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**TEMPORARY ADMINISTRATIVE ORDER**  
INCLUDING STATEMENT OF NEED & JUSTIFICATION

**APD 23-2025**

CHAPTER 411

**DEPARTMENT OF HUMAN SERVICES**

**AGING AND PEOPLE WITH DISABILITIES AND DEVELOPMENTAL DISABILITIES**

**FILED**

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ARCHIVES DIVISION  
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& LEGISLATIVE COUNSEL

FILING CAPTION: APD: Residential Care and Adult Foster Home Restructured Rate Methodology and Rates

EFFECTIVE DATE: 01/01/2026 THROUGH 06/29/2026

AGENCY APPROVED DATE: 12/19/2025

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**NEED FOR THE RULE(S):**

Per the 2025-2027 Legislative Fiscal Office Recommendation Budget Notes #3 and #4 and the Collective Bargaining Agreement (CBA), the Department is implementing a restructured rate methodology for payments to Adult Foster Home and licensed residential care facility providers and update the exceptional rate process. The Department is also amending a rule to address the provider rates for 2026 that were approved during the 2025-2027 legislative session.

**JUSTIFICATION OF TEMPORARY FILING:**

Failure to act promptly and immediately amend OAR chapter 411, division 027 could result being out of compliance with the Legislative Fiscal Office recommendations in Budget Note #3 and #4 and the Collective Bargaining Agreement, which states the Department must implement a restructured rate methodology for payments and amend the exceptional rate process with an effective date of January 1, 2026.

**DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:**

2025-2027 Legislative ODHS Budget Notes #3 and #4

<https://olis.oregonlegislature.gov/liz/2025R1/Downloads/MeasureDocument/SB5526/Enrolled>

Adult Foster Home Collective Bargaining Agreement (CBA)

**RULES:**

411-027-0005, 411-027-0025, 411-027-0050, 411-027-0170

AMEND: 411-027-0005

RULE SUMMARY: Updates definitions for Payment Limitations in Home and Community-Based Services.

**CHANGES TO RULE:**

411-027-0005

## Definitions ¶

- (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 Foster Homes (AFH)" mean any facility licensed under OAR chapter 411, divisions 049, 050, 051, 052, OAR chapter 411, division 360 or OAR chapter 309, division 040.¶
- (4) "Aging and People with Disabilities (APD)" means the program area of Aging and People with Disabilities, within the Oregon Department of Human Services.¶
- (45) "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 is inclusive of both Type A and Type B Area Agencies on Aging as defined in ORS 410.040 and described in ORS 410.210-300.¶
- (56) "Assessment" or "Reassessment" means an assessment as defined in OAR 411-015-0008.¶
- (67) "Assisted Living Facility" means a building or complex that is licensed by the Oregon Department of Human Services per OAR chapter 411, division 054 rules.¶
- (8) "Assistive Devices" means any category of durable medical equipment, mechanical apparatus, electrical appliance, or instrument of technology, service animals, general household items, or furniture used to assist and enhance an individual's independence in performing any activity of daily living.¶
- (79) "Behavior Support Plan" means a plan written by a department approved Behavior Support Services professional to write plans detailing how the licensed provider should respond to an individual's behavior(s) and/or how to prevent behaviors. ¶
- (10) "Caregiver" means any person paid to provide services and supports related to Activities of Daily Living, Instrumental Activities of Daily Living and health related tasks. ¶
- (11) "CA/PS" means the "Client Assessment and Planning System" as defined in this rule.¶
- (812) "Case Manager" means an employee of the Department or Area Agency on Aging, who assesses the service needs of an applicant, determines eligibility, and offers service choices to the eligible individual. The case manager authorizes and implements the service plan and monitors the services delivered.¶
- (913) "Central Office" means the unit within the Department responsible for program and policy development and oversight.¶
- (104) "Client Assessment and Planning System (CA/PS)":¶
- (a) Is 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 the rules in OAR chapter 411, division 015, calculates the service payment rates, and accommodates individual participation in service planning.¶
- (145) "Consumer Choice" means an individual has been informed of alternatives to nursing facility services and has been given the choice of institutional services, Medicaid home and community-based service options, or the Independent Choices Program.¶
- (126) "Contracted In-Home Care Agency" means an incorporated entity or equivalent, licensed in accordance with OAR chapter 333, division 536, that provides hourly contracted in-home services to individuals served by the Department or Area Agency on Aging.¶
- (137) "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 the available services under the Medicaid home and community-based service options, the utilization of assistive devices, natural supports, architectural modifications, and alternative service resources (defined in OAR 411-015-0005) not paid for by the Department.¶
- (148) "Department" means the Oregon Department of Human Services (ODHS).¶
- (159) "Distressed Provider Relief Fund" means the program described in OAR chapter 411, division 029 designed to provide additional compensation to providers who meet the criteria.¶
- (1620) "Enhanced Wage Add-on Program" means the program described in OAR 411-027-0160 designed to provide additional compensation to providers who meet the criteria.¶
- (217) "Exception" means ~~an approval for:~~¶
- (a) Payment of a service plan g Department approved payment, ranted to a specific individual in his or her current residence or in the proposed residence identified in the exception request that exceeds the CA/PS assessed service payment levels for or authorized hours based on the Department's determination that the individual's

