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

CHAPTER 411
DIVISION 15

LONG-TERM CARE SERVICE PRIORITIES FOR INDIVIDUALS SERVED

411-015-0000 Purpose
(Amended 6/1/2006)

The purpose of establishing priorities for persons to be served is to assist the Department in addressing the following goals:

(1) To enable persons eligible for and receiving services to remain in the least restrictive and least costly setting consistent with their service needs; and

(2) To serve those persons who are the most functionally impaired and who have no or inadequate alternative service resources; and

(3) To assure access to services paid by the Department to eligible persons; and

(4) To assure that services paid by the Department, and the setting in which they are provided are safe and adequate; and

(5) To manage limited resources to enable the greatest possible number of persons to receive needed services through a priority system based on the Department's assessment of the individual's functional impairment and alternative service resources.

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

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 Department contracted facility where an 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 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 Long Term Services and Supports ending to continue receiving 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.

(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.

(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.

(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.

(30) " 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.

(31) "Medicaid OHP Plus Benefit Package" means 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.

(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.

(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.

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

(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.

(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.

(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 home and community-based services. A lower SPL number indicates greater or more severe functional impairment. The number is synonymous with the SPL.

(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.

(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.

(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.

(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.

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

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

(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.

(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

411-015-0006 Activities of Daily Living (ADL)
(Amended 11/18/2018)

(1) Evaluation of the individual's need for assistance in activities of daily living is based on:

(a) The individual's ability to complete activities, components, and tasks rather than the services provided;

(b) How the individual functioned during the 30 days prior to the assessment date, with consideration of how the person is likely to function in the 30 days following the assessment date; and

(c) Evidence of the actual or predicted need for assistance of another person within the assessment time frame, and it must not be based on possible or preventive needs.

(2) Bathing and personal hygiene. This activity of daily living is comprised of two components, which are bathing and personal hygiene. To be considered assist, the individual must require assistance in bathing or full assistance in hygiene. To be considered full assist, the individual must require full assistance in bathing.

(a) Bathing means the tasks of getting in and out of a bathtub or shower, washing hair, and washing the body, while using assistive devices, if needed. This includes, but is not limited to, sponge baths, bed baths, bathing in a tub, or showering, as chosen by an individual. For individuals who are confined to a bed, bathing is assessed without considering the need to get in or out of the bathtub or shower.

(A) Assist: Even with assistive devices, the individual requires assistance of another person for a task of bathing at least one day each week totaling four days per month. This means

hands-on assistance, cueing, or stand-by presence during the activity.

(B) Full Assist: Even with assistive devices, the individual is unable to accomplish any task of bathing without the assistance of another person. This means the individual needs hands-on assistance of another person through all tasks of the activity, every time the activity is attempted.

(b) Personal hygiene means the tasks of shaving, caring for the mouth, or assistance with tasks of menstruation care. This includes, but is not limited to, shaving the face, legs, or other desired areas, brushing teeth, maintaining dentures, caring for gums, and using feminine hygiene products to address menstrual needs.

(A) Assist: Even with assistive devices, the individual requires assistance of another person for a task of personal hygiene at least one day each week totaling four days per month. This means hands-on assistance, cueing, or stand-by presence during the activity.

(B) Full Assist: Even with assistive devices, the individual is unable to complete at least two personal hygiene tasks without the assistance of another person. This means the individual needs hands-on assistance of another person through all tasks, every time the activity is attempted.

(3) Cognition refers to how the individual is able to use information, make decisions, and ensure their daily needs are met. There are four components to cognition: self-preservation, decision-making, ability to make one's self-understood, and unsafe behaviors. For purposes of this rule, assist levels are defined within each of the four components. Individuals assessed as minimal assist may receive cognition hours as defined in OAR 411-030. For each assist level, individuals must have a documented history of actions or behaviors demonstrating they need assistance with ensuring their health and safety.

(a) An individual's ability to manage any component of cognition, as defined in this rule, is assessed by how the individual is able to function without the assistance of another person.

(b)The assessment time frame in OAR 411-015-0008 shall be expanded when assessing cognition. A documented history demonstrating the need for assistance that occurred more than 30 days prior to the assessment date shall be considered if need would likely reoccur in the absence of existing supports.

