



PERMANENT ADMINISTRATIVE ORDER

APD 9-2026

CHAPTER 411

DEPARTMENT OF HUMAN SERVICES

AGING AND PEOPLE WITH DISABILITIES AND DEVELOPMENTAL DISABILITIES

FILED: 05/26/2026 2:33 PM

ARCHIVES DIVISION SECRETARY OF STATE & LEGISLATIVE COUNSEL

FILING CAPTION: ODDS: General Definitions for Developmental Disabilities Services – Expenditure Guidelines (411-317-0000)

EFFECTIVE DATE: 06/01/2026

AGENCY APPROVED DATE: 05/20/2026

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AMEND: 411-317-0000

NOTICE FILED DATE: 03/24/2026

RULE SUMMARY: OAR 411-317-0000, about general definitions for developmental disabilities services, is being amended to:

- Update the “Expenditure Guidelines” to incorporate by reference Version 20 of the Expenditure Guidelines.
- Revise “Career Development Plan” and “Integrated Employment Setting” to reference the definitions in OAR 407-025-0010 for Employment First and services advancing competitive integrated employment.
- Modify “Employment Services” and “Sheltered Workshop” to reference the definitions in OAR 411-345-0020 for employment services.
- Add “Employer Model Agency” to reference the definition in OAR 411-450-0020 for community living supports.
- Make minor edits to improve overall accuracy and clarity.

CHANGES TO RULE:

411-317-0000
General Definitions for Developmental Disabilities Services

This rule, OAR 411-317-0000, defines words and terms frequently used to describe developmental disabilities services. These definitions apply to all rules in OAR chapter 411, divisions 300 to 455, unless the context indicates otherwise. ¶

(1) "1915(c) Waiver" includes the following: ¶

(a) Adults' Home and Community-Based Services Waiver. ¶

(b) Children's Home and Community-Based Services Waiver. ¶

(c) Behavioral Model Waiver. ¶

(d) Children's Extraordinary Needs Waiver. ¶

(e) Medically Fragile Model Waiver. ¶

(f) Medically Involved Children's Waiver. ¶

(2) "24-Hour Residential Program" is defined in OAR 411-325-0020. ¶

(3) "24-Hour Residential Setting" is defined in OAR 411-325-0020. ¶

(4) "Abuse" means: ¶

(a) "Abuse" as it applies to a "child" as those terms are defined in ORS 419B.005. ¶

(b) "Abuse" as it applies to a "child in care" as those terms are defined in ORS 418.257. ¶

(c) "Abuse" as it applies to an "adult" as those terms are defined in ORS 430.735. ¶

(d) "Abuse" as it applies to an "elderly person" or a "person with a disability" as those terms are defined in ORS 124.005. ¶

(e) "Abuse" as defined in ORS 441.630 as it applies to a resident of a "long-term care facility" as defined in ORS 442.015. ¶

(5) "Abuse Investigation" means the investigation activities required by: ¶

(a) OAR chapter 419, divisions 100 through 130 for Office of Training, Investigations and Safety - Adult Abuse. ¶

(b) OAR chapter 419, division 210 for Office of Training, Investigations and Safety - Child-In-Care Abuse. ¶

(c) OAR chapter 413, division 015 for Child Welfare Programs - Child Protective Services. ¶

(6) "Abuse Investigator" means an abuse investigator specialist as described in OAR 411-320-0030. ¶

(7) "Accident" means an event that results in injury, or has the potential for injury, even if the injury does not appear until after the event. ¶

(8) "Activities of Daily Living (ADL)" are the basic personal everyday activities, such as eating, using the restroom, grooming, dressing, bathing, and transferring. Services to support activities of daily living are described in OAR 411-450-0060(2). ¶

(9) "Administration of Medication" means the act of placing a medication in or on the body of an individual by a person responsible for the care of the individual and employed by, or under contract to, the individual or as applicable their legal or designated representative or a provider organization. ¶

(10) "Administrator Review" means the Director of the Department reviews a decision upon request, including the documentation related to the decision, and issues a determination. ¶

(11) "Adult" means an individual who is 18 years of age or older. ¶

(12) "Advocate" means a person other than paid staff who has been selected by an individual or their legal representative to help the individual understand and make decisions in matters relating to identification of needs and choices of services, especially when rights are at risk or have been violated. ¶

(13) "Agency" is defined in OAR 411-323-0020. ¶

(14) "Agency Identification Number" means the numeric identifier assigned by the Department to a provider following the provider's enrollment according to OAR chapter 411, division 370. ¶

(15) "Aids to Physical Functioning" means any special equipment prescribed for an individual by a physician, therapist, or dietician that maintains or enhances the physical functioning of the individual. ¶

(16) "Alternative Resources" mean possible resources, not including developmental disabilities services, for the provision of supports to meet the needs of an individual. Alternative resources include, but are not limited to, private or public insurance, vocational rehabilitation services, supports available through the Oregon Department of Education, or other community supports. ¶

(17) "Annual Plan" means the written summary a case manager completes for an individual who is not enrolled in a 1915(c) waiver or Community First Choice (K Plan) services. An Annual Plan is not an Individual Support Plan and is not a Plan of Care for Medicaid purposes. ¶

(18) "Assessor" means a person who meets the qualifications described in OAR 411-425-0035, has been trained by the Department to conduct an Oregon Needs Assessment, and is employed by the Department or a case management entity. ¶

(19) "Attendant Care" means an hourly service that provides assistance with activities of daily living, instrumental activities of daily living, and health-related tasks through cueing, monitoring, reassurance, redirection, set-up, hands-on, standby assistance, and reminding. Attendant care is available through the Community First Choice (K Plan) and the Children's Extraordinary Needs Waiver. ¶

(20) "Background Check" means a criminal records check and abuse check according to OAR chapter 407, division

007.¶¶

(21) "Bedroom" means the personal space and sleeping area of an individual receiving home and community-based services in a provider owned, controlled, or operated residential setting, as agreed to in the Residency Agreement.¶¶

