

**DEPARTMENT OF HUMAN SERVICES
Seniors and People with Disabilities**

**Oregon Administrative Rules
Chapter 411, Division 300**

CHILDREN'S INTENSIVE IN-HOME SERVICES

EFFECTIVE DECEMBER 11, 2003

411-300-0100 *(Effective 12/28/2002)*

Mission Statement, Purpose and Statutory Authority

- (1) Mission Statement. The mission of the Department of Human Services, Developmental Disability Services is to provide support services that will enhance the quality of life of persons with developmental disabilities and to provide specialized services for children with severe impairments.
- (2) Purpose. These rules establish the policy of and prescribe the standards and procedures for the provision of Children's Intensive In-Home Services (CIIS) for children in the Model Waiver for Children with Intense Behavior Needs. These Administrative Rules are established to ensure that CIIS augment and support independence, empowerment, dignity, and development of the child through the provision of flexible and efficient services to eligible families. CIIS are exclusively intended to allow a child who has a developmental disability and intense behaviors to have a permanent and stable familial relationship. The services provide the support necessary to enable the family to meet the needs of caring for a child who meets the eligibility criteria for CIIS. These services are intended to support, not supplant, families' natural supports and services.
- (3) Statutory Authority. These rules are authorized by ORS 409.050 and carry out the provisions of ORS 430.215 and ORS 427.007.

Stat. Auth.: ORS 409.050 and 417.340 through 417.350

Stats. Implemented: ORS 430.215, 427.007 and 417.340 through 417.350

411-300-0110 *(Effective 12/11/2003)*

Definitions

- (1) "Activities of Daily Living (ADL)" means tasks usually performed in the course of a normal day in a child's life; such as eating, dressing, bathing and personal hygiene, mobility, bowel and bladder control, usual developmental tasks, such as play and social development
- (2) "Aide" means a caregiver who is hired by the family or a billing provider to provide In-Home Daily Care (IHDC).
- (3) "Behavior Criteria" means the assessment tool, Form DHS-0521 (REVISED 10/03), used by the CIIS to evaluate the intensity of the challenges presented by children.
- (4) "Behavior Consultant" means a contractor with specialized skills who assesses the child, the needs of the family, and the environment in terms of the behavioral support and related issues, develops a Behavior Support Plan, trains parents and providers, and monitors and revises the Behavior Support Plan as needed.
- (5) "Billing Provider" means an organization that enrolls with the Department and contracts with the Department to provide services through its employees and bills the Department for the performing provider's services.
- (6) "Child" means a person who is under the age of 18, eligible for developmental disability services and accepted for services under the Model Waiver for Children with Intense Behavior Needs.
- (7) "Complete Plan of Care (CPC)" means a written document developed by the service coordinator with the family that describes the needs of the child and the needs of the family that impact the child and how those needs will be met. It includes the Nursing Care Plan when one exists.
- (8) "Cost Effective" means that in the opinion of the service coordinator a specific service meets the child's service needs and costs less than or is comparable to other service options considered.
- (9) "Delegation" means that a registered nurse authorizes an unlicensed person to perform nursing tasks and confirms that authorization in writing. Delegation occurs only after assessment of the specific situation, the abilities of the unlicensed person, teaching the task and ensuring supervision. Delegation by a registered nurse shall only occur to the extent allowed by Oregon Board of Nursing's administrative rules. Delegation by physicians is also allowed.

- (10) "Department" means the Department of Human Services, Seniors and People with Disabilities, an organizational unit within the Department that focuses on the planning of services, policy development and regulation of programs for person that have developmental disabilities, or are elderly or have physical disabilities.
- (11) "Developmental Disability (DD)" for children five years and younger is always provisional and means the condition or impairment must not be otherwise primarily attributed to mental illness, substance abuse, an emotional disorder, Attention Deficit and Hyperactivity Disorder (ADHD), a learning disability, or sensory impairment; and be expected to last indefinitely; AND
- (a) There is a standardized test demonstrating significant adaptive impairment (more than two standard deviations below the norm) in at least two of the following areas of functioning: self care, receptive and expressive language, learning, mobility, and self-direction; OR
 - (b) There is a statement by a licensed medical practitioner that the child has a condition or syndrome that will likely cause significant adaptive impairment in at least two of the areas listed in OAR 411-300-0110(11)(a)
- (12) "Developmental Disability (DD)" for children six years and older is always provisional and means:
- (a) There is a diagnosis of mental retardation or developmental disability, and;
 - (b) There is a significant adaptive behavior impairment (more than two standard deviations below the norm) in at least two of the following areas: self care, receptive and expressive language, learning, mobility, self direction, which requires training or supports similar to that required by individuals with mental retardation, and;
 - (c) Must not otherwise primarily be attributed to mental illness, substance abuse, an emotional disorder, Attention Deficit and Hyperactivity Disorder (ADHD), a learning disability, or sensory impairment, and
 - (d) The individual is expected to need multiple, specialized supports indefinitely.