(c) An individual under age 65, with cognition needs driven by a mental illness, emotional disorder, or substance abuse disorder does not meet the criteria for service eligibility per OAR 411-015-0015.

(d) To assess an individual as meeting the assist criteria for cognition, an individual must require:

(A) Substantial assistance in one of the four components of cognition; or

(B) Minimal assistance in at least two of the four components of cognition.

(e) To meet the criteria for full assist in cognition an individual must require:

(A) Full assistance in at least one of the four components of cognition; or

(B) Substantial Assistance in at least two of the four components.

(f) The four components of cognition are:

(A) SELF-PRESERVATION. Self-Preservation means an individual’s actions or behaviors reflecting the individual's understanding of their health and safety needs and how to meet those needs. Self-preservation refers to an individual's cognitive

ability to recognize and take action in a changing environment or a potentially harmful situation.

(i) Self-Preservation includes, but is not limited to an individual:

(I) Being oriented to their community and surroundings such that they can find their way to their home or care setting.

(II) Understanding how to safely use appliances.

(III) Understanding how to take their medications.

(IV) Understanding how to protect themselves from abuse, neglect, or exploitation.

(V) Understanding how to meet their basic health and safety needs.

(ii) Self-preservation does not include the individual engaging in acts that may be risky or life threatening when the individual understands the potential consequences of their actions.

(iii) Self-preservation includes the following assistance types (see OAR 411-015-0005) unless otherwise indicated in the assist level:

(I) Cueing.

(II) Hands-on.

(III) Monitoring.

(IV) Reassurance.

(V) Redirection.

(VI) Support.

(iv) Minimal Assist: The individual needs assistance at least one day each month to ensure they are able to meet their basic health and safety needs because they are unable to act on the need for self-preservation or they are unable to understand the need for self-preservation. The need may be event specific.

(v) Substantial Assist: The individual requires assistance because they are unable to act on the need for self-preservation nor understand the need for self-preservation at least daily.

(vi) Full Assist: The individual requires assistance to ensure that they meet their basic health and safety needs throughout each day. The individual is not able to be left alone without risk of harm to themselves or others or the individual would experience significant negative health outcomes. This does not include assistance types of support or monitoring.

(B) DECISION-MAKING. Decision-making means an individual's ability to make everyday decisions about ADLs, IADLs, and the tasks that comprise those activities. An individual needs assistance if that individual demonstrates they are unable to make decisions, needs help understanding how to accomplish the tasks necessary to complete a decision, or does not understand the risks or consequences of their decisions.

(i) Decision-making includes the following assistance types, unless otherwise indicated in the assist definitions:

(I) Cueing.

(II) Hands-on.

(III) Monitoring.

(IV) Redirection.

(V) Support.

(ii) Minimal Assist: The individual requires assistance at least one day each month with decision-making. The need may be event specific.

(iii) Substantial Assist: The individual requires assistance in decision-making and completion of ADL and IADL tasks at least daily.

(iv) Full Assist: The individual requires assistance throughout each day to make decisions, understand the tasks necessary to complete ADLs and IADLs critical to one's health and safety. The individual may not be left alone without risk of harm to themselves or others or the individual would experience significant negative health outcomes. This does not include assistance types of support or monitoring.

(C) ABILITY TO MAKE SELF-UNDERSTOOD. Ability to make self-understood means an individual's cognitive ability to communicate or express needs, opinions, or urgent problems, whether in speech, writing, sign language, body language, symbols, pictures, or a combination of these including use of assistive technology. An individual with a cognitive impairment in this component demonstrates an inability to express themselves clearly to the point their needs cannot be met independently.

(i) Ability to make self-understood does not include the need for assistance due to language barriers or physical limitations to communicate.

(ii) Ability to make self-understood includes the following assistance types, unless otherwise indicated in the assist definitions:

(I) Cueing.

(II) Monitoring.

(III) Reassurance.

(IV) Redirection.

(V) Support.

(iii) Minimal Assist: The individual requires assistance at least one day each month in finding the right words or in finishing their thoughts to ensure their health and safety needs. The need may be event specific.

(iv) Substantial Assist: The individual requires assistance to communicate their health and safety needs at least daily.

(v) Full Assist: The individual requires assistance throughout each day to communicate and is rarely or never understood and cannot be left alone without risk of harm to themselves or others or the individual would experience significant negative health outcomes. Full assist includes hands on assistance in addition to the assist definition included in paragraph (C). This does not include assistance types of support or monitoring.