(22) "Behavior Professional" means a behavior consultant who is qualified to deliver professional behavior services according to OAR chapter 411, division 304. ¶¶

(23) "Behavior Supports" mean the emergency crisis strategy, proactive strategy, reactive strategy, and recovery strategy, included in a Positive Behavior Support Plan or Temporary Emergency Safety Plan and delivered by a designated person to assist an individual with challenging behavior.¶¶

(24) "Brokerage" is defined in OAR 411-340-0020. ¶¶

(25) "Business Day" means any day Department business is conducted. A business day is generally considered to be Monday through Friday from 8 am to 5 pm, and excludes Saturday, Sunday, and federal and state legal holidays. ¶¶

(26) "Career Development Plan (CDP)":¶¶

~~(a) Means the part of an Individual Support Plan that identifies the following:¶¶~~

~~(A) The employment goals and objectives for an individual.¶¶~~

~~(B) The services and supports needed to achieve those goals.¶¶~~

~~(C) The people, agencies, and providers assigned to assist the individual to attain those goals.¶¶~~

~~(D) The obstacles to the individual working in an individualized job in a competitive integrated employment setting and the services and supports necessary to overcome those obstacles.¶¶~~

~~(b) A Career Development Plan is based on person-centered planning principles is defined in OAR 407-025-0010.¶¶~~

(27) "Case Management Contact" is defined in OAR 411-415-0020.¶¶

(28) "Case Management Entity (CME)" means: ¶¶

(a) A Community Developmental Disabilities Program. ¶¶

(b) A Brokerage. ¶¶

(c) Children's Intensive In-Home Services. ¶¶

(d) The Children's Residential Program of the Department.¶¶

(29) "Case Management Services" is defined in OAR 411-415-0020. ¶¶

(30) "Case Manager" is defined in OAR 411-415-0020¶¶

(31) "Centers for Medicare and Medicaid Services (CMS)" is the federal agency within the United States Department of Health and Human Services responsible for the administration of Medicaid, the Health Insurance Portability and Accountability Act (HIPAA), and for overseeing Medicaid programs administered by the states through survey and certification.¶¶

(32) "Centralized Abuse Management (CAM)" means the Department's electronic abuse and serious incident reporting system.¶¶

(33) "Challenging Behavior" means a behavior related to an individual's disability: ¶¶

(a) Preventing the individual from accomplishing activities of daily living, instrumental activities of daily living, and/or health-related tasks; and/or ¶¶

(b) Posing risks to the health and safety of the individual or others. ¶¶

(34) "Chemical Restraint" means the use of a psychotropic drug or other drugs for punishment or to modify behavior in place of a meaningful behavior or treatment plan.¶¶

(35) "Child" means an individual under the age of 18.¶¶

(36) "Children's Extraordinary Needs (CEN) Program" is defined in OAR 411-440-0020.¶¶

(37) "Children's Health Insurance Program (CHIP)" means Oregon medical coverage under Title XXI of the Social Security Act.¶¶

(38) "Children's Intensive In-Home Services (CIIS)" includes case management from a Department employed services coordinator and the services authorized by the Department delivered through the following:¶¶

(a) The Intensive Behavior Program.¶¶

(b) The Medically Fragile Children's Program.¶¶

(c) The Medically Involved Children's Program.¶¶

(39) "Choice" means the expression of preference, opportunity for, and active role of an individual in decision-making related to services received and from whom services may be received including, but not limited to, case management, providers, services, and service settings. Individuals are supported in opportunities to make changes when so expressed. Choice may be communicated through a variety of methods, including orally, through sign language, or by other communication methods.¶¶

(40) "Choice Advising" is defined in OAR 411-415-0020. ¶¶

(41) "Claimant" is defined in OAR 411-318-0005. ¶¶

(42) "Client Child" is defined in OAR 411-440-0020 for the Children's Extraordinary Needs Program.¶¶

(43) "Collective Bargaining Agreement (CBA)" means a contract based on negotiation between organized workers and their designated employer for purposes of collective bargaining to determine wages, hours, rules, and working

conditions.¶¶

(44) "Community Developmental Disabilities Program (CDDP)" means the entity that is responsible for plan authorization, delivery, and monitoring of services for individuals who are not enrolled in a Brokerage. A Community Developmental Disabilities Program operates in a specific geographic service area of the state under a contract with the Department, local mental health authority, or other entity as contracted by the Department.¶¶

(45) "Community First Choice (K Plan)" means the state plan amendment for Oregon authorized under section 1915(k) of the Social Security Act.¶¶

(46) "Community Living Supports (CLS)" means attendant care, skills training, and relief care.¶¶

(47) "Community Nursing Services" is defined in OAR 411-435-0020 and described in OAR 411-435-0050.¶¶

(48) "Community Transportation" is defined in OAR 411-435-0020 and described in OAR 411-435-0050.¶¶

(49) "Complaint" is defined in OAR 411-318-0005.¶¶

(50) "Complaint Investigation" is defined in OAR 411-318-0005.¶¶

(51) "Complaint Log" is defined in OAR 411-318-0005. ¶¶

(52) "Condition" means a provision attached to a new or existing certificate, endorsement, or license that limits or restricts the scope of the certificate, endorsement, or license, or imposes additional requirements on the provider.¶¶

(53) "Continuing Services" is defined in OAR 411-318-0005. ¶¶

(54) "Cost Effective" means being responsible and accountable with Department resources by offering less costly alternatives when providing choices that adequately meet the support needs of an individual. Less costly alternatives include other service settings available from the Department and the utilization of assistive devices, natural supports, environmental modifications, and alternative resources. Less costly alternatives may include resources not paid for by the Department.¶¶

(55) "County of Origin" is defined in OAR 411-320-0020. ¶¶

(56) "Day" means a calendar day unless otherwise specified.¶¶

(57) "Day of Service" means the date from 12:00 a.m. to 11:59 p.m. an individual receives developmental disabilities services, unless otherwise specified in the appropriate program-specific rules.¶¶