- (13) "Eligible Range" means that the score on the Behavior Criteria is at or above 200.
- (14) "Family Home" means the residence of the child, which is not a foster home, group home, or other residential service funded with public funds.
- (15) "ICF/MR Model Waiver" means the waiver program granted by the federal Centers for Medicare and Medicaid Services that allows Title XIX funds to be spent on children in their family home who otherwise would have to be served in an ICF/MR if the waiver program was not available.
- (16) "In-Home Daily Care (IHDC)" means essential supportive daily care delivered by a qualified provider who enables a child to remain and/or return to his/her family's home.
- (17) "Parent" means biological parent, adoptive parent or legal guardian.
- (18) "Primary Care giver" means the parent or relative or other non-paid parental figure that provides the direct care of the child at the times that a provider is not present.
- (19) "Provider or Performing Provider for In-Home Daily Care" means the individual who is qualified to receive payment from the Department for In-Home Daily Care and meets the requirements of OAR 411-300-0170. Performing Providers work directly with children. Providers may be employees of Billing Providers, employees of the family or independent contractors.
- (20) "Respite" means short-term care provided for the relief of the primary caregiver.
- (21) "Service Coordinator" means an employee of the Department Children's Intensive In-home Services who ensures a child's eligibility for CIIS services and provides assessment, case planning, service implementation, and evaluation of the effectiveness of the services.

Stat. Auth.: ORS 409.050 and 417.340 through 417.350

Stats. Implemented: ORS 430.215, 427.007 and 417.340 through 417.350

411-300-0120 (Effective 12/28/2002)

Eligibility

- (1) In order to be eligible for services, the child must meet the following criteria:
 - (a) Be under the age of 18; and
 - (b) Be DD eligible; and
 - (c) Be accepted by CIIS by scoring greater than 200 on the Behavior Criteria within 2 months of starting services; and
 - (d) Be on the ICF/MR Model Waiver; and
 - (e) Reside in the family home; and
 - (f) Be capable of being safely served in the family home. This includes, but is not limited to, parents demonstrating the willingness, skills, and ability to participate in the care as outlined in the Complete Plan of Care. This must be done in a cost effective manner as determined by the service coordinator within the limitations of OAR 411-300-0150 and 411-300-0160.
- (2) Children who reside in a hospital, school, sub-acute facility, nursing facility, ICF/MR, residential facility, foster home, or other institution are not eligible for CIIS Services.
- (3) Children who have family, government and/or community resources available to provide for their care or do not require waived services are not eligible for CIIS; also children not safely served in their homes as per OAR 411-300-0120(1)(f) are not eligible for CIIS. The services are not available to replace care provided by a parent or to replace other governmental or community services.
- (4) Children who have a score of 150 or less will be transitioned out of CIIS within six months and will no longer be eligible for services.
- (5) Children will be disenrolled from CIIS if they no longer meet the criteria of OAR 411-300-0120 (1).

- (6) Children may be otherwise eligible but will be placed on a wait list if the allowable number of children on the Model Waiver are already being served. Children will be served off the wait list on a first come, first served basis as space on the Model Waiver allows. The date the initial application for service is completed shall determine the order on the wait list.
- (7) The date the application is complete is the date that CIIS has the required demographic data on the child and CIIS has a statement of DD eligibility.
- (8) Children who were once served in CIIS, left those services, and now reapply and who currently meet all other criteria for eligibility shall be put on the wait list as of the date their first application for services was complete.

Stat. Auth.: ORS 409.050 and 417.340 through 417.350

Stats. Implemented: ORS 430.215, 427.007 and 417.340 through 417.350

411-300-0130 (*Effective 12/28/2002*)

Complete Plan of Care

- (1) The service coordinator shall be responsible for the following activities:
 - (a) **Assessment:** The service coordinator will assess the individual service needs of the child through interviews with the parents, caregivers or other interested persons. The assessment will include:
 - (A) Identification of services for which the child is currently eligible.
 - (B) Identification of services currently being provided.
 - (C) All available family, government and/or community resources and private health insurance that meet any or all of the child's needs.
 - (b) **Care Planning:** The service coordinator will prepare, with the input of the family and any other person at family's request, a written Complete Plan of Care that:
 - (A) Defines the needs of the child and the family;

- (B) Identifies the methods, resources and strategies which address some or all of those needs;
 - (C) Identifies the number of hours of IHDC or Behavior Consultation authorized for the child; and
 - (D) Identifies other services authorized by CIIS for the child.
 - (E) Translated as necessary upon request.
- (2) The Complete Plan of Care will:
- (a) Note the maximum hours of authorized provider services:
 - (b) Estimate the cost of the care.
- (3) The Nursing Care Plan, when one exists, will be included in the Complete Plan of Care.
- (4) The plan will be reviewed with the family prior to implementation and a copy provided to the family.
- (5) The plan will include the date of the next planned review which, at a minimum, will be completed within 365 days of the last plan.
- (6) Significant changes in the needs of the child shall be reflected in the Complete Plan of Care and a copy provided to the family.

