsafe. Nor does it refer to an individual's knowledge and skills, rather their cognitive ability to use and process information.

(16) "Component" means distinct parts of an ADL or IADL that are defined within each ADL or IADL.

(17) "Cost Effective" means being responsible and accountable with Department resources. This is accomplished by offering less costly alternatives when providing choices that adequately meet an individual's service needs. Those choices consist of all available services under the ~~Medicaid~~ home and community-based service options, the utilization of assistive devices, natural supports, architectural modifications, and alternative service resources not paid for by the Department.

(18) "Department" means the Oregon Department of Human Services (DHS).

(19) "Disability" means a physical, cognitive, or emotional impairment which, for an individual, constitutes or results in a functional limitation in one or more of the activities of daily living defined in OAR 411-015-0006.

(20) "Event Specific" means situations that are not part of the individual's daily or weekly routine, such as doctor visits or other outings.

(21) "Extraordinary Circumstances" means:

(a) An individual being assessed is working full time during business hours; or

(b) A family member, whose presence is requested by an individual being assessed, is traveling from outside the area, and is available for only a limited period of time that does not include business days and hours.

(22) "Extended Waiver Eligibility (EWE)" means the criteria that allows individuals assessed at Service Priority Level 14-17, who are determined to

have a high risk for hospitalization or institutionalization within 30 days of ~~Medicaid~~ Long Term Services and Supports ending to continue receiving ~~Medicaid~~ Long Term Services and Supports until the risks can be mitigated.

(23) "Functional Impairment" means an individual's pattern of mental and physical limitations that restricts the individual's ability to perform activities of daily living and instrumental activities of daily living without the assistance of another person.

(24) "Health and Safety" means the essential actions necessary to meet an individual's health care, food, shelter, clothing, personal hygiene and other care needs without which serious physical injury or illness is likely to occur that would result in hospitalization, death or permanent disability.

(25) "Healthier Oregon Program (HOP) means an OHP Plus equivalent benefit (410-120-1210(4)(h)) for individuals described in 461-135-1080.

(~~25~~26) "Home" means a setting that exhibits the characteristics described in OAR 411-030-0033(2)(a) - (d) and is not a care setting as defined in this rule.

(~~26~~27) "Independent" means an individual does not meet the definition of "assist" or "full assist" when assessing an activity of daily living as described in OAR 411-015-0006 or when assessing an instrumental activity of daily living as described in OAR 411-015-0007.

(~~27~~28) "Individual" means an older adult or an adult with a disability applying for or eligible for services. The term "individual" is synonymous with "consumer" or "client".

(29) "Medicaid" means a joint federal and state funded program for medical assistance established by Title XIX of the Social Security Act as amended and administered in Oregon by the Authority.

(~~28~~30) "~~Medicaid~~ Home and Community-Based Services" means the non-institutional services and settings approved and funded by the Centers for Medicare and Medicaid Services (CMS) for eligible individuals in accordance with Title XIX of the Social Security Act or funded through the Healthier Oregon Program.

(~~29~~31) "Medicaid OHP Plus Benefit Package" means ~~only~~ the Medicaid benefit packages provided under OAR 410-120-1210(4)(a) and (b) and those receiving Healthier Oregon Program benefits under OAR 461-135-1080. This excludes individuals receiving Title XXI benefits.

(~~30~~32) "Mental or Emotional Disorder" means:

(a) A schizophrenic, mood, paranoid, panic, or other anxiety disorder;

(b) A somatoform, personality, dissociative, factitious, eating, sleeping, impulse control, or adjustment disorder; or

(c) Other psychotic disorders as defined by the American Psychiatric Association in the Diagnostic and Statistical Manual.

(~~31~~33) "Natural Support" means resources and supports (e.g. relatives, friends, significant others, neighbors, roommates, or the community) who are willing to voluntarily provide services to an individual without the expectation of compensation. Natural supports are identified in collaboration with the individual and the potential "natural support". The natural support is required to have the skills, knowledge, and ability to provide the needed services and supports.

(~~32~~34) "Older Adult" means any person at least 65 years of age.

(~~33~~35) "OSIPM" means Oregon Supplemental Income Program-Medical as defined in OAR 461-101-0010. OSIPM is Oregon Medicaid insurance coverage for individuals who meet eligibility criteria as described in OAR chapter 461.

(~~34~~36) "Physically Aggressive" means an individual has used physical force that resulted in bodily injury, physical pain, or impairment to another individual. This may include hitting, shoving, scratching, striking out (with or without an object), pushing, shoving, or sexually assaulting others. As used in these rules, an individual who is physically abusive does not have the cognitive ability to regulate their behaviors.

(~~35~~37) "Service Priority Level (SPL)" means the order in which Department and AAA staff identify individuals eligible for a nursing facility level of care,

Oregon Project Independence, or ~~Medicaid~~ home and community-based services. A lower SPL number indicates greater or more severe functional impairment. The number is synonymous with the SPL.