(58) "Day Support Activities (DSA)" is defined in OAR 411-450-0020¶¶

(59) "Delegation" is the process by which a registered nurse authorizes an unlicensed person to perform nursing tasks and confirms that authorization in writing. Delegation may occur only after a registered nurse follows all steps of the delegation process as outlined in OAR chapter 851, division 047.¶¶

(60) "Denial" means any rejection of a request for a developmental disabilities service or for an increase in a developmental disabilities service. A denial of a Medicaid service requires a Notification of Planned Action.¶¶

(61) "Department" means the Oregon Department of Human Services (ODHS), Office of Developmental Disabilities Services (ODDS), or a designee.¶¶

(62) "Department Hearing Representative" is defined in OAR 411-318-0005.¶¶

(63) "Department Staff" means a person employed by the Department who is knowledgeable in a particular subject matter.¶¶

(64) "Designated Person" means the person who implements the behavior supports identified in an individual's Positive Behavior Support Plan. An individual's designated person may include, but is not limited to, an individual's parent, family member, primary caregiver, or service provider. ¶¶

(65) "Designated Representative": ¶¶

(a) Means a person who is 18 years of age or older, such as a parent, family member, guardian, or advocate, who is:¶¶

(A) Chosen by an individual or their legal representative.¶¶

(B) Not a paid provider for the individual.¶¶

(C) Authorized by the individual, or as applicable their legal representative, to serve as the representative of the individual, or as applicable, their legal representative, in connection with the provision of funded supports.¶¶

(b) The power to act as a designated representative is valid until an individual modifies the authorization.¶¶

(c) An individual or their legal representative is not required to appoint a designated representative.¶¶

(66) "Developmental Disability (DD)" is defined in OAR 411-320-0020. ¶¶

(67) "Developmental Disabilities Services" mean the following services provided by, or authorized by, a Community Developmental Disabilities Program, Brokerage, or the Department:¶¶

(a) Case management services as described in OAR chapter 411, division 415.¶¶

(b) Services available through the Community First Choice (K Plan).¶¶

(c) Services available through a 1915(c) waiver.¶¶

(d) State Plan personal care services as described in OAR chapter 411, division 455.¶¶

(68) "Direct Nursing Services (DNS)" is defined in OAR 411-380-0020.¶¶

(69) "Director" means the Director of the Oregon Department of Human Services, Office of Developmental Disabilities Services, or the designee of the Director, which may include Department Staff.¶¶

(70) "Direct Support Professional (DSP)" is defined in OAR 411-450-0020.¶¶

(71) "Domestic Animals" means the animals domesticated so as to live and breed in a tame condition, such as dogs, cats, and domesticated farm stock.¶¶

(72) "Emergency Crisis Strategy" means the behavior supports used when an individual is in imminent danger of injuring self or others.¶¶

(73) "Emergency Medical Care" means: ¶¶

(a) Medical care for any of the following:¶¶

(A) An acute serious illness or serious injury.¶¶

(B) Emergency psychiatric care delivered by an emergency department, urgent care, crisis team, or first responders.¶¶

(C) Domestic or sexual violence.¶¶

(b) Emergency medical care does not include any of the following:¶¶

(A) First aid.¶¶

(B) Routine physical health care at an urgent care center or emergency room.¶¶

(C) Routine behavioral health care.¶¶

(D) Substance use disorder treatment.¶¶

(74) "Emergency Physical Restraint" means a manual physical restraint that is:¶¶

(a) Part of the Office of Developmental Disabilities Services' approved behavior intervention curriculum.¶¶

(b) Delivered by a designated person trained to deliver the intervention.¶¶

(c) Not a safeguarding intervention.¶¶

(d) Not included in a Positive Behavior Support Plan or not agreed to in an individually-based limitation.¶¶

(75) "Employer" means, for the purposes of obtaining services through a personal support worker, the common law employer. The common law employer is the individual, or a person selected by the individual or their legal representative, to conduct the responsibilities of an employer. An employer may also be a designated representative.¶¶

(76) "Employer Model Agency (EMA)" is defined in OAR 411-450-0020.¶¶

(77) "Employer-Related Supports" mean the activities that assist an individual, and when applicable their legal or designated representative or family members, with directing and supervising the provision of services described in the Individual Support Plan for the individual. Employer-related supports may include, but are not limited to, the following:¶¶

(a) Education about employer responsibilities.¶¶

(b) Orientation to basic wage and hour issues.¶¶

(c) Use of common employer-related tools, such as Service Agreements.¶¶

(d) Fiscal intermediary services.¶¶

~~(778) "Employment Service" means a home and community-based service that supports the primary objective of exploring, obtaining, maintaining, or advancing in an individual job in a competitive integrated employment setting in the general workforce.¶¶~~

~~(a) Employment services under the rules in OAR chapter 411, division 345 include the following:¶¶~~

~~(A) Supported Employment.¶¶~~

~~(i) Individual Employment Support.¶¶~~

~~(I) Job Coaching.¶¶~~

~~(II) Job Development.¶¶~~

~~(ii) Small Group Employment Support.¶¶~~

~~(B) Discovery.¶¶~~

~~(C) Employment Path Services.¶¶~~

~~(b) Employment services do not include vocational assessments in sheltered workshop settings or facility-based settings. Employment services do not include new participants in sheltered workshop settings." are defined in OAR 411-345-0020.~~¶¶

~~(789)~~ "Entity" means a person, a trust or estate, a partnership, a corporation (including associations, joint stock companies, and insurance companies), a state, or a political subdivision or instrumentality, including a municipal corporation of a state.¶¶

~~(7980)~~ "Entry" means initial enrollment to a Department-funded developmental disabilities service delivered by a provider agency or case management entity.¶¶

~~(801)~~ "Exception" is defined in OAR 411-450-0020.¶¶

~~(842)~~ "Exclusive Focus" means there is at least one provider or staff assigned to a single individual with the sole responsibility of attending to the individual's health, safety, supervision, or personal care needs. ¶¶