Stat. Auth.: ORS 409.050 and 417.340 through 417.350

Stats. Implemented: ORS 430.215, 427.007 and 417.340 through 417.350

411-300-0140 (*Effective 12/28/2002*)

Rights of the Child

- (1) When interventions in the behavior of the child are necessary, positive, preventative, non-adversive interventions shall be emphasized.
- (2) The least intrusive intervention to keep the child and others safe shall be used.
- (3) Abusive or demeaning interventions shall never be used.

- (4) When physical restraints are required they can only be used as a last resort and providers must be appropriately trained as per behavior support plan.

Stat. Auth.: ORS 409.050 and 417.340 through 417.350

Stats. Implemented: ORS 430.215, 427.007 and 417.340 through 417.350

411-300-0150 *(Effective 12/28/2002)*

Scope and Limitations of CIIS

- (1) Parents are the primary care giver(s) and the services are intended to support, not supplant the natural supports supplied by the family.
- (2) The Complete Plan of Care will use the most cost effective services for safely meeting that child's needs as determined by the service coordinator.
- (3) CIIS may include a combination of the following based upon the needs of the child as determined by the service coordinator and consistent with the child's Complete Plan of Care:
 - (a) Behavior Consultations;
 - (b) Minor Home Adaptations;
 - (c) Motor Vehicle Adaptations;
 - (d) Goods, services, and supplies or
 - (e) In-Home Daily Care.
- (4) All services authorized by the Department must be included in a written Complete Plan of Care in order to be eligible for payment.
- (5) The annual average monthly payment, as authorized in the CIIS Complete Plan of Care, dated from the initial CPC to the anniversary date, for a child whose score on the Behavior Criteria is 200 or greater, shall not exceed the maximum amount of \$2500.00 allowed per month. This is in accordance with OAR 411-300-0150(2).
- (6) The annual average monthly payment, as authorized in the CIIS Complete Plan of Care, dated from the initial CPC to the anniversary date, for a child

whose score on the Behavior Criteria is less than 200 and greater than 150, shall not exceed the maximum amount of \$1500.00 allowed per month. This is in accordance with OAR 411-300-0150(2).

- (7) If multiple children in one household are eligible for the Model Waiver and their needs can be safely met within the average monthly cost allowed for one child, that should be the maximum budget authorized. This is in accordance with OAR 411-300-0150(2).
- (8) Exceptions by the Department to the above cost limitations in service may only be made in the following circumstances:
 - (a) The child is at immediate risk of loss of home without the expenditure.
 - (b) In order to provide supports for emerging or changing care needs/behaviors, the service coordinator can authorize additional costs for a time-limited period, not to exceed 90 days.
 - (c) Temporary additional costs can be authorized when a significant medical condition or event occurs and prevents the primary caregiver from rendering care or services. The following must occur:
 - (A) Documentation of primary caregivers medical condition by physician.
 - (B) Service Coordinator must authorize with supervisor's approval.
 - (C) Must be reviewed at least every 90 days.
 - (d) The service coordinator determines, with a behavior consultant, that the child needs two staff present at one time to ensure the safety of the child and others. Prior to approval, the service coordinator shall determine that all care givers, including the parents, have been trained in behavior management and that all other feasible recommendations from the behavior consultant and service coordinator have been implemented.
 - (e) If the parent of child's primary language is not English, cost of interpretation/translation services related to CIIS, will not be considered part of the child's maximum monthly budget.

- (9) CIIS shall only be authorized to enable the family to meet the needs of caring for the child on the Model Waiver.
- (10) CIIS shall not pay for services that are:
 - (a) Abusive, aversive or demeaning, or
 - (b) Experimental, or
 - (c) Illegal, or
 - (d) Determined unsafe for the general public by recognized child and consumer safety agencies, or
 - (e) Not necessary or cost-effective, or
 - (f) Educational services for school-age children, including professional instruction, formal training and tutoring in communication, socialization, and academic skills, or
 - (g) Services or activities for which the Legislative or Executive Branch of Oregon government has prohibited use of public funds.
- (11) Behavior Consultation may include:
 - (a) Working with the family to identify:
 - (A) Areas of a child's home life that are of most concern for the family and child;
 - (B) The formal or informal responses the family or providers have used in those areas; and
 - (C) The unique characteristics of the family that could influence the responses that would work with the child.
 - (b) An assessment of the child that includes:
 - (A) Specific identification of the behaviors or areas of concern;
 - (B) Identification of the settings or events that are likely to be associated with or to trigger the behavior;