(D) CHALLENGING BEHAVIORS. Challenging Behaviors means an individual exhibits behaviors that negatively impact their own, or others', health or safety. An individual who requires assistance with challenging behaviors does not understand the impact or outcome of their decisions or actions.

(i) Challenging behaviors include, but are not limited to, those behaviors that are verbally or physically aggressive and socially inappropriate or disruptive.

(ii) Challenging behaviors does not include the individual exhibiting behaviors when the individual understands the potential risks and consequences of their actions.

(iii) Challenging behaviors includes the following assistance types, unless otherwise indicated in the assist definitions:

(I) Cueing.

(II) Hands-on.

(III) Monitoring.

(IV) Redirection.

(iv) Minimal Assist: The individual requires assistance at least one day each month dealing with a behavior that may negatively impact their own or others' health or safety. The individual sometimes displays challenging behaviors, but can be distracted and is able to self-regulate behaviors with reassurance or cueing. Minimal assist includes reassurance assistance.

(v) Substantial Assist: The individual requires assistance in managing or mitigating their behaviors at least daily. The individual displays challenging behaviors and assistance is needed because the individual is unable to self-regulate the behaviors and does not understand the consequences of their behaviors.

(vi) Full Assist: The individual displays challenging behaviors that require additional support to prevent significant harm to themselves or others. The individual

needs constant assistance to the level that the individual may not be left alone without risk of harm to themselves or others or the individual would experience significant negative health outcomes. This does not include assistance types of monitoring.

(4) Dressing and Grooming: This activity of daily living is comprised of two components: dressing and grooming. To be considered Assist, the individual must require assistance in dressing or full assistance in grooming. To be considered Full Assist the individual must require full assistance in dressing:

(a) Dressing is comprised of three tasks; putting on clothing, taking off clothing, and putting on or taking off shoes and socks. This includes, but is not limited to, the consideration of an individual's ability to use clothing with buttons, zippers, and snaps, and reflects the individual's choice and reasonable preferences.

(A) Assist: Even with assistive devices, the individual is unable to accomplish some tasks of dressing without the assistance of another person at least one time each week totaling four days per month. This means hands-on assistance, cueing, or stand-by presence during the activity.

(B) Full Assist: Even with assistive devices, the individual is unable to accomplish any tasks of dressing without the assistance of another person. This means the individual needs hands-on assistance through all tasks of the activity, every time the activity is attempted.

(b) Grooming means the tasks of nail and hair care based on the individual's reasonable personal preferences. This includes, but is not limited to, tasks of clipping and filing both toe nails and finger nails, and brushing, combing, braiding, or otherwise maintaining one's hair or scalp.

(A) Assist: Even with assistive devices, the individual is unable to accomplish tasks of grooming, without the assistance of

another person at least one time each week totaling four days per month. This means hands-on assistance, cueing, or stand-by presence during the activity.

(B) Full Assist: Even with assistive devices, the individual is unable to perform any tasks of grooming without the assistance of another person. This means the individual needs hands-on assistance of another person through all tasks of the activity, every time the activity is attempted.

(5) Eating means the tasks of eating, feeding, nutritional IV set up, or feeding tube set-up by another person and may include using assistive devices.

(a) Assist: When eating, the individual requires another person to be within sight and immediately available to actively provide hands-on assistance with feeding, special utensils, or immediate hands-on assistance to address choking, or cueing during the act of eating at least one time each week totaling four days per month during the assessment timeframe.

(b) Full Assist: When eating, the individual always requires one-on-one assistance through all tasks of the activity for direct feeding, constant cueing to prevent choking or aspiration every time the activity is attempted.

(6) Elimination is comprised of three components, which are bladder, bowel, and toileting. To be considered assist, the individual must require assistance in at least one of the three components inside the home or care setting. To be considered full assist the individual must require full assistance in any of the three components inside the home or care setting. Dialysis care needs are not assessed as part of elimination.

(a) Bladder means the tasks of catheter care and ostomy care. The tasks of catheter or ostomy care are specific to the individual.

(A) Assist: Even with assistive devices, the individual requires hands-on assistance with a task of bladder at least one day

each week totaling four days per month during the assessment timeframe.