~~residing in community-based care facilities or the maximum hours of service as described in OAR 411-030-0070 for individuals residing in his or her own home or the home of a relative.~~¶

~~(b) A service plan granted to a specific individual and a homecare worker to exceed the limitations as described in OAR 411-030-0070 (5) based upon the service needs of the individual as determined by the Department.~~¶

~~(c) An "exceptional rate" or "exceptional payment." The approval of an exception is based on the service needs exceed those assumed in the rate methodologies including the minimum hours of care defined in the payment tiers or specific needs of the individual and is contingent upon the individual's service plan meeting the requirements in OAR 411-027-0020, OAR 411-027-0025, and OAR 411-027-0050.~~¶

~~(18) contract.~~¶

~~(22) "Homecare Worker" means a provider, as described in OAR 411-031-0040, that is directly employed by a consumer to provide hourly services to the eligible consumer.~~¶

(a) The term homecare worker includes consumer-employed providers in the Spousal Pay and Oregon Project Independence Programs. The term homecare worker also includes consumer-employed providers that provide state plan personal care services to older adults and adults with physical disabilities. Relatives providing Medicaid in-home services to an individual living in the relative's home are considered homecare workers.¶

(b) The term homecare worker does not include Independent Choices Program providers or personal care attendants enrolled through the Office of Developmental Disability Services or the Addictions and Mental Health Division.¶

~~(19)~~(23) "Hourly Services" mean the in-home services, including activities of daily living and instrumental activities of daily living, that are provided at regularly scheduled times.¶

~~(20)~~(24) "Independent Choices Program (ICP)" means the self-directed in-home services program in which a participant is given a cash benefit to purchase goods and services identified in a service plan and prior approved by the Department or Area Agency on Aging.¶

~~(21)~~(25) "Individual" means the person applying for, or eligible for, services. The term "individual" is synonymous with "client", "participant", "consumer", and "consumer-employer."¶

~~(22)~~(26) "In-Home Services" mean those services that meet an individual's assessed need related to activities of daily living and instrumental activities of daily living provided in the individual's home or family's home.¶

~~(23)~~(27) "Instrumental Activities of Daily Living (IADL)" mean those activities, other than activities of daily living, required by an individual to continue independent living. The definitions and parameters for assessing needs in IADL are identified in OAR 411-015-0007.¶

~~(24)~~(28) "Natural Supports" or "Natural Support System" 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.¶

~~(25)~~(29) "Rate Schedule" means the rate schedule maintained by the Department in OAR 411-027-0170 and posted at <https://www.dhs.state.or.us/spd/tools/program/osiporegon.gov/odhs/providers-partners/seniors-disabilities/Documents/rate-schedule.pdf>.¶

~~(26) "These Rules" mean the rules in OAR chapter 411, division 027.~~(30) "Residential Care Facility (RCF)" means a building or complex that is licensed by the Oregon Department of Human Services per OAR chapter 411, division 054.¶

~~(31) "These Rules" mean the rules in OAR chapter 411, division 027.~~¶

~~(32) "Tier" refers to the rate level assigned to an eligible individual in an Adult Foster Home or Residential Care Facility, based on their assessed need. Tiers are determined using a point system evaluating the individual's ability to perform each component of Activities of Daily Living (ADLs), Instrumental Activities of Daily Living (IADLs) and health-related tasks as documented in the CA/PS assessment.~~

Statutory/Other Authority: ORS 410.070

Statutes/Other Implemented: ORS 410.070

AMEND: 411-027-0025

RULE SUMMARY: Per the 2025-2027 Legislative Fiscal Office Recommendation Budget Notes #3 and #4 and the Collective Bargaining Agreement (CBA), the Department is implementing a restructured rate methodology for payments to Adult Foster Home and licensed residential care facility providers.