- (C) Identification of early warning signs of the behavior;
 - (D) Identification of the probable reasons that are causing the behavior and the needs of the child that are being met by this behavior, including the possibility that the behavior is:
 - (i) An effort to communicate,
 - (ii) The result of a medical condition,
 - (iii) The result of an environmental cause, or
 - (iv) The symptom of an emotional/psychiatric disorder.
 - (E) Evaluation and identification of the impact of disabilities, such as autism, blindness, deafness, etc., that affect the child and the area of concern, and that impact the development of strategies; and
 - (F) Assessment of current communication strategies.
- (c) Development of a variety of positive strategies that assist the family and providers to help the child use acceptable, alternative actions to meet the child's needs in the most cost effective manner. This can include changes in the physical and social environment, developing effective communication, and appropriate responses by parents and providers to the early warning signs.
- (A) Positive, preventive interventions shall be emphasized.
 - (B) The least intrusive intervention possible shall be used.
 - (C) Abusive or demeaning interventions shall never be used.
 - (D) The strategies shall be adapted to the specific disabilities of the child and the style/culture of the family.
- (d) Development of emergency/crisis procedures to be used to keep the child, family and providers safe. Physical restraint is only utilized in accordance with OAR 411-300-0140(4).

- (e) Writing a Behavior Support Plan that includes the following:
 - (A) Use of clear, concrete language that is understandable to the family and providers; and
 - (B) Describes the assessment and strategies and procedures to be used.
 - (f) Teaching the provider and family the strategies and procedures to be used.
- (12) Behavior consultation shall only be authorized to support families in their caregiving role, not as an educational service. Behavior consultation will be authorized only as needed to respond to specific problems identified by the parents or service coordinator.
- (13) Minor home adaptations shall only be authorized:
- (a) When they are necessary to ensure the health, welfare and safety of the child or which enable the child to function with greater independence in the home. Adaptations or improvements to the home which are of general utility and are not for direct safety, remedial benefit or long term benefit to the child are excluded. Adaptations which add to the total square footage of the home are excluded. Adaptations funded by CIIS shall be the most cost-effective solution.
 - (b) All minor home adaptations shall be provided in accordance with applicable state or local building codes by licensed contractors. Any modification that impedes egress shall be approved only if a risk assessment demonstrates no safer solution and a safety plan is signed by the family.
 - (c) For minor home adaptations that, singly or together, exceed \$5000, the Department may protect its interest for the entire amount of the adaptations through liens or other legally available means.
 - (d) Minor home adaptations that are provided in a rental structure shall be authorized in writing by the owner of the structure prior to initiation of the work. This does not preclude any requirement related to the Reasonable Accommodation Act.

- (14) Motor vehicle adaptations shall only be authorized for the primary vehicle used by the child. The adaptation must be directly related to the child's disability and not a typical repair or upkeep required by a motor vehicle.
- (15) Goods, services, and supplies may include any combination of the following:
- (a) Homemaker. Homemaker services consist of general household activities. Homemaker services shall only be authorized to allow the primary care giver more time to be with their child.
 - (b) Respite. Respite services can be authorized on a limited basis for relief for the primary care giver.
 - (c) Transportation. Payment for transportation can be authorized to gain access to community services, activities and resources as specified in the CPC. No payment can be made for medical transportation or for transportation provided by a family member.
 - (d) Specialized equipment and supplies. Items could include, among others, communication devices, adaptive clothing, adaptive eating equipment, or adaptive sensory or habilitation devices or supplies. Items furnished by the Oregon Health Plan are excluded. Increased utility costs caused by the unique needs of the child and the disability may be approved as long as the family continues to pay typical utility expenditures.
 - (e) Chore. Chore services are those needed to make the home a clean, sanitary, and safe environment. These services shall be provided only in situations where no one else in the household or other persons are capable of performing or providing these. Services include heavy household chores such as window washing or carpet cleaning.
 - (f) Family training. Training and counseling services may be authorized for the families of CIIS children which increase the family's capability to care for their child.
 - (A) Conference or workshop registrations which directly relate to the child's disability and will increase the knowledge and skills of the family may be authorized.

Travel and lodging expenses are excluded. Meals are excluded unless included in the registration cost. Funding for training is included in the monthly budget as calculated by the service coordinator.

- (B) Counseling services shall:
 - (i) Only be provided by licensed mental health providers,
 - (ii) Directly relate to the child's disability and the ability of the parents to care for their child,
 - (iii) Be short term, and
 - (iv) Have treatment goals prior approved by the Service Coordinator.