(B) Full Assist: The individual requires hands-on assistance of another person to complete all tasks of bladder care every time the task is attempted even with assistive devices.

(b) Bowel means the tasks of digital stimulation, suppository insertion, ostomy care, and enemas.

(A) Assist: Even with assistive devices, the individual requires hands-on assistance with a task of bowel care at least one day each week totaling four days per month during the assessment timeframe.

(B) Full Assist: The individual requires hands-on assistance of another person to complete all tasks of bowel care every time the task is attempted, even with assistive devices.

(c) Toileting means the assessed tasks of cleansing after elimination, changing soiled incontinence supplies or soiled clothing, adjusting clothing to enable elimination, or cueing to prevent incontinence.

(A) Assist: Even with assistive devices, the individual requires hands-on assistance from another person with a task of toileting or cueing to prevent incontinence at least one day each week totaling four days per month during the assessment timeframe.

(B) Full Assist: The individual is unable to accomplish all tasks of toileting without the assistance of another person. This means the individual needs assistance of another person through all tasks of the activity, every time the activity is attempted.

(7) Mobility is comprised of two components, which are ambulation and transfer. The activity of mobility is organized into three assistance levels. To be considered Minimal Assist, the individual must require minimal

assistance in ambulation. To be considered Substantial Assist, the individual must require substantial assistance with ambulation or an assist with transfer. To be considered Full Assist, the individual must require full assistance with ambulation or transfer.

(a) Mobility does not include getting in and out of a motor vehicle, or getting in or out of a bathtub or shower.

(b) For the purposes of this rule, inside the home or care setting, means inside the entrance to the individual's home or apartment unit or inside the care setting (as defined in OAR 411-015-0005). Courtyards, balconies, stairs or hallways exterior to the doorway of the home or apartment unit are not considered inside.

(c) A history of falls with an inability to rise without the assistance of another person, or with negative physical health consequences, may be considered in assessing ambulation or transfer if they occur within the assessment time frame. Falls prior to the assessment time frame, or the need for prevention of falls alone, even if recommended by medical personnel, is not sufficient to qualify for assistance in ambulation or transfer.

(d) Ambulation means the tasks of moving around inside and outside the home or care setting. This includes assessing the individual’s needs after taking into consideration their level of independence while using assistive devices such as walkers, canes, crutches, manual and electric wheelchairs, and motorized scooters. Ambulation does not include exercise or physical therapy.

(A) Minimal Assist: Even with assistive devices, the individual requires hands-on assistance from another person to ambulate outside the home or care setting at least once each week, totaling four days per month. The individual requires hands-on assistance from another person to ambulate inside their home or care setting less than one day each week.

(B) Substantial Assist: Even with assistive devices the individual requires hands-on assistance from another person to

ambulate inside their home or care setting at least one day each week totaling four days per month.

(C) Full Assist: Even with assistive devices, the individual requires hands-on assistance from another person to ambulate every time the activity is attempted. Individuals who are confined to bed are a full assist in ambulation.

(e) Transfer means the tasks of moving to or from a chair, bed, toileting area, or wheelchair using assistive devices, if needed. This includes assessing one's ability to transfer from areas used on a daily or regular basis, such as sofas, chairs, recliners, beds, and other areas inside the home or care setting based on their reasonable personal preferences. When individuals are confined to their bed or a wheelchair, repositioning is also considered as a transfer task. This assistance must be required because of the individual's physical limitations, not their physical location or personal preference.

(A) Assist: Even with assistive devices, the individual requires hands-on assistance with a task of transferring inside the home or care setting at least one day each week totaling at least four days per month.

(B) Full Assist: The individual requires hands-on assistance from another person every time the activity is attempted, even with assistive devices.

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

411-015-0007 Instrumental Activities of Daily Living
(Adopted 5/1/2006)

(1) "Instrumental Activities of Daily Living (IADL)" or "Self-Management tasks" consists of housekeeping including laundry, shopping, transportation, medication management and meal preparation.

(2) Evaluation of the individual's needs for assistance in Instrumental Activities of Daily Living is based on:

(a) The individual's abilities rather than the services provided; and

(b) How the individual functioned during the thirty days prior to the assessment date, with consideration of how the person is likely to function in the thirty days following the assessment date; and

(c) Evidence of the actual or predicted need for assistance of another person within the assessment time frame and can not be based on potential or preventative needs.