CHANGES TO RULE:

411-027-0025

Payment for Residential Care Facility and Adult Foster Home Services ¶¶

The Department reimburses for services provided to individuals residing in a residential care facility or an adult foster home according to the following:¶¶

(1) ~~SERVICE PAYMENT~~Service Payment. The provider must agree to accept an amount determined pursuant to OAR 461-155-0270 for room and board and a service payment determined by the Department pursuant to OAR 411-027-0020 or 411-027-0050 as payment in full for all services rendered to an individual.¶¶

(2) ~~SERVICE RATES. Service rates are based on an individual's level of impairment and in accordance with the rate schedule or collective bargaining agreement.~~¶¶  
Unless otherwise specified in this rule, a tiered rate model is paid for all eligible individual's level of impairment and in accordance with the rate schedule or collective bargaining agreement.¶¶

(3) Service Rates. Service rates are based on an individual's assessed need for services as documented in CA/PS. Service eligibility levels are assigned based on the degree of assistance an individual requires with activities of daily living and certain procedural, instrumental activities of daily living, health related tasks and other activities that must be performed by a provider.¶¶

~~(a) A base rate is paid for all individuals in accordance with the rate schedule.~~¶¶

~~(b) Additional add-on payments are made for acuity.~~Acuity-Based Rate Model.¶¶

(a) Adult Foster Homes and Residential Care Facilities will receive payments based on an Acuity-Based Rate Model. The Acuity Based Rate Model is based on an individual's whose assessed needs meet add-on criteria. Add-on payments are paid in accordance with the rate schedule level of need in Activities of Daily Living (ADLs), Instrumental Activities of Daily Living (IADLs), cognition, behavior, and health related treatment need as determined by the CA/PS assessment. Each component of the ADL and IADL shall receive points based on the following assessed level.¶¶

~~(A) If an individual's level of need:~~¶¶

(A) Independent equals 1 point¶¶

(B) Minimum Assist equals 2 points. If an individual is eligible for one add-on payment, an add-on payment is made in addition to the base payment.¶¶

~~(B) If an individual is eligible for two add-on payments, a total of two add-on payments are made in addition to the base payment.~~equals 2 points¶¶

(C) Assist equals 3 points¶¶

(D) Substantial Assist equals 5 points¶¶

(E) Full Assist equals 6 points¶¶

(F) Additional points shall be assigned based if either of the following criteria is met:¶¶

(i) Full assist in the components of self-preservation, decision-making, or ability to make self-understood equals 10 points.¶¶

(ii) Substantial or full assist in the component of challenging behaviors equals 20 points.¶¶

~~(C) If an individual is eligible for three add-on payments, a total of three add-on payments are made who meets the criteria in (ii), will only receive an additional 20 points. The points awarded in addition to the base payment.~~¶¶

~~(D) An (i) and (ii) are not combined.~~¶¶

(iv) Complex health related treatment tasks, as documented in the individual that is eligible for Extended Waiver Eligibility, as defined and authorized in OAR 411-015-0030 is not eligible for an add-on payment. CA/PS, that requires caregiver assistance on a regular basis but less than once per day equals 1 point.¶¶

~~(e) Eligibility for add-on payments is made based on individual needs as documented in CA/PS. An individual is eligible for an add-on payment if:~~¶¶

(A) The individual is full assist in mobility or eating or elimination; Complex health related treatment tasks, as documented in the individual's CA/PS, at least daily and requires caregiver assistance each time equals 3 points.¶¶

(b) Individuals will receive points for complex health related treatments and tasks, as defined by the Department. Complex health related tasks that occur at least weekly will receive 1 point, while complex health related tasks that occur at least daily receive equal three points.¶¶

~~(B) The individual demonstrates behavior that pose a risk to the individual or to others and the provider must consistently intervene to supervise or redirect; ors will be placed on payment tiers based on their total score. Tiers are assigned based on the following scores:~~¶¶

(A) Tier 1 equals 0 to 40 points.¶

(B) Tier 2 equals 41 to 55 points.¶

(C) Tier 3 equals 56 to 82 points.¶

(D) Tier 4 equals 83 -106 points.¶

(E) Tier 5 equals 107 or more points.¶

(Cd) The individual's medical treatments, as selected and documented in CA/PS, require daily observation and monitoring with oversight by a licensed healthcare professional, no less than quarterly, and the facFunded Caregiving Hours. For Adult Foster Homes each tier funds one caregiver on duty 24 hours a day and funds additional caregiving hours per day for each individual as follows:¶

(A) Tier 1 equals 0 hours.¶

(B) Tier 2 equals 2 hours.¶

(C) Tier 3 equals 4 hours.¶

(D) Tier 4 equals 8 hours.¶

(E) Tier 5 equals 10 hours.¶

(e) An individual who is eligible for Extended Waiver Eligibility, has tradefined staff to provide such service and does provide the service and authorized in OAR 411-015-0030, is only eligible for Tier 1 payments.¶

(35) PAYMENT RESPONSIBILITIESayment Responsibilities.¶

(a) An individual is entitled to retain a personal allowance plus any income disregards pursuant to OAR 461-160-0620.¶