~~(823)~~ "Exit" means termination or discontinuance of a Department-funded developmental disabilities service.¶¶

~~(834)~~ "Expenditure Guidelines" mean the guidelines published by the Department that describe allowable uses of Department funds for developmental disabilities services. The Department incorporates Version 1920 of the Expenditure Guidelines into rule by this reference. The Expenditure Guidelines are maintained by the Department

at: <https://www.oregon.gov/odhs/providers-partners/idd/Documents/odds-expenditure-guidelines.pdf>. ¶

(845) "Family Member" means spouse, domestic partner, natural parent, child, sibling, adopted child, adoptive parent, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandchild, aunt, uncle, niece, nephew, or first cousin. ¶

(856) "Founded Report" means the determination by the Department or Law Enforcement Authority (LEA), based on the evidence that there is reasonable cause to believe that conduct in violation of the child abuse statutes or rules has occurred and such conduct is attributable to the person alleged to have engaged in the conduct. ¶

(867) "Functional Alternative Behavior" means a replacement behavior to an identified challenging behavior that achieves the same outcome as the challenging behavior. ¶

(878) "Functional Behavior Assessment (FBA)" means the document written by a behavior professional according to OAR 411-304-0150 that describes an individual's challenging behavior and the underlying causes or functions of the challenging behavior. ¶

(889) "Functional Needs Assessment" means the comprehensive assessment or reassessment that documents physical, mental, and social functioning as determined by the Oregon Needs Assessment. ¶

(890) "General Business Provider" means an organization or entity selected by an individual or their legal representative and paid with Department funds that: ¶

- (a) Is primarily in business to provide the service chosen by the individual or their legal representative to the general public. ¶
- (b) Provides services for the individual through employees, contractors, or volunteers. ¶
- (c) Receives compensation to recruit, supervise, and pay the person who actually provides support for the individual. ¶

(901) "Geographic Service Area" is defined in OAR 411-415-0020. ¶

(912) "Good Cause" means an excusable mistake, surprise, excusable neglect (which may include neglect due to a significant cognitive or health issue) due to: ¶

- (a) Circumstances beyond the control of a person; ¶
- (b) Reasonable reliance on the statement of Department staff or an adverse provider relating to procedural requirements; or ¶
- (c) Fraud, misrepresentation, or other misconduct of the Department or a party adverse to a person. ¶

(923) "Guardian" means the parent for an individual under the age of 18, or a person or agency appointed and authorized by a court to make decisions about services for an individual. ¶

(934) "Health Care Advocate (HCA)" is defined in OAR 411-390-0120. ¶

(945) "Health Care Provider" means the person or health care facility licensed, certified, or otherwise authorized or permitted by Oregon law to administer health care in the ordinary course of business or practice of a profession. Examples of a health care provider include, but are not limited to, a registered nurse (RN), nurse practitioner (NP), licensed practical nurse (LPN), medical doctor (MD), osteopathic physician (DO), chiropractor, respiratory therapist (RT), physical therapist (PT), physician associate (PA), dentist, or occupational therapist (OT). ¶

(956) "Health Care Representative" is defined in ORS 127.505. ¶

(967) "Healthier Oregon" is defined in OAR 410-120-0000 and described in OAR chapter 410, division 134. ¶

(978) "Health-Related Tasks" mean specific tasks related to the needs of an individual, which can be delegated or assigned by a licensed health care professional under state law to be performed by a provider. ¶

(989) "Health Systems Division (HSD) Medical Programs" is defined in OAR 410-200-0015. ¶

(99100) "Hearing" means a contested case hearing subject to OAR 137-003-0501 through 137-003-0700, which results in a final order. ¶

(1001) "Home" means the primary residence for an individual that is not under contract with the Department to provide services as a certified foster home for children according to OAR chapter 411, division 346, as a licensed foster home for adults according to OAR chapter 411, division 360, or a licensed or certified residential care facility, assisted living facility, nursing facility, or other residential setting. ¶

- (a) A home for a child may include a foster home funded by Child Welfare. ¶
- (b) A foster home funded by Child Welfare is considered a provider owned, controlled, or operated residential setting. ¶

(1012) "Home and Community-Based Services (HCBS)" are services provided in the home or community of an individual. ¶

- (a) Home and community-based services are authorized under the following Medicaid authorities: ¶
 - (A) 1915(c) - Home and Community-Based Services Waivers. ¶
 - (B) 1915(i) - Home and Community-Based Services State Plan. ¶
 - (C) 1915(k) - Community First Choice (K Plan). ¶
- (b) Home and community-based services are delivered through the following program areas: ¶
 - (A) Oregon Department of Human Services, Aging and People with Disabilities. ¶
 - (B) Oregon Department of Human Services, Office of Developmental Disabilities Services. ¶

(C) Oregon Health Authority.¶¶

(c) Home and community-based services may include alternative resources specifically authorized as home and community-based by the Department or the Oregon Health Authority.¶¶

(1023) "Home and Community-Based Setting" means a physical location meeting the qualities of OAR 411-004-0020 where an individual receives home and community-based services.¶¶

(1034) "Hospital Level of Care" means a child:¶¶

(a) Has a documented medical condition and demonstrates the need for active treatment as assessed by the Clinical Criteria.¶¶

(b) The medical condition requires the care and treatment of services normally provided in an acute medical hospital.¶¶

(1045) "Host Home Program" is defined in OAR 411-348-0020. ¶¶

(1056) "ICF/IID Level of Care" means an individual meets the following institutional level of care for an intermediate care facility for individuals with intellectual disabilities (ICF/IID):¶¶

(a) The individual has an intellectual disability or a developmental disability as defined in this rule and meets the eligibility criteria in OAR 411-320-0080 for developmental disabilities services.¶¶

(b) The individual has a significant impairment in one or more areas of major life activity as defined by federal regulation and assessed by the functional needs assessment, including:¶¶