- (C) Counseling services are excluded for:
 - (i) Therapy that could be obtained through Oregon Health Plan or other payment mechanisms;
 - (ii) Marriage therapy;
 - (iii) Therapy to address parent(s) or other family member(s)' psychopathology; and
 - (iv) Counseling that addresses stressors not directly attributed to the child eligible for CIIS.

- (g) Specialized Consultation. Services by a physical therapist, occupational therapist, speech and language therapist, or dietitian. Services covered by the Oregon Health Plan are excluded.

- (h) Specialized diet. In order to be authorized:
 - (A) The foods must be on the approved list developed by the Department.
 - (B) The diet must be ordered by a physician licensed by the Oregon Board of Medical Examiners.

- (C) The diet must be monitored by a dietician.
 - (D) It cannot be reimbursed through the Oregon Health Plan or any other source of public and private funding.
 - (E) Cost of food will not exceed \$100 per month.
- (i) Translation. If the parent or child's primary language is not English, the services of a translator or interpreter may be authorized only to allow the child or parents to communicate with providers of CIIS services.
 - (j) Other goods, services, and supplies may be eligible for payment if:
 - (A) They are directly related to the child's disability;
 - (B) They are included in an approved Complete Plan of Care;
 - (C) They maintain the health and safety of the child;
 - (D) They are cost effective;
 - (E) They are not typical for a family to provide a child of the same age; and
 - (F) They are required to help the family to continue to meet the needs of caring for the child.
- (16) Goods, services and supplies paid for by the Department shall be documented by receipts and the receipts maintained by the Department for 5 years. If no receipt is available, the family shall submit to the Department in writing a statement that they received the goods, service or supplies and the date they were received on.
- (17) The Department may protect its interest through any legally allowable means for any good, service, or supply as determined by the Department.
- (18) The Department may expend its funds through contract, purchase order, use of credit card, payment directly to the vendor, or any other legal payment mechanism.

Stat. Auth.: ORS 409.050 and 417.340 through 417.350

Stats. Implemented: ORS 430.215, 427.007 and 417.340 through 417.350

411-300-0160 (*Effective 12/28/2002*)

Scope and Limitations of In-Home Daily Care Services

- (1) In-Home Daily Care services may include a combination of assistance with ADLs, nursing services, or other supportive services, as determined by the service coordinator, consistent with the child's Complete Plan of Care. The extent of the services may vary, but the extent of service is limited as described in OAR 411-300-0150. The services include:
 - (a) Basic personal hygiene - including assistance with bathing and grooming;
 - (b) Toileting/bowel and bladder care - including assistance in the bathroom, diapering, external cleansing of perineal area, and care of catheters;
 - (c) Mobility - including transfers, comfort, positioning, and assistance with range of motion exercises;
 - (d) Nutrition - including meal preparation, special diets, monitoring intake and output, and feeding;
 - (e) Skin care - including dressing changes;
 - (f) Supervision - Providing an environment that is safe and meaningful for the child, interacting with the child to prevent danger to the child and others, and assisting the child with appropriate leisure activities;
 - (g) Communication - Assisting the child in communicating, using any means used by the child;
 - (h) Neurological - Monitoring of seizures, administering medication, observing status; and
 - (i) Other Personal Care Tasks or Services.
- (2) When any of the services listed in Subsection (1)(a) through (i) of this rule are essential to the health and welfare of the child, the following supportive services may also be provided:

- (a) Housekeeping tasks necessary to maintain the child in a healthy and safe environment;
 - (b) Arranging for necessary medical equipment, supplies, and medications;
 - (c) Arranging for necessary medical appointments;
 - (d) Accompanying the child to appointments, outings, and community-based activities; and
 - (e) Activities to enhance development.
- (3) The hours may be spread throughout the time authorized in the voucher or used in large blocks as the family determines.
- (4) Hours shall be authorized only to support a family in their primary care giving role.
- (5) Hours shall not be authorized that will supplant the services available from family, community, other government or public services, insurance plans, schools, philanthropic organizations, friends, or relatives. Hours shall not be authorized solely to allow a parent to work and/or attend school.
- (6) When two or more children in the same home or setting qualify for CIIS, the same provider shall provide services to all qualified children if services can be safely delivered by a single provider, as determined by the service coordinator.

Stat. Auth.: ORS 409.050 and 417.340 through 417.350

Stats. Implemented: ORS 430.215, 427.007 and 417.340 through 417.350

411-300-0170 (Effective 12/28/2002)

Provider Qualifications

- (1) A performing provider for In-Home Daily Care is an individual, 18 years or older, who provides evidence satisfactory to the Department or its designee that demonstrates, by background, education, references, skills, and abilities, that he/she is capable of safely and adequately providing the services authorized.