(b) An individual is responsible for payment of the room and board amount pursuant to OAR 461-155-0270.¶

(A) An individual eligible for Medicaid under OAR chapter 410, division 200 and eligible for long term care services under OAR 411-015-0100 living in community-based care facilities may be eligible for room and board assistance if the individual's gross income is less than the room and board amount defined in OAR 461-155-0270. The Department issues a special needs payment to the facility, on the individual's behalf, for the difference between the individual's income and the room and board standard.¶

(B) An individual eligible for Medicaid under OAR chapter 410, division 200 and receiving room and board assistance must apply for all benefits for which the individual may be eligible, per OAR 410-200-0220, to continue to receive the room and board assistance. Individuals must follow all appeal options if applicable.¶

(c) An individual must contribute any income in excess of the personal allowance, income disregards, and room and board payments to the provider toward the service payment pursuant to OAR 461-160-0610 and OAR 461-160-0620.¶

(d) The Department issues payment to the provider for the difference between the service payment and the available income of the individual.¶

(46) The provider may not charge the individual, or a relative or a representative of the individual, for items included in the room and board or service payments for any items for which the Department makes paymentany other costs except for the room and board and a client contribution payments, if applicable.¶

(57) The Department is not responsible for damages to the provider's home, facility or property, or obligations entered into with the individual.

Statutory/Other Authority: ORS 410.070

Statutes/Other Implemented: ORS 410.070

AMEND: 411-027-0050

RULE SUMMARY: Per the 2025-2027 Legislative Fiscal Office Recommendation Budget Note #3 and the Collective Bargaining Agreement (CBA), the Department is updating the exceptional rate process for Residential Care Facilities and Adult Foster Homes.

CHANGES TO RULE:

411-027-0050

Exceptions to Payment Limitations in Home and Community-Based Services ¶

~~(1) Service payment e~~Eligibility for Exceptions.¶

~~(a) Exceptions for in-home services as defined in OAR 411-030-0020 are not subject to this rule. ¶~~

~~(b) Exceptions may will only be granted if the Department determines:¶~~

~~(a) The individual has service needs, documented in the service plan, that warrant a service payment ewhen the requirements of this rule are met and the provider submits all requested documentation, as required by this rule verifying that additional caregiving was delivered to each current Individual as funded by their respective Tiers and exceptions. ¶~~

~~(c) Exceptions authorized by this rule shall only be provided to Individuals living in the following licensed settings:¶~~

~~(A) Adult Foster Homes; or¶~~

~~(B) Residential Care Facilities, including Intensive Intervention Communities; or¶~~

~~(C) Licensed 24-hour residential programs as defined in and licensed in accordance with OAR 411-325-0020 (1) and (2); or ¶~~

~~(D) Residential Treatment Homes or Residential Treatment Facilities as defined and licensed in accordance with OAR 309-035-0105 (77) and (78).¶~~

~~(e) Exception;s andre not allowed for:¶~~

~~(bA) The provider actuallyIndividuals served under a specific needs contract(s) unless the Department has determined a specific Individual has care needs that require additional staff hours beyond what is provided by the exceptional-serviecontract:¶~~

~~(B) Assisted Living Facilities;¶~~

~~(C) Any individual served under an Intensive Individual Rate.¶~~

~~(2D) Service payment exceptions shall beNighttime care needs that fall outside of regular or anticipated routines. Occasional night needs are not eligible for an exception.¶~~

~~(E) Anticipatory or just in case needs.¶~~

~~(f) The amount of any approved exception is based on the additional hours of serviceCaregiver staff hours required to meet the iIndividual's assessed and verified ADL and IADL service needs. Exceptional hours are not allowed based solely on choice of, IADL, health related tasks, or behavioral needs per OAR chapter 411, division 15 that exceed the service expectations in licensing rules and all the hours funded by Individuals' assigned Tier.¶~~

~~(g) Exceptional hours may be approved to monitor the Individual when they have a history of physically or sexually harming others and there is a documented likelihood that the iIndividual-T could harm themselves or others in the immediate future.¶~~

~~(h) At the sole discretion of the Department, and AAA local office staff must monitor the individual service needs and recommend adjustments to the plan when appropriate exception may be granted without required documentation if an individual's is in an unsafe or dangerous situation. Such exception may not exceed 90 days. Providers must submit the required documentation within that time period, or the exception will end. Documentation may include, but is not limited to:¶~~

~~(A) Documentation of medical conditions or treatments that may drive care needs: ¶~~

~~(B) Medical documentation that the way services are being provided is appropriate to the needs of the Individual; ¶~~

~~(C) Documentation from medical professionals, a Long-Term Care Community Nurse or a Behavior Support Specialists that reflect the needs that meet exceptional criteria; ¶~~