(A) Self-care;¶¶

(B) Receptive and expressive language;¶¶

(C) Learning;¶¶

(D) Mobility;¶¶

(E) Self-direction; and¶¶

(F) Capacity for independent living.¶¶

(1067) "Incident Report" means the written report that includes all of the following:¶¶

(a) Name of the individual who is the subject of the incident.¶¶

(b) Date, time, duration, type, and location of the incident.¶¶

(c) Conditions prior to, or leading to, the incident.¶¶

(d) Detailed description of the incident, including staff response.¶¶

(e) Description of injury, if injury occurred.¶¶

(f) Name of staff, including their position title, and witnesses to the incident.¶¶

(g) Follow-up to be taken to prevent a recurrence of the incident. ¶¶

(1078) "Independence" means the extent to which an individual exerts control and choice over their own life.¶¶

(1089) "Independent Provider" is defined in OAR 411-375-0010. ¶¶

(1109) "Individual" means a child, young adult, or an adult, who has, is currently, or will receive Department-funded developmental disabilities services.¶¶

(1101) "Individualized Education Program (IEP)" means the written plan of instructional goals and objectives developed in conference with an individual, their parent or legal representative (as applicable), teacher, and a representative of the public school district.¶¶

(1142) "Individually-Based Limitation (IBL)" means any limitation to the qualities outlined in OAR 411-004-0020(1)(d) and (2)(d) to (2)(j), due to health and safety risks. An individually-based limitation is based on specific assessed need and only implemented with the informed consent of the individual or, as applicable, their legal representative, as described in OAR 411-004-0040.¶¶

(1123) "Individual Support Plan (ISP)" includes the written details of the supports, activities, and resources required for an individual to achieve and maintain personal outcomes and health and safety. The Individual Support Plan is developed at least annually to reflect decisions and agreements made during a person-centered process of planning and information gathering. The Individual Support Plan reflects services and supports that are important to meet the needs of the individual identified through a functional needs assessment as well as the preference of the individual for providers and the delivery and frequency of services and supports. The Individual Support Plan is the Plan of Care for Medicaid purposes and reflects whether services are provided through a waiver, the Community First Choice (K Plan), natural supports, or alternative resources.¶¶

(1134) "Instrumental Activities of Daily Living (IADL)" are the activities, other than activities of daily living, required to continue independent living as described in the Community First Choice (K Plan) and the Children's Extraordinary Needs Waiver.¶¶

(1145) "Intake" is defined in OAR 411-320-0020. ¶¶

(1156) "Integrated Employment Setting" means employment at a location where an employee interacts with other people who are not individuals with disabilities (not including supervisory personnel or people who are providing services to the employee) to the same extent that people who are not individuals with disabilities and who are in comparable positions interact with other people; and that, as appropriate, presents opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar

~~positions. Employment in an integrated employment setting cannot be facility based work in a sheltered workshop and cannot be non-work activities such as day support activities.~~ is defined in OAR 407-025-0010. ¶

~~(1167)~~ "Integration" is defined in ORS 427.005. ¶

~~(1178)~~ "Intellectual Disability (ID)" is defined in OAR 411-320-0020. ¶

~~(1189)~~ "Involuntary Reduction" means a provider has made the decision to reduce services provided to an individual without prior approval from the individual. ¶

~~(11920)~~ "Involuntary Transfer" means a provider has made the decision to transfer an individual to another setting operated by the same provider without prior approval from the individual. ¶

~~(1201)~~ "ISP Team" means a team composed of an individual receiving services and their legal or designated representative (as applicable), case manager, and others chosen by the individual, or as applicable their legal representative, such as providers and family members. ¶

~~(1242)~~ "Lateral Floor Restraint" means a physical restraint in which an individual is held horizontally on a floor or other surface. ¶

~~(1223)~~ "Legal Representative" means a person who has the legal authority to act for an individual. The legal representative only has authority to act within the scope and limits of their authority as designated by a court or other agreement. A legal representative acting outside of their authority or scope must meet the definition of designated representative. ¶

(a) For an individual under the age of 18, the legal representative is the parent, unless a court appoints another person or agency to act as the guardian. ¶

(b) For an individual 18 years of age or older, the legal representative is the guardian appointed by a court order or the legally designated health care representative, where the court order or the written designation provides authority for the appointed or designated person to make the decisions indicated where the term "legal representative" is used. ¶

~~(1234)~~ "Level of Care (LOC)" includes "ICF/IID Level of Care", "Hospital Level of Care", or "Nursing Facility Level of Care", as defined in this rule. ¶

~~(1245)~~ "MAGI" is Modified Adjusted Gross Income. "MAGI" is defined in OAR 410-200-0015. ¶

~~(1256)~~ "Mandatory Reporter" means any "public or private official" as defined in ORS 124.050, 419B.005, 430.735, or 441.630. ¶

~~(1267)~~ "Mechanical Restraint" means any mechanical device, material, object, or equipment attached or adjacent to the body of an individual that the individual cannot easily remove or easily negotiate around that restricts freedom of movement or access to the body of the individual. Mechanical restraint is not: ¶

(a) The use of acceptable infant safety products. ¶

(b) The use of car safety systems, consistent with applicable state law for people without disabilities. ¶

(c) Safeguarding equipment when ordered by a physician or health care provider and approved by the Individual Support Plan team. ¶

~~(1278)~~ "Medicaid Performing Provider Number" means the numeric identifier assigned by the Department to an entity or person following the enrollment of the entity or person to deliver Medicaid funded services as described in OAR chapter 411, division 370. The Medicaid Performing Provider Number is used by the rendering provider for identification and billing purposes associated with service authorizations and payments. ¶

~~(1289)~~ "Medicaid Title XIX Benefit Package" means only the Medicaid benefit packages provided under OAR 410-120-1210(4)(a) and (b), excluding individuals receiving CHIP Title XXI benefits. ¶