- (2) A performing provider for Behavior Consultation shall have the following:
 - (a) Education, skills, and abilities necessary to provide the services in OAR 411-300-0150(11);and
 - (b) Current certification demonstrating completion of Level II training in Oregon Intervention Systems; and
 - (c) Submit a resume or the equivalent to the Department with evidence of at least:
 - (A) Bachelor's degree in Special Education, Psychology, Speech and Communication, Occupational Therapy, Recreation, Art or Music Therapy, or a behavior science or related field and one year experience with people with disabilities who present difficult or dangerous behaviors; or
 - (B) Three years of experience with people with disabilities who present difficult or dangerous behaviors and at least 1 year of that experience must include providing the services in OAR 411-300-0150(11).
 - (C) Additional education and/or experience may be required to safely and adequately provide the services described in OAR 411-300-1500(11).
- (3) A provider shall maintain a drug-free work place, pass a criminal history check as defined by OAR 411-009-0000 through 411-009-0110, not be on the current federal Centers for Medicare and Medicaid Services list of excluded or debarred providers, and be free of convictions or founded allegations of abuse and/or neglect by the appropriate agency, including but not limited to the Department of Human Services.
- (4) A prospective performing provider that will work with a child shall consent to a criminal record check by CIIS or the Department prior to enrolling as a provider. CIIS or the Department may require a criminal record check for any provider having regular unsupervised contact with children in the home. CIIS or the Department may require that the provider provide fingerprints and processing fees for the purpose of a criminal record check.

- (5) A provider shall not be a parent, step parent, spouse, or legal guardian of the child.
- (6) A performing provider must sign a Medicaid provider agreement and be enrolled as a Medicaid provider prior to delivery of any In-Home Daily Care.
- (7) A provider is not an employee of the Department or the State of Oregon and is not eligible for state benefits and immunities, including but not limited to PERS or other state benefit programs.
- (8) If the performing or billing provider is an independent contractor, during the terms of the contract, the performing or billing provider shall maintain in force at his/her own expense Professional Liability Insurance with a combined single limit of not less than \$1,000,000 each claim, incident or occurrence. The provider shall furnish evidence of insurance coverage to CIIS prior to beginning work. This insurance is to cover damages caused by error, omission, or negligent acts related to the professional services. There shall be no cancellation of insurance coverage(s) without 30 days written notice to CIIS.
- (9) If the performing provider is an employee of the family, the provider shall submit to the Department documentation of immigration status required by Federal Statute. The Department will maintain documentation of immigration status required by Federal Statute, as a service to the family/employer.
- (10) A Billing Provider that wishes to enroll with the Department shall maintain and submit evidence upon initial application and upon request by the Department of the following:
 - (a) Current criminal history checks on each employee who will be providing services in a home showing that the employee has no disqualifying criminal convictions;
 - (b) Professional Liability Insurance that meets the requirements of OAR 411-300-0170(8); and
 - (c) Any licensure required of the agency by the State of Oregon or federal law or regulation.
- (11) A provider shall immediately notify the family and CIIS, if appropriate, of injury, illness, accidents, or any unusual circumstances which may have a

serious effect on the health, safety, physical, emotional well being or level of service required by the child for whom services are being provided.

- (12) Providers described in ORS Chapter 419 are required to report suspected child abuse to their local office of the Department of Human Services or police in the manner described in ORS Chapter 419.

Stat. Auth.: ORS 409.050 and 417.340 through 417.350

Stats. Implemented: ORS 430.215, 427.007 and 417.340 through 417.350

411-300-0180 *(Effective 12/28/2002)*

Prior Authorization for In-Home Daily Care

- (1) Payment for services must be authorized by the Department before services begin. Payment will be based on these rules, the service needs of the child as documented in the Complete Plan of Care and the cost effectiveness of the proposed services.
- (2) Prior to authorization of services that are to be provided by a nurse, there shall be a physician's order for the nursing services. However, CIIS shall determine whether payment of nursing services or the hours of service as ordered by the physician will be authorized for payment according to these rules.

Stat. Auth.: ORS 409.050 and 417.340 through 417.350

Stats. Implemented: ORS 430.215, 427.007 and 417.340 through 417.350

411-300-0190 *(Effective 12/28/2002)*

Documentation Needs for In-Home Daily Care and Behavior Consultation

- (1) Accurate time sheets of services, dated and signed by the individual provider and the parent after the services are provided, shall be maintained and submitted to CIIS with any request for payment for services.
- (2) Requests for payment for services shall:
 - (a) Include the voucher that prior authorized the services;
 - (b) Be signed by the parent of the child after the services were delivered, verifying that the services were delivered as billed; and