~~(D) The reasons for increased duration and frequency of care need or health related tasks; ¶~~

~~(E) Other information explaining or related to the need for additional hours; and¶~~

~~(F) Diagnosed psychiatric conditions, period(s) of institutionalizations or other documented behavioral health history that demonstrates the Individual poses a current threat or the high likelihood that the Individual will pose a threat of harm to themselves, the community, other Individuals in the facility, the provider and/or caregivers.¶~~

~~(3G) Service payment exceptions in Adult Foster Homes and Residential Care Facilities may be authorized only for individual service needs that are not paid for by the base rate or any of the Past criminal charges with period(s) of~~

incarcerations, that demonstrates the Individual poses a current threat or the high likelihood that the Individual will pose a threat of harm to themselves, the community, other Individuals in the facility, the provider and/or caregivers.¶

(i) For Adult Foster Homes, exceptions are limited to needs that exceed the level of staffing required by the Individual's tier and requires:¶

(A) One-to-one assistance or supervision for a significant amount of time to manage behavioral care needs or other ADL tasks; ¶

(B) Two or more staff to provide ADL task assistance to the Individual at the same time;¶

(C) Additional frequent monitoring due to a history in the last 90 days of behaviors that currently endanger the individual, other Individuals in the facility, the community and/or caregivers and there is a likelihood of harm to the Individual or other Individuals;¶

(D) To meet ongoing care needs of the Individual that occur during sleeping hours. Exceptions approved for night needs will not exceed 8 hours per individual for a 24-hour period and may be reduced when there are multiple individuals requiring night care and the care needs of all Individuals in the facility can be met by one awake caregiver;¶

(E) Additional staff to assist with ADL, IADL or health,ree-available-add-on-paymentlated tasks due to the Individual experiencing false memories that has resulted in inaccurate or distorted reporting of events and leading to multiple false allegations of abuse or criminal acts against others.¶

(4j) Additional hours for Adult Foster Homes and Residential Care Facilities are paid at the hourly rate in the rate schedule. The Department does not authorize additional payment exceptions forExceptions for more than one Individual in a facility will only be allowed if:¶

(A) The exception request meets the requirements in these rules.¶

(B) The information provided indicates the assessed needs of each individual are independently documented in the individual's person-centered service plan.¶

(C) The provider has supplied evidence they can and will provide the staffing for all the required staffing in the tiers for their current Individuals and approved exception hours in the home. This evidence may include but is not limited to, staffing plans and payroll records.¶

(k) Exceptions will not be approved when:¶

(A) Proposed services are not based on the Individual's assessed service needs, except as otherwise provided in these rules;¶

(B) Proposed services are not medically appropriate or necessary as determined by a qualified medical professional;¶

(C) Proposed services would violate licensing regulations applicable to the provider's license or certification; ¶

(D) Proposed services include activities or instrumental activities of daily living not allowed in OAR 411-015-0006 and 411-015-0007;¶

(E) Proposed services are not covered in the 1915(k) State Plan, OAR 411-015-0006, or OAR 411-015-0007;¶

(F) Proposed tasks are not allowed in OAR 411-015-0006 and OAR 411-015-0007 unless identified in the Individual's behavior support plan; or directed by a qualified medical professional;¶

(G) Proposed exception request includes building, utilities, food, or regular, building maintenance costs; ¶

(5H) No service rate exceptions are allowed in Assisted Living Facilities. Proposed services address needs that do not require additional caregiver hours or not documented in the individual's CA/PS;¶

(I) Proposed hours or services include supplementing the income for the provider, owners or investors of the facility or are not directly related to the need for additional care;¶

(J) Proposed services are to provide wages to caregivers beyond the established hourly wage for exceptions;¶

(K) Proposed services are based solely on fire evacuation needs; ¶

(L) The exceptional need could be provided by durable medical equipment or other community resources;¶

(6M) Exceptions above the maximum monthly hours of service in OAR 411-030-0070 for in-home services, may only be granted when it is determined the placement is the most appropriate fStaffing plans and payroll records indicate the exceptional hours are being provided concurrently to other Individuals, based on their Tier, to other approved exceptions or other required staffing; ¶

(N) Proposed services are meant to provide companionship hours;¶

(O) Proposed services are to monitor the Individual unless the reason for monitoring is otherwise allowed in the rules; or¶

(P) The provider fails to provide sufficient payroll documentation and staffing schedules, as required by this rule, that demonstrates they have been providing staffing as required in each of the Individual's tier and each Individual's exception as applicable. ¶

(2) INITIATION OF AN EXCEPTION REQUEST¶

(a) A request for an exception may be initiated by the provider, the Individual, or the Individual's representative.¶