(3) "Independent" means the individual does not meet the definition of "Assist" or "Full Assist" for IADLs as defined in this rule.

(4) "Housekeeping" means the ability to maintain the interior of the individual's residence for the purpose of health and safety. Housekeeping includes activities such as wiping surfaces, cleaning floors, making the individual's bed, cleaning dishes, taking out the garbage and dusting. Housekeeping does not include pet care or home repair. Only the housekeeping activities related to the eligible individual's needs may be considered in housekeeping. Housekeeping needs of roommates, guests, family members or other residents of the household can not be considered.

(a) Assist: Even with assistive devices, the individual is unable to accomplish some tasks of housekeeping without the assistance of another person.

(b) Full Assist: Full assist means the individual needs assistance of another person through all phases of the activity, every time the activity is attempted.

(5) "Laundry" means the ability to gather and wash soiled clothing and linens, use washing machines and dryers, hang clothes, fold and put away clean clothing and linens. For service planning, laundry needs are included in Housekeeping.

(a) Assist: Even with assistive devices, the individual is unable to accomplish some tasks of laundry without the assistance of another person.

(b) Full Assist: Full assist means the individual needs assistance of another person through all phases of the activity, every time the activity is attempted.

(6) "Meal Preparation" means the ability to safely prepare food to meet the basic nutritional requirements of the individual. It includes cutting food and placing food, dishes and utensils within reach for eating.

(a) Meal Preparation for breakfast, lunch and dinner/supper is assessed for each meal.

(b) When assessing and developing service plans, dinner/supper is considered as the individual's main meal of the day, regardless of the time the meal is served or eaten.

(c) An individual who needs assistance with meal preparation and who meets the criteria established in OAR 411-040-0000 may receive home delivered meals, if available in the individual's local area. Even with home delivered meal service, an individual may still meet the assistance or full assistance meal preparation criteria in this rule if the individual is unable to accomplish some or all of the meal preparation tasks.

(d) Set-up for tube feeding is assessed in Eating per OAR 411-015-0005.

(e) Assist: Even with assistive devices, the individual is unable to accomplish some tasks of meal preparation without the assistance of another person.

(f) Full Assist: Full assist means the individual needs assistance of another person through all phases of the activity, every time the activity is attempted.

(7) "Medication Management" means the ability to order, organize and administer prescribed medications. Administering prescribed medications

includes pills, drops, ointments, creams, injections, inhalers and suppositories unrelated to bowel care. Administering as a paid service means set-up, reminding, cueing, checking for effect and monitoring for choking while taking medications. Oxygen management is included in medication management. Oxygen management means assisting with the administration of oxygen, monitoring the equipment and assuring adequate oxygen supply.

(a) Assist: Even with assistive devices, the individual is unable to accomplish some tasks of medication management without the assistance of another person.

(b) Full Assist: Full assist means the individual needs assistance of another person through all phases of the activity, every time the activity is attempted.

(8) "Shopping" means the ability to purchase goods that are necessary for the health and safety of the individual being assessed and are related to the individual's service plan. Goods that are related to the service plan include items such as food (meal preparation), clothing (dressing), and medicine (medication management).

(a) Assist: Even with assistive devices, the individual is unable to accomplish some tasks of shopping without the assistance of another person.

(b) Full Assist: Full assist means the individual needs assistance of another person through all phases of the activity, every time the activity is attempted.

(9) "Transportation" means, assuming transportation is available, the ability to arrange rides, the ability to get in or out of a vehicle, and the need for assistance during a ride. The need for assistance during a ride means assistance for a physical or cognitive need such as spasticity, memory impairment, aspiration, choking or seizure. Transportation as a paid service means in accordance with a plan of care, assisting an individual during a ride, assisting an individual to get in or out of a vehicle, or arranging a ride for an individual. Transportation does not include mileage reimbursement.

(a) Assist: Even with assistive devices, the individual is unable to accomplish some of the tasks of transportation without the assistance of another person.

(b) Full Assist: Full assist means the individual needs assistance of another person through all phases of the activity, every time the activity is attempted.

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

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 Long Term Care Services and Supports (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.

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 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 home and community-based services administered by the Department's Aging and People with Disabilities. Eligibility for 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 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) 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 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 approved services and supports 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 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 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