- (c) Be signed by the provider or billing provider, acknowledging agreement upon request with the terms and condition of the voucher and attesting that the hours were delivered as billed.
- (3) Documentation of provided services shall be provided to the service coordinator upon request and maintained in the child's place of residence or the place of business of the provider of services. Payment can only be made for services related to the child's disability as outlined in the Complete Plan of Care.
- (4) Vouchers and time sheets shall be retained by the Department for at least five years from the date of service.
- (5) Behavior Consultants shall submit to the Department, upon request, the following written in clear, concrete language, understandable to the family and IHDC providers:
 - (a) An evaluation of the child, the family's concerns, the environment of the child, current communication strategies used by the child and used by others with the child and any other disability of the child that would impact the appropriateness of strategies to be used with the child;
 - (b) Any behavior plan or instructions left with parents or IHDC providers that describes the suggested strategies to be used with the child.
- (6) Documentation of provided services shall be maintained by the billing provider for at least seven years from the date of service.
- (7) Upon written request from the Department, the Oregon Department of Justice Medicaid Fraud Unit or Centers for Medicare and Medicaid Services or their authorized representatives, providers or billing providers shall furnish requested documentation immediately or within the time frame specified in the written request. Failure to comply with the request may be deemed by the Department as reason to deny or recover payments.
- (8) Access to records by the Department inclusive of medical/nursing records, behavior/psychiatric and financial records, does not require authorization or release by the CIIS child or family.

Stat. Auth.: ORS 409.050 and 417.340 through 417.350

Stats. Implemented: ORS 430.215, 427.007 and 417.340 through 417.350

411-300-0200 (*Effective 12/28/2002*)

Payment for In-Home Daily Care and Behavior Consultation

- (1) Payment will be made after services are delivered as authorized by the service coordinator.
- (2) Rates will be individually negotiated by the Department, based on the individual needs of the child, within the guidelines published by the Department.
- (3) Authorization must be obtained prior to the delivery of any services for those services to be eligible for payment.
- (4) Providers must request authorization for payment of services provided during an unforeseeable emergency on the first business day following the emergency service. The service coordinator will determine if the service is eligible for payment.
- (5) The Department will make payment to the employee of the family on behalf of the parent. The Department will pay the employer's share of FICA and withhold the employee's share of FICA as a service to the family/employer.
- (6) The delivery of authorized services shall occur so that any individual employee of the parent shall not exceed forty hours per work week. Services will not be authorized that require the payment of overtime, without written prior authorization by the supervisor of CIIS.
- (7) The Department will not pay for any hours of service provided by an individual performing provider beyond 16 hours in any 24 hour period unless the hours are part of a 24-hour rate negotiated by the Department and there is evidence the child can be safely served with a 24-hour rate. Exceptions shall require written authorization by the supervisor of CIIS.
- (8) Holidays are paid at the same rate as non-holidays.
- (9) Travel time to reach the job site is not reimbursable.
- (10) Requests for payments must be submitted to the Department within three (3) months of the delivery of services in order to be eligible for payment.

- (11) Payment by the Department for CIIS shall be considered full payment for the services rendered under Title XIX or Title XXI. Under no circumstances shall the performing provider or billing providers demand or receive additional payment for these services from the family or any other source unless the payment is the financial responsibility (spend-down) of the child under the Medically Needy Program.
- (12) Medicaid funds are the payor of last resort. The provider or billing provider shall bill all third party resources before Medicaid unless another arrangement is agreed upon by the Department in the Complete Plan of Care.
- (13) The Department reserves the right to make a claim against any third party payer before or after making payment to the provider of service.
- (14) Prior authorizations which have been issued may be voided without cause by the Department.
- (15) Upon submission of the voucher for payment, the provider agrees that it has complied with:
 - (a) All rules of the Department;
 - (b) 45 CFR Part 84 which implements Title V, Section 504 of the Rehabilitation Act of 1973;
 - (c) Title II and Title III of the Americans with Disabilities Act of 1991; and
 - (d) Title VI of the Civil Rights Act of 1964.
- (16) All billings must be for services provided within the provider's licensure.
- (17) It is the responsibility of the provider to submit true and accurate information on the voucher. Use of a billing provider does not abrogate the performing provider's responsibility for the truth and accuracy of submitted information.
- (18) No person shall submit to the Department:
 - (a) A false voucher for payment;

- (b) A voucher for payment which has been or is expected to be paid by another source; or
 - (c) Any voucher for services which have not been provided.
- (19) The Department will make payment only to the enrolled provider who actually performs the service or the provider's enrolled billing provider. Federal regulations prohibit the Department from making payment to collection agencies.
- (20) Payments may be denied if any provisions of OAR 411-300-0100 through 411-300-0200 are not complied with.
- (21) Overpayments shall be recouped. The amount to be recovered:
- (a) Will be the entire amount determined or agreed to by the Department;
 - (b) Is not limited to amount(s) determined by criminal or civil proceedings; and
 - (c) Will include interest to be charged at allowable State rates.
- (22) The Department will deliver to the provider by registered or certified mail or in person a request for repayment of the overpayment or notification of recoupment of future payments.
- (23) Payment schedules with the interest may be negotiated at the discretion of the Department.
- (24) If recoupment is sought from a family who received services, contested hearing rights in OAR 411-300-0210 shall apply.