(b) A request for an exception may be initiated either orally or in writing by an Individual or the Individual's

representative to their case manager. An exception request initiated by an Individual or their resident, special services are necessary representative can only be considered once the provider submits the required documentation requested by Department.¶

(c) All exception requests regardless of requestor must individual needs, not preference, and a provider has the capability to meet those needs include:¶

(A) How the Individual's assessed needs or documented safety needs exceed the staffing levels provided by the assessed rate and minimum staffing levels required by staffing expectations in the relevant licensing administrative rules.¶

(B) The request must be in writing and include the Department assessment calculator that documents the amount of time it takes to complete each task the exceptional hours would support.¶

(C) The specific ADL(s), IADL(s), health related task or behavioral need for which the exception is being requested.¶

(7D) All individual exceptions to the assessed service need determine written staffing plan is submitted from the adult foster home provider that demonstrates they do provide sufficient caregiver hours for the Individual's request, any other exceptions in the adult foster home and Tier staffing for all Individuals in the home. The staffing plan must include an attestation from the provider that the staffing plan is true, accurate and the provider intends to provide the additional caregiver hours.¶

(d) Requests with incomplete information, in Adult Foster Homes, Residential Care Facilities, or in-home settings, and renewals of exceptions, must be pre-authorized by the Department's APD Central Office.¶

(a) A consumer or consumer representative may request incomplete documentation or information that doesn't support the exception request will be denied and returned to the requestor as a denial.¶

(e) The Department may require additional information to be submitted by the provider prior to making a decision. This information may include, but not limited to:¶

(A) The Individual's service plan or Care Plan;¶

(B) Medical Records;¶

(C) Existing and proposed staffing plan/schedule;¶

(D) Payroll records that show the provider is appropriately staffing hours required by the Individuals' assigned Tier and all existing exceptions in the facility as applicable.¶

(E) Home health or hospice reports if available;¶

(F) Long Term Care Community Nursing (LTCCN) or other nursing assessments and notes, if available; and¶

(G) A Behavior Support Plan completed by a Department contracted Behavior Support Specialist if the exception is based on behavioral needs.¶

(f) An exception request will be denied and returned to the requestor if the additional documentation is not submitted by the date specified in writing by the Department.¶

### (3) PROCESSING EXCEPTION REQUESTS.¶

(a) Prior to forwarding any request for an exception to the Department's APD Central Office, the case manager must discuss with the requestor whether there are alternate ways to meet the Individual's needs consistent with the Individual's right to independence and choice. This discussion must be documented in the Oregon Access Narration.¶

(b) After discussing alternative ways to meet the Individual's needs, and the requestor wishes to continue with the exception request, the case manager will forward the exception by requesting the rate or hours exception through their case manager. A case manager may also determine that an exception is needed and initiate the process.¶

(b) The Department and AAA local office staff shall review and approve requests for payment exception before they are transmitted to the Department's APD Central Office, to their manager for review and approval. Once approved, the manager will forward the request to the Department's APD Central Office for a decision.¶

(c) The CA/PS assessment must represent the Individual's current condition and functioning unless an urgent situation exists as referenced in these rules.¶

(d) If the CA/PS assessment does not reflect the needs described in an exception request, a new assessment will be required before the rate can be renewed unless an urgent situation exists as referenced in these rules. When there is an urgent situation, a new CA/PS must be completed and demonstrate the Individual's needs by the date required by the Department's Central Office.¶

(4) The following required Documentation must be maintained by the provider and available to the Department at any time:¶

(a) For all approved exception requests providers must maintain the following documentation:¶

(A) Staffing schedules showing the dates and times each caregiver worked in the facility.¶

(B) For exceptions based on behaviors, the following must also be maintained:¶

(i) The frequency of behavioral interventions performed by caregivers, if applicable to the approved exception.¶

(ii) Narrative notes and care plans that demonstrate Behavioral Support Plans are implemented¶

(C) Payroll records, including pay stubs which show income tax withholdings, payroll tax withholdings, hours

worked, pay periods, and hourly rate of pay. ¶

(b) When the Department has concerns about the accuracy of the records submitted, when there are reports the provider has not staffed appropriately and/or when the provider has a history of not staffing exception(s), the Department may require additional documentation to ensure the exception is appropriate for the Individual or to determine if the staffing required by the exception has been provided. This documentation can include, but is not limited to:¶

(A) Verifiable records showing taxes were withheld and reported to the appropriate government agency.¶

(B) Verifiable documentation payroll taxes were paid to the appropriate government agency.¶

(c) Required documentation must be available to the Department at all times and provided immediately upon request unless the Department has given a different timeline.¶

(5) EXCEPTION DECISIONS.¶

(a) Only the Department's APD Central Office can approve exceptions and has final decision authority and discretion over the approval or denial of an exception. ¶