~~(12930)~~ "Medication" means any drug, chemical, compound, suspension, or preparation in suitable form for use as a curative or remedial substance taken either internally or externally by any person. ¶

~~(1301)~~ "Medication Error" means the following: ¶

(a) A medication to address a condition or illness that, if the condition or illness is left untreated may likely result in hospitalization or bodily injury, was: ¶

(A) Taken in the wrong dosage; or ¶

(B) Administered by the wrong route; or ¶

(C) Not given. ¶

(b) A medication was given to a person for whom it was not prescribed. ¶

~~(1342)~~ "Medication Error with Adverse Consequences" means any medication error that results in direct harm or jeopardizes an individual's health and safety resulting in emergency treatment or a required call to the prescriber. ¶

~~(1323)~~ "Monitoring" means the periodic review of the implementation of services and supports identified in an Individual Support Plan or Annual Plan, and the quality of services delivered by other organizations. ¶

~~(1334)~~ "Natural Support" means: ¶

(a) For a child, the parental responsibilities for the child and the voluntary resources available to the child from their relatives, friends, neighbors, and the community, that are not paid for by the Department. ¶

(b) For an adult, the voluntary resources available to an adult from their relatives, friends, significant others, neighbors, roommates, and the community, that are not paid for by the Department. ¶

(1345) "Notice of Involuntary Reduction, Transfer, or Exit" is defined in OAR 411-318-0005.¶

(1356) "Notification of Planned Action (NOPA)" is defined in OAR 411-318-0005 and described in OAR 411-318-0020. ¶

(1367) "Nurse" means a person who holds a current license from the Oregon Board of Nursing as a registered nurse or licensed practical nurse pursuant to ORS chapter 678.¶

(1378) "Nursing Facility Level of Care" means a child:¶

(a) Has a documented medical condition that demonstrates the need for active treatment as assessed by the Clinical Criteria as defined in OAR 411-300-0110.¶

(b) The medical condition requires the care and treatment of services normally provided in a nursing facility.¶

(1389) "Nursing Service Plan" means the plan that is developed by a registered nurse based on an initial nursing assessment, reassessment, or an update made to a nursing assessment as the result of a monitoring visit.¶

(a) The Nursing Service Plan is specific to an individual and identifies their diagnoses and health needs and any service coordination, teaching, or delegation activities.¶

(b) The Nursing Service Plan is separate from the Individual Support Plan as well as any service plans developed by other health professionals.¶

(1394) "Nursing Tasks" mean the care or services that require the education and training of a licensed professional nurse to perform. Nursing tasks may be delegated.¶

(1401) "ODDS" is the Oregon Department of Human Services, Office of Developmental Disabilities Services.¶

(1412) "ODDS-Approved Behavior Intervention Curriculum" means the training program that meets the criteria in OAR chapter 411, division 303. ¶

(1423) "Older Adult" means an adult at least 65 years of age.¶

(1434) "Oregon Health Authority (OHA)" means the agency established in ORS chapter 413 that administers the funds for Titles XIX and XXI of the Social Security Act. The Oregon Health Authority is the single state agency for the administration of the medical assistance program under ORS chapter 414. ¶

(1445) "Oregon Health Plan (OHP)" is defined in OAR 410-120-0000.¶

(1456) "Oregon Needs Assessment (ONA)" means the tool described in OAR 411-425-0055 maintained in the Department's electronic payment and reporting system.¶

(1467) "Oregon Supplemental Income Program-Medical (OSIPM)" is Oregon Medicaid insurance coverage for individuals who meet the eligibility criteria described in OAR chapter 461.¶

(1478) "Parent" means the biological parent, adoptive parent, stepparent, or legal guardian of a child. Unless otherwise specified, references to parent also include a person chosen by the parent or guardian to serve as their designated representative in connection with the provision of ODDS-funded supports.¶

(1489) "Parent Provider" is defined in OAR 411-440-0020 for the Children's Extraordinary Needs Program. ¶

(1495) "Person-Centered Planning":¶

(a) Means a timely and formal or informal process driven by an individual, includes people chosen by the individual, ensures the individual directs the process to the maximum extent possible, and enables the individual to make informed choices and decisions consistent with 42 CFR 441.540.¶

(b) Person-centered planning includes gathering and organizing information to reflect what is important to and for the individual and to help:¶

(A) Determine and describe choices about personal goals, activities, services, providers, service settings, risks, and lifestyle preferences.¶

(B) Design strategies and networks of support to achieve goals and a preferred lifestyle using individual strengths, relationships, and resources.¶

(C) Identify, use, and strengthen naturally occurring opportunities for support at home and in the community.¶

(c) The methods for gathering information vary, but all are consistent with the cultural considerations, needs, and preferences of the individual.¶

(1501) "Personal Agent (PA)" means a person who:¶

(a) Is a case manager for the provision of case management services.¶

(b) Is the person-centered plan coordinator for an individual as defined in the Community First Choice (K Plan).¶

(c) Works directly with individuals, and if applicable their legal or designated representatives and families, to provide or arrange for support services.¶

(d) Meets the qualifications set forth in OAR 411-415-0040.¶

(1512) "Personal Support Worker (PSW)" is defined in OAR 411-375-0010. ¶

(1523) "Physical Aggression" means an intentional action taken by an individual meant to harm another person that results in injury, including to the individual.¶

(1534) "Physical Restraint" means any manual method or physical or mechanical device, material, or equipment attached to or adjacent to an individual's body that the individual cannot remove easily, which restricts freedom of movement or normal access of the individual to the individual's body. Any manual method includes physically restraining an individual by manually holding the individual in place.¶

(1545) "Plan Year" means 12 consecutive months from the start date specified on an authorized ISP or Annual Plan.¶

(1556) "Positive Behavior Support Plan (PBSP)" means the document written by a behavior professional according to OAR 411-304-0150 that describes behavior supports used to reduce the frequency or intensity of an individual's challenging behavior. ¶