Stat. Auth.: ORS 409.050 and 417.340 through 417.350

Stats. Implemented: ORS 430.215, 427.007 and 417.340 through 417.350

411-300-0210 *(Effective 12/28/2002)*

Denial of Services, Amount of Services, or Eligibility

- (1) The Department shall notify every applicant or recipient of services, unless the action is part of the CPC or the parent has agreed, in writing at the time of denial of a request for eligibility, or at the time of any action to terminate,

suspend, or reduce CIIS eligibility or covered services, of the right to a hearing. A notice concerning termination, suspension, or reduction of existing services shall be mailed to or served personally upon the child's parent or legal guardian not later than ten days before the effective date of action.

- (2) The parent or legal guardian may appeal a denial of a request for additional or different services only if the request has been made in writing and submitted to Department of Human Services, Seniors and People with Disabilities, CIIS, Salem, Oregon. If the Department denies a written request for additional or different services, it must notify the parent or guardian in writing at the time of the denial of the information specified in paragraph (3) of this rule.
- (3) A notice required by paragraphs (1) or (2) of this rule shall be served upon the parent or legal guardian personally or by certified mail. The notice shall state:
 - (a) A statement of what action the Department intends to take;
 - (b) The reasons for the intended action;
 - (c) A statement of the child's right to a contested case hearing;
 - (d) A statement that the Department's files on the subject of the contested case automatically become part of the contested case record upon default for the purpose of making a prima facie case;
 - (e) A statement that the notice becomes a final order upon default if the parent or legal guardian fails to request a hearing within a specified time;
 - (f) In cases of an action based upon a change in law, the circumstances under which a hearing will be granted; and
 - (g) An explanation of the circumstances under which CIIS services will be continued if a hearing is requested.
- (4) If the parent or legal guardian disagrees with the decision of the Department, they may request a contested case hearing as provided in ORS 183. The request for a hearing must be in writing on Form AFS 443 and signed by the parent or legal guardian. To be considered timely, the

request must be received by the Department within 30 days from the date of the Department's notice of denial.

- (5) The family shall be offered an opportunity for informal review by the Department or the designee.
- (6) The performing or billing provider shall submit relevant documentation to the Department within five working days at the request of the Department when a hearing has been requested.

Stat. Auth.: ORS 409.050 and 417.340 through 417.350

Stats. Implemented: ORS 430.215, 427.007 and 417.340 through 417.350

411-300-0220 *(Effective 12/28/2002)*

Sanctions for CIIS Providers

- (1) Sanction(s) may be imposed on a provider when a following condition is determined by the Department to have occurred:
 - (a) Convicted of any crime that would have resulted in an unacceptable criminal history check upon hiring or issuance of a provider number;
 - (b) Convicted of unlawfully manufacturing, distributing, prescribing, or dispensing a controlled substance;
 - (c) Had his/her license suspended, revoked, or otherwise limited, or surrendered his/her license;
 - (d) Has failed to safely and adequately provide the services authorized;
 - (e) Has had an allegation of abuse or neglect substantiated against them;
 - (f) Failed to cooperate with any investigation and/or grant access to or furnish, as requested, records or documentation;
 - (g) Billed excessive or fraudulent charges or convicted of fraud;
 - (h) Has made a false statement concerning conviction of crime or substantiation of abuse;

- (i) Falsified required documentation;
 - (j) Has not adhered to the provisions of OAR 411-300-0100 through 411-300-0220, or
 - (k) Been suspended or terminated as a provider by another agency within the Department.
- (2) The following sanctions may be imposed on a provider by the Department:
- (a) The provider may be terminated from participation in CIIS or in the MFC Program;
 - (b) The provider may be suspended from participation for a specified length of time and/or until specified conditions for reinstatement are met and approved by the state; and
 - (c) The Department may withhold payments to the provider.
- (3) If the Department makes a decision to sanction a provider, the provider will be notified by mail of the intent to sanction. The provider may appeal this action within 30 days of the date of the notice. The provider must appeal this action separately from any appeal of audit findings and overpayments.
- (4) The provider may appeal a sanction by requesting an administrative review by the Administrator of the Department or designee.
- (5) For an appeal to be valid, written notice of the appeal must be received by the Department within 30 days of the date the sanction notice was mailed to the provider.
- (6) At the discretion of the Department, providers who have previously been terminated or suspended by any agency within DHS may not be re-enrolled as providers of Medicaid services.

Stat. Auth.: ORS 409.050 and 417.340 through 417.350

Stats. Implemented: ORS 430.215, 427.007 and 417.340 through 417.350