(c) Locally approved requests for payment exception must be sent to the Department's APD Central Office. The request must include:¶

(A) A statement of individual needs that exceed the assessed rate or the maximum monthly hours of services; and An exception may be approved temporarily with documentation requirements and/or actions the provider must implement to mitigate the need for an exception. Any required documentation or other requirements will be communicated to the provider in writing. ¶

(c) Local ODHS offices, APD and Type B Area Agencies on Aging may deny or choose not to renew exceptions when:¶

(A) There is no demonstrated need for the exception;¶

(B) The provider fails to submit sufficient documentation to show that all exceptions within the adult foster home can be appropriately staffed.¶

(d) Exceptions will be approved until the Individual's current CA/PS assessment is due for renewal, or for a shorter period when:¶

(A) The Individual is discharging from a hospital;¶

(B) The exception was approved due to an urgent situation as specified in these rules;¶

(C) Medical records or verification from the Individual's medical or behavioral health professional indicate that the need for additional caregiving hours may be temporary;¶

(D) When the exception is for behavioral or cognitive needs and Individual doesn't have a behavior support plan;¶

(E) The provider has a history of not appropriately staffing exceptions, an Intensive Individual Rate or specific need contracts, including instances of licensing violations related to insufficient or unqualified staff;¶

(F) The Department determines there is reason to believe the Individual may not require the exception on a long-term basis.¶

(G) The Department has reports of licensing complaints or adult protective service allegations.¶

(B) A statement of how the individual's needs are met and the cost involved in meeting the i The request for an exception renewal was not received timely.¶

(e) Renewals of exception requests must be requested prior to the expiration date and must include:¶

(A) Payroll records, staffing schedules, as specified in this rule that demonstrate the additional caregiving hours as funded by the exception were provided;¶

(B) Documentation as specified in OAR 411-027-0050(2)(a) - (g);¶

(C) Other documentation as required by the Department.¶

(f) Exceptions may only be renewed when:¶

(A) The Individual's CA/PS assessment continues to show the need for the exception;¶

(B) The provider has demonstrated they have provided the additional caregiver hours as required by all Individual's needs.¶

(d) The Department's APD Central Office must review and approve exception requests and transmit the decision and effective date to the Department and AAA local office staff. Approval will only be granted if the exception meets an unmet need and is reasonable to meet that unmet need.s' Tiers and funded by all exceptions in the facility.¶

(g) Exceptions may be terminated, denied or partially approved when:¶

(A) The documentation does not support the requested number of exceptional hours. This includes instances where the requestor did not submit sufficient evidence to allow APD Central Office to make a decision or did not complete the required forms within the timeframe set by the Department;¶

(B) The staffing plan does not demonstrate sufficient proposed staffing for the requested exception and other existing exceptions and Tiers in the facility. ¶

(C) When the Individual's CA/PS assessment does not reflect the need for additional caregiving hours unless an urgent situation exists as referenced in these rules.¶

- (D) As applicable, when the Individuals Behavior Support Plan doesn't reflect the behavioral needs or interventions as documented in the exception request. ¶
- (E) The Individual's medical documentation doesn't support the number of exceptional hours requested, when alternatives could be tried or when the verification doesn't address all of the requirements by OAR 411-027-0050 (2) (c) (D) (i) - (vi). ¶
- (F) When the Provider is not able to supply documentation as required by the Department or taken actions that could mitigate the need for an exception. ¶
- (G) When Provider has a history of not appropriately staffing exceptions, an Intensive Individual Rate or specific need contracts, on multiple occasions. This includes instances of licensing violations related to insufficient or unqualified staff. ¶
- (h) If the exception request is partially approved, terminated or denied as described in this subsection, a written decision will be provided to the provider indicating the reasons for the action. ¶
- (i) When exception orientation training has been temporarily waived due to lack of availability or an urgent situation, as specified in these rules, the exception may be terminated if the provider does not complete the training by the date required by the department. ¶
- (j) If the Individual or the Individual's legal representative, as applicable, initiated the request, a notice of planned action will be sent to the requestor which includes contested hearing rights under ORS chapter 183 when an exception request is denied, reduced, partially approved or terminated. Hearing requests must be submitted within 30 days. ¶
- (k) If the provider initiated the request, the Department will provide a written notice that includes the following elements: ¶
- (A) The date; ¶
- (B) The name of the provider; ¶
- (eC) The Department or the Department's Central Office may deny's decision; and ¶
- (D) Reason(s) for the Department's decision. ¶
- (l) The provider may request an administrative review within 14 days of receiving notice of denial, termination, or partial approval by sending a written notice to the Individual's case manager. ¶
- (m) A provider, Individual, or Individual's legal representative may submit a request to increase an exception. The requests. A notice of planned action is require must include additional information demonstrating the need for the exception and a new CA/PS assessment has been conducted by the case manager that documents the need for the change to an exception. Requests for an increase will be treated as a new exception request. ¶
- (n) Exceptions expire at the end of the Individual or their representative requested the exception's service plan authorization or at an earlier date as determined by the Department. ¶
- (o) Adult Foster Home providers will be given at least 10 business days written notice prior to the expiration or termination of an exception. Providers that do not receive this notice will continue to be paid the exception until a 10-day written notice is issued. ¶
- (fp) Rate exceptions expire one year from the effective date or on the date determined by the Department's Central Office. The requestor seeking a renewal must submit the renewal request on the required forms and payroll documentation showing additional caregivers were provided as funded by the exception, prior to the exception expiration date. ¶
- (q) Failure to comply with these timelines will result in an exception expiring. If an exception expires, a new request must be completed and providers will not be paid for the period between when the exception expired and when a new exception, if approved, begins. ¶
- (r) The Department may deny an exception request, regardless of who has initiated it, when in the last three years the provider has a history of not appropriately providing sufficient staffing to meet an exception or not providing requested documentation to the Department on multiple occasions to support an exception.