(1567) "Positive Behavior Support Services" mean the professional behavior services and behavior supports, provided to assist an individual with challenging behaviors. Positive behavior support services are available through the Community First Choice (K Plan).¶

(1578) "Positive Behavior Theory and Practice" means a proactive approach to behavior supports that:¶

- (a) Is evidence-based and emphasizes the development of functional alternative behaviors.¶
- (b) Uses the least intrusive intervention possible.¶
- (c) Includes safeguards to ensure abusive, punishing, or demeaning behavior supports are never used.¶
- (d) Evaluates the effectiveness of behavior supports based on behavior data.¶

(1589) "Prescription Medication" means any medication that requires a prescription from a physician before the medication may be obtained from a pharmacist.¶

(15960) "Primary Caregiver" means:¶

- (a) For a child, their parent, guardian, relative, or other non-paid parental figure that normally provides their direct care. In this context, the term parent or guardian may include a designated representative.¶
- (b) For an adult, the person identified in an Individual Support Plan as providing the majority of services and support for an individual in the home of the individual.¶

(1601) "Primary Care Provider" means the health care provider who delivers day-to-day comprehensive health care. Typically, the primary care provider acts as the first contact and principal point of continuing care for an individual within the health care system and coordinates other specialist care the individual may need.¶

(1642) "Private Duty Nursing" means the State Plan nursing services described in OAR chapter 410, division 132 and OAR 411-300-0150 that are determined medically necessary to support a child or young adult in their home.¶

(1623) "PRN (pro re nata)" means the administration of a medication to an individual on an as needed' basis.¶

(1634) "Productivity" is defined in ORS 427.005. ¶

(1645) "Professional Behavior Services" mean the positive behavior support services delivered by a behavior professional according to OAR chapter 411, division 304.¶

(1656) "Progress Note" means a written record of an action taken by a provider in the delivery of a service to support an individual. A progress note may also be a written record of information related to services, support needs, or circumstances of the individual that is necessary for the effective delivery of services.¶

(1667) "Prone Restraint" means a physical restraint in which an individual is held face down on a floor or other surface. ¶

(1678) "Protective Services" means:¶

- (a) For an adult, "adult protective services" as defined in ORS 430.735. ¶
- (b) For a child or child in care, including a young adult in a residential program for children, child foster home, or child-caring agency, "protective custody" as described in ORS chapter 419B and "child protective services" as used in OAR chapter 413, division 015. ¶

(1689) "Provider" means a person, agency, organization, or business, approved by the Department or other appropriate agency and selected by an individual, or their designated or legal representative, to provide Department-funded services. ¶

(16970) "Provider Agency" means "Agency" as defined in OAR 411-323-0020. ¶

(1701) "Provider Enrollment" means the agreement between the Department and a qualified Medicaid provider to deliver services to a Medicaid eligible individual for compensation. ¶

(1742) "Provider Owned, Controlled, or Operated Setting" means:¶

- (a) The provider is responsible for delivering home and community-based services to individuals in the setting and the provider:¶
- (A) Owns the setting;¶
- (B) Leases or co-leases the residential setting; or¶
- (C) If the provider has a direct or indirect financial relationship with the property owner, the setting is presumed to be provider owned, controlled, or operated.¶
- (b) A setting is not provider owned, controlled, or operated if the individual leases directly from a third party that has no direct or indirect financial relationship with the provider.¶
- (c) When an individual receives services in the home of a family member, the home is not considered provider owned, controlled, or operated.¶

(1723) "Psychotropic Medication" means a medication the prescribed intent of which is to affect or alter thought processes, mood, or behavior including, but not limited to, anti-psychotic, antidepressant, anxiolytic (anti-anxiety), and behavior medications. The classification of a medication depends upon its stated, intended effect when

prescribed.¶

(1734) "Qualified Practitioner" means a behavior professional who meets the qualifications described in OAR chapter 411, division 304 or a health care provider who may direct or prescribe the use of a safeguarding intervention or safeguarding equipment within the scope of their professional role and expertise. ¶

(1745) "Quality Assurance" means a systematic procedure for assessing the effectiveness, efficiency, and appropriateness of services.¶

(1756) "Recommended Action" means the action a case management entity or the Office of Training, Investigations, and Safety determines as likely to prevent further abuse or to minimize the risk of the future occurrence of a serious incident.¶

(1767) "Relief Care" means the services provided on a periodic basis for the relief of, or due to the temporary absence of, a person normally available to provide supports to an individual. A unit of service of relief care is 24 hours. Relief care is available through the Community First Choice (K Plan).¶

(1778) "Request for Service" means:¶

(a) Submission of a completed application for developmental disabilities services as described in OAR 411-320-0080;¶

(b) A written request for a new developmental disabilities service or provider; or¶

(c) A written request for a change in a developmental disabilities service currently provided.¶

(1789) "Residency Agreement" means the written and legally enforceable agreement between a residential provider and an individual or their legal or designated representative, when the individual is receiving home and community-based services in a provider owned, controlled, or operated residential setting. The Residency Agreement identifies the rights and responsibilities of the individual and the residential provider and provides the individual protection from eviction substantially equivalent to landlord-tenant laws.¶

(17980) "Residential Program" means services delivered by the following:¶

(a) 24-hour residential programs described in OAR chapter 411, division 325.¶

(b) Adult foster homes described in OAR chapter 411, division 360.¶

(c) Supported living programs described in OAR chapter 411, division 328.¶

(d) Foster homes for children described in OAR chapter 411, division 346.¶

(e) Host home programs described in OAR chapter 411, division 348.¶

(1801) "Residential Setting" means the location where individuals, who receive services from a residential program, live.¶

(1812) "Review" means a request for reconsideration of a decision.¶

(1823) "Safeguarding Equipment" means a device that meets the definition of a "physical restraint", requires an individually-based limitation consistent with OAR 411-415-0070, and is used to:¶

(a) Maintain body position; ¶

(b) Provide proper balance; or ¶

(c) Protect an individual from injury, symptoms of a medical condition, or harm from a challenging behavior. ¶

(1834) "Safeguarding Intervention" means a manual physical restraint that is: ¶

(a) Included in an ODDS-approved behavior intervention curriculum; and¶

(b) Authored by a behavior professional as an emergency crisis strategy within a Positive Behavior Support Plan or Temporary Emergency Safety Plan; and¶

(c) Applied by a designated person trained to administer the intervention; and¶

(d) Consented to through an individually-based limitation according to OAR 411-415-0070; and ¶

(e) Used solely as an emergency crisis strategy to protect an individual from imminent risk of harming themselves or harming others. ¶

(1845) "School Aged" means the age at which an individual is old enough to attend kindergarten through high school.¶

(1856) "Self-Administration of Medication" means an individual manages and takes their own medication, identifies their own medication and the times and methods of administration, places the medication internally in or externally on their own body without staff assistance upon written order of a physician, and safely maintains the medication without supervision.¶

(1867) "Self-Determination" means a philosophy and process by which individuals with intellectual or developmental disabilities are empowered to gain control over the selection of services and supports that meet their needs. The basic principles of self-determination are:¶

(a) Freedom. The ability for an individual, together with freely-chosen family and friends, to plan a life with necessary services and supports rather than purchasing a predefined program.¶

(b) Authority. The ability for an individual, with the help of a social support network if needed, to control resources in order to purchase services and supports.¶

(c) Autonomy. The arranging of resources and personnel, both formal and informal, that assists an individual to live a life in a community rich in community affiliations.¶

(d) Responsibility. The acceptance of a valued role of an individual in the community through competitive employment, organizational affiliations, personal development, and general caring for others in the community, as well as accountability for spending public dollars in ways that are life-enhancing for the individual.¶¶

(1878) "Self-Direction" means an individual, or as applicable their legal or designated representative, has decision-making authority over services and takes direct responsibility for managing services with the assistance of a system of available supports that promotes personal choice and control over the delivery of waiver and state plan services.¶¶

(1882) "Sensory Impairment" means loss or impairment of sight or hearing from any cause, including involvement of the brain.¶¶

(1890) "Serious Illness" means a physical condition which, if left untreated, is likely to result in hospitalization or bodily injury up to or including death.¶¶

(1901) "Serious Incident" means that one or more of the following types of events has occurred:¶¶

(a) An act of physical aggression by an individual.¶¶

(b) Death of an individual.¶¶

(c) An individual receives emergency medical care. ¶¶

(d) The use of a physical restraint that is not a safeguarding intervention.¶¶

(e) An individual is missing beyond the time frame established in their ISP.¶¶

(f) An individual is admitted to a psychiatric hospital.¶¶

(g) A safeguarding intervention or the use of safeguarding equipment results in injury to an individual.¶¶

(h) An individual attempts suicide.¶¶

(i) An unplanned hospitalization of an individual.¶¶

(j) A medication error with adverse consequence.¶¶

(1942) "Serious Injury" means bodily harm that appears to pose a risk of imminent threat to life or limb and without intervention, an individual is at risk of death or potential permanent lifelong injury. ¶¶

(1923) "Service Agreement":¶¶

(a) Means the component of an Individual Support Plan that is the written agreement for a particular provider that describes at a minimum, the following:¶¶

(A) The services authorized in an Individual Support Plan to be delivered by the provider.¶¶

(B) Hours, rates, location of services, and expected outcomes of the services.¶¶

(C) Any specific individual health, safety, and emergency procedures that may be required, including action to be taken if an individual is unable to provide for their own safety and the individual is missing while in the community.¶¶

(b) For employed personal support workers, the Service Agreement serves as the written job description for Oregon Home Care Commission purposes.¶¶

(c) For non-personal support worker providers, the Individual Support Plan serves as the Service Agreement, when signed by the provider.¶¶

(1934) "Service Element" means a funding stream to fund developmental disabilities programs and services. ¶¶

(1945) "Service Level" is defined in OAR 411-450-0020.¶¶

(1956) "Service Record" means the combined information related to an individual.¶¶

(1967) "Services Coordinator (SC)" means an employee of the Department, Community Developmental Disabilities Program, or other agency that contracts with the county or Department, who provides case management services. A services coordinator acts as the proponent for individuals with intellectual or developmental disabilities and is the person-centered plan coordinator for the individual as defined in the Community First Choice (K Plan).¶¶

(1978) "Setting" means the community-based location where services are delivered.¶¶

(1982) "Sheltered Workshop" means a facility in which individuals with intellectual or developmental disabilities are congregated for the purpose of receiving employment services and performing work tasks for pay at the facility. A sheltered workshop primarily employs individuals with intellectual and developmental disabilities, or other disabilities, with the exception of service support staff. A sheltered workshop is a fixed site that is owned, operated, or controlled by a provider, where an individual has few or no opportunities to interact with individuals who do not have disabilities, not including paid support staff. A sheltered workshop is not small group employment in an integrated employment setting and is not otherwise an integrated employment setting.¶¶

(1999) is defined in OAR 411-345-0020.¶¶

(200) "Skills Training" means the hourly service intended to increase the independence of an individual through training, coaching, and prompting the individual to accomplish activities of daily living, instrumental activities of daily living, and health-related tasks. Skills training is available through the Community First Choice (K Plan) and the Children's Extraordinary Needs Waiver.¶¶

(2001) "Social Benefit" means that developmental disabilities services are intended to assist an individual to function in society on a level comparable to that of a person who does not experience a developmental disability.¶¶

(a) Social benefits may not:¶¶

(A) Duplicate benefits and services otherwise available to a person regardless of disability.¶

(B) Replace normal parental responsibilities for the services, education, recreation, and general supervision of a child.¶

(C) Provide financial assistance with food, clothing, shelter, and laundry needs common to any person, except as described in OAR chapter 411, division 435 for transition costs.¶

(D) Replace other governmental or community services available to an individual.¶

(b) Assistance provided as a social benefit is reimbursement for