(~~36~~38) "Significant Health Outcome" means that the individual would require immediate assistance from a physician, nurse practitioner or physician assistant to safely address the outcome. This means incidents such as a broken bone or a wound that requires stiches rather than bruising or scrapes.

(~~37~~39) "Socially Inappropriate" means the individual conducts self-abusive acts, exhibits sexual aggression towards others, or displays a loss of inhibitions resulting in inappropriate behaviors, such as disrobing in public, smearing feces, throwing food or eliminating in inappropriate places. As used in these rules, the individual who is socially inappropriate does not have the cognitive ability to regulate their behaviors.

(~~38~~40) "Soiled" means the individual has urinated or defecated in their incontinence supplies or clothing to the degree that the individual would face a significant health outcome.

(~~39~~41) "Substance Abuse Related Disorders" means disorders related to the taking of a drug or toxin, including alcohol.

(a) Substance abuse related disorders include:

(A) Substance dependency and substance abuse;

(B) Alcohol dependency and alcohol abuse; and

(C) Substance induced disorders and alcohol induced disorders as defined by the American Psychiatric Association in the Diagnostic and Statistical Manual.

(b) Substance abuse related disorders are not considered physical disabilities. Dementia or other long term physical or health impairments resulting from substance abuse may be considered physical disabilities.

(~~40~~42) "Tasks" means distinct parts of an activity of daily living.

(~~41~~43) "These Rules" means the rules in OAR chapter 411, division 015.

(~~42~~44) "Verbally Aggressive" means an individual has threatened or screamed at others to the level that it became disruptive to having their own daily needs met. This does not include verbal altercations or reactions to pain. As used in these rules, an individual who is verbally aggressive does not have the cognitive ability to regulate their behaviors.

(~~43~~45) "Without Supports" means an individual lacks the assistance of another person, a care setting and staff, or an alternative service resource as defined in this rule.

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 410.060, 410.070, 414.065

411-015-0008 Assessments
(Temporary effective 07/01/2022 through 12/27/2022)

(1) ASSESSMENT.

(a) The assessment process:

(A) Identifies an individual's ability to fully perform in a safe and dignified manner, comparable with how tasks would be performed by an individual not receiving ~~Medicaid~~ Long Term Care Services and Supports (~~M~~LTSS), the tasks described within activities of daily living in OAR 411-015-0006 and instrumental activities of daily living in OAR 411-015-0007;

(B) Determines an individual's ability to address health and safety concerns; and

(C) Includes an individual's preferences to meet service needs.

(b) A case manager must conduct an assessment in accordance with the standards of practice established by the Department.

(c) A case manager must assess an individual's abilities, regardless of, architectural modifications, assistive devices, or services provided in a care setting, alternative service resources, or other community providers.

(d) The time frame of reference for evaluation is 30 days prior to the assessment date, with consideration of how the individual is likely to function in the 30 days following the assessment date.

(A) To be eligible, an individual must demonstrate the need for assistance of another person within the assessment time frame and expect the need to be on-going beyond the assessment time frame.

(B) The time frame for assessing the cognition activity of daily living may be extended as described in OAR 411-015-0006.

(e) The assessment must be conducted at least annually, or when requested by an individual, with a standardized assessment tool, approved by a Department case manager, or other qualified Department or AAA representative.

(f) The initial assessment must be conducted face to face, in an individual's home or care setting.

(g) All re-assessments must be conducted face to face in an individual's home or care setting, unless there is a compelling reason to meet elsewhere and the individual requests an alternative location. Case managers must visit an individual's home or care setting to complete the re-assessment and identify service plan needs, as well as safety and risk concerns.

(A) Individuals must be sent a notice of the need for re-assessment a minimum of 14 days in advance.

(B) Re-assessments requested by an individual or their representative~~,~~ or based on a change in the individual's

condition or service needs, are exempt from the 14-day advance notice requirement.

(h) An individual may request the presence of any person of their choice at any assessment.

(i) Assessment times must be scheduled within business days and hours unless extraordinary circumstances necessitate an alternate time. If an alternate time is necessary, an individual must request the after-hours appointment, and coordinate a mutually acceptable appointment time with the local Department or AAA office.

(j) An individual, or the individual's representative, has the responsibility to participate, in, and provide information necessary to, complete assessments and re-assessments within the time frame requested by the Department.

(A) Failure to participate in the assessment or re-assessment process or to provide requested assessment or re-assessment information within the application time frame, results in a denial of service eligibility.

(B) The Department may allow additional time if circumstances beyond the control of the individual, or the individual's representative, prevent timely participation or submission of information.

(2) SERVICE PLAN.

(a) An individual being assessed, others identified by the individual, and a case manager must consider the service options as well as assistive devices, architectural modifications, and other alternative service resources as defined in OAR 411-015-0005 to meet an individual's service needs identified in the assessment process.

(b) A case manager is responsible for:

(A) Determining eligibility for specific services;

(B) Presenting service options, resources, and alternatives to an individual to assist the individual in making informed choices and decisions;

(C) Identifying goals, preferences, and risks; and

(D) Assessing the cost effectiveness of an individual's service plan.

(c) A case manager must monitor the service plan and make adjustments as needed.

(d) An eligible individual, or the individual's representative, is responsible for choosing and assisting in developing less costly service alternatives.

(e) The service plan payment must be considered full payment for the home and community-based services rendered to Medicaid or HOP recipients. Under no circumstances, may any provider demand or receive additional payment for home and community-based services authorized by the Department from an eligible individual or any other source.

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 410.070

411-015-0010 Priority of Paid Services
(Temporary effective 07/01/2022 through 12/27/2022)

To determine the service priority level, an individual must be found eligible, using the Department's standardized assessment tool, as meeting at least the requirements for Assist or Full Assist in activities of daily living as defined in OAR 411-015-0006, in the following order and as designated in OAR 411-015-0015.

(1) Requires Full Assistance in Mobility, Eating, Elimination, and Cognition.

(2) Requires Full Assistance in Mobility, Eating, and Cognition.

(3) Requires Full Assistance in Mobility, or Cognition, or Eating.

(4) Requires Full Assistance in Elimination.

(5) Requires Substantial Assistance with Mobility, Assistance with Elimination and Assistance with Eating.

(6) Requires Substantial Assistance with Mobility and Assistance with Eating.

(7) Requires Substantial Assistance with Mobility and Assistance with Elimination.

(8) Requires Minimal Assistance with Mobility and Assistance with Eating and Elimination.

(9) Requires Assistance with Eating and Elimination.

(10) Requires Substantial Assistance with Mobility.

(11) Requires Minimal Assistance with Mobility and Assistance with Elimination.

(12) Requires Minimal Assistance with Mobility and Assistance with Eating.

(13) Requires Assistance with Elimination.

(14) Requires Assistance with Eating.

(15) Requires Minimal Assistance with Mobility.

(16) Requires Full Assistance in Bathing or Dressing.

(17) Requires Assistance in Bathing or Dressing.

(18) Individuals assessed with ADL needs not included in SPL 1-17 or those with medical or medication management needs.~~Independent in the above levels but requires structured living for supervision for complex medical problems or a complex medication regimen.~~

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 410.070

411-015-0015 Current Limitations
(Temporary effective 07/01/2022 through 12/27/2022)

(1) The Department has the authority to establish, by administrative rule, service eligibility within which to manage the Department's limited resources. The Department is currently able to serve:

(a) Individuals determined eligible for the Medicaid OHP Plus benefit package who are assessed as meeting at least one of the service priority levels (1) through (13) as described in OAR 411-015-0010.

(b) Individuals eligible for Oregon Project Independence funded services, if the individual meets at least one of the service priority levels (1) through (18) of OAR 411-015-0010.

(c) Individuals needing risk intervention services in areas designated to provide such services. Individuals with the lowest service priority level number under OAR 411-015-0010 are served first.

(2) Individuals 65 years of age or older, determined eligible for developmental disability services, or having a primary diagnosis of a mental or emotional disorder, are eligible for nursing facility or ~~Medicaid~~ home and community-based services if:

(a) The individual meets section (1) of this rule; and

(b) The individual is not in need of specialized mental health treatment services or other specialized Department residential program interventions as identified through the mental health assessment process or PASRR process described in OAR 411-070-0043.

(3) Individuals under 65 years of age, determined eligible for developmental disability services, or having a primary diagnosis of a mental or emotional disorder, are not eligible for Department nursing facility services unless determined appropriate through the PASRR process described in OAR 411-070-0043.

(4) Individuals under 65 years of age determined to be eligible for developmental disability services are not eligible for ~~Medicaid~~ home and community-based services administered by the Department's Aging and People with Disabilities. Eligibility for ~~Medicaid~~ home and community-based services for individuals with intellectual or developmental disabilities is determined by the Department's Office of Developmental Disability Services or designee.

(5) Individuals under 65 years of age who have a diagnosis of mental or emotional disorder or substance abuse related disorder are not eligible for ~~Medicaid~~ home and community-based services administered by the Department's Aging and People with Disabilities unless:

(a) The individual has a medical non-psychiatric diagnosis or physical disability;

(b) The individual's need for services is based on his or her medical, non-psychiatric diagnosis, or physical disability; and

(c) The individual provides supporting documentation demonstrating that his or her need for services is based on the medical, non-psychiatric diagnosis, or physical disability. The Department authorizes documentation sources through approved and published policy transmittals.

(6) ~~Medicaid home~~ Home and community-based services are not intended to replace a natural support system as defined by OAR 411-015-0005. Paid support is provided if a natural support is unwilling or unable to provide identified services.

(7) Individuals with excess income must contribute to the cost of service pursuant to OAR 461-160-0610 and 461-160-0620.

Stat. Auth.: ORS 410.070, 411.070
Stats. Implemented: ORS 410.070

411-015-0030 Extended Waiver Eligibility (EWE)
(Temporary effective 07/01/2022 through 12/27/2022)

(1) An individual determined to no longer meet the criteria in 411-015-0100 and assessed as Service Priority Level (SPL) 14 - 18 through the assessment process outlined in 411-015-0008 may be eligible to continue receiving ~~Medicaid-funded~~ Long-Term Support Services (LTSS) when one of the following circumstances cause unmet needs or health and safety risks, which would result in the individual being institutionalized or hospitalized within 30 days:

(a) Lack of access to shelter and support would cause the individual to deteriorate or decompensate;

(b) Without supports, the individual would lack access to safe housing or has a documented history of eviction or threats of eviction that would lead the individual to deteriorate or decompensate; or

(c) Without supports, the individual is at significant risk of abuse or exploitation.

(2) An individual who is approved for EWE may receive ~~the~~ the approved ~~Medicaid-funded~~ services and supports ~~for which they are eligible and demonstrate an assessed need a~~as defined in OAR 411-027-0020 for six calendar months from the effective date.

(3) An individual meeting the criteria for EWE must have a re-assessment as described in OAR 411-015-0008, completed no less frequently than every 12 calendar months, or when the individual's needs or circumstances change.

(4) EWE may be renewed for an additional six calendar months if the individual or their representative demonstrates:

(a) The individual or representative is actively working with their assigned case manager to develop a safe plan to address the circumstances identified in section (1)(a) - (c) of this rule; and

(b) The individual or representative shows demonstrable progress towards implementing the plan developed in subsection (3)(a) of this rule.

(5) Case managers may deny initial EWE if the individual does not meet the criteria in (1) of this rule.

(6) Case managers may deny renewals of EWE if the individual does not meet the criteria in (1) of this rule, or the individual or representative does not meet the criteria in section (4) of this rule.

(7) If the case manager does not deny EWE, they must submit initial and renewal requests for approval of EWE to the Central Office no later than two weeks prior to the service plan being closed.

(8) Initial and ongoing eligibility for EWE shall be determined by APD central office on a case-by-case basis.

(a) Ongoing eligibility will be determined based upon an assessment and a review of the individual's progress towards mitigating the identified risk. In order to remain eligible, the individual must show they have been unable to mitigate the risks identified in (1) of this rule, through development and implementation of a transition plan.

(b) In order to ensure engagement, case managers must have direct contact with an individual or their representative each month as described in OAR 411-028-0020(1). Case managers must narrate the monthly contacts in Oregon ACCESS and the steps or actions being taken to mitigate the identified risk.

(9) An individual receiving Medicaid OHP Plus under OAR chapter 410, division 200 is not eligible for EWE.

(10) An individual receiving home and community-based services as a recipient of HOP may be eligible for EWE.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

411-015-0100 Eligibility for Nursing Facility or ~~Medicaid~~ Home and Community-Based Services
(Temporary effective 07/01/2022 through 12/27/2022)

(1) To be eligible for nursing facility services or ~~Medicaid~~ home and community-based services, a person must:

(a) Be age 18 or older.

(b) Be eligible for the Medicaid OHP Plus benefit package.

(A) Individuals receiving Medicaid OHP Plus under OAR 410-200 coverage for services in a nonstandard living arrangement as defined in OAR 461-001-0000 are subject to the requirements in the same manner as if they were requesting these services under OSIPM, including the rules regarding:

(i) The transfer of assets as set forth in OAR 461-140-0210 to 461-140-0300; and

(ii) The equity value of a home which exceeds the limits as set forth in OAR 461-145-0220.

(B) When an individual is disqualified for a transfer of assets, a notice for transfer of assets is required in accordance with OAR 461-175-0310.

(C) When an individual is determined ineligible for the equity value of a home, a notice for being over resources is required in accordance with 461-175-0200.

(c) Meet the functional impairment level within the service priority levels currently served by the Department as outlined in OAR 411-015-0010 and the requirements in OAR 411-015-0015.

(2) To be eligible for services paid through the Spousal Pay Program, an individual must meet the requirements listed above in section (1) of this rule in addition to the requirements in OAR 411-030-0080.

(3) Individuals who are age 17 or younger and reside in a nursing facility, are eligible for nursing facility services only and are not eligible to receive ~~Medicaid~~ home and community-based services administered by the Department's Aging and People with Disabilities.

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 410.060, 410.070, 414.065