Statutory/Other Authority: ORS 410.070

Statutes/Other Implemented: ORS 410.070

AMEND: 411-027-0170

RULE SUMMARY: Amended rule addresses the approved budget rates for 2026 that were approved during the 2025-2027 legislative session. These changes update Medicaid rates to assisted living, residential care and memory care facilities, adult day services and in-home agencies.

CHANGES TO RULE:

411-027-0170

Rate Schedule for Home and Community-Based Services ¶¶

(1) Rates below are in effect starting ~~July~~January 1, 20256.¶¶

(2) Monthly Rates:¶¶

(a) Residential Care Facilities:¶¶

(A) ~~Base~~Tier 1 - \$2,863.00.¶¶

(B) ~~Base plus 1 add-on~~ - \$3,421.00.¶¶

~~(C) Base plus 2 add-ons~~Tier 2 - \$3,421.00.¶¶

(C) Tier 3 - \$3,979.00.¶¶

(D) Tier 4 - \$4,537.00.¶¶

(E) Tier 5 - \$5,172.00 ¶¶

(F) Hourly Exception Rate - \$20.18 per hour.¶¶

(b) Adult Foster Homes: Rates shall be paid in accordance with the terms of collective bargaining agreements negotiated between the Service Employees International Union and the State of Oregon.¶¶

(c) Assisted Living Facilities:¶¶

(A) Level 1 - \$1,980.00.¶¶

(B) Level 2 - \$2,454.00.¶¶

(C) Level 3 - \$3,079.00.¶¶

(D) Level 4 - \$3,866.00.¶¶

(E) Level 5 - \$4,649.00.¶¶

(d) Memory Care Facilities (Endorsed Units Only) - \$6,346.00 per month.¶¶

(e) Contracted In-Home Care Agencies Rate - \$3,979.009.40 per hour.¶¶

~~(f) Base plus 3 add-ons~~ - \$4,537.00.¶¶

~~(f) Home Delivered Meals~~ - \$12.25 per meal.¶¶

(g) Adult Day Services - \$115.24¶¶

(3) Effective July 1, 2026, to June 30, 2027, the monthly rates are as follows:¶¶

(a) Residential Care Facilities:¶¶

(A) Tier 1 - \$3,482.00.¶¶

(B) Tier 2 - \$4,160.00.¶¶

(C) Tier 3 - \$4,839.00.¶¶

(D) Tier 4 - \$5,517.00.¶¶

(E) Tier 5 - \$6,290.00 ¶¶

(F) Hourly Exception Rate - \$20.181.50 per hour.¶¶

(b) Adult Foster Homes: Rates shall be paid in accordance with the terms of collective bargaining agreements negotiated between the Service Employees International Union and the State of Oregon.¶¶

(c) Assisted Living Facilities:¶¶

(A) Level 1 - \$1,982,040.00.¶¶

(B) Level 2 - \$2,454528.00.¶¶

(C) Level 3 - \$3,079172.00.¶¶

(D) Level 4 - \$3,866982.00.¶¶

(E) Level 5 - \$4,64789.00.¶¶

(d) Memory Care Facilities (Endorsed Units Only) - \$6,346480.00 per month.¶¶

(e) Contracted In-Home Care Agencies Rate - \$3940.40 per hour.¶¶

(f) Home Delivered Meals - \$12.25 per meal.¶¶

(g) Adult Day Services - \$122.16

Statutory/Other Authority: ORS 410.070

Statutes/Other Implemented: ORS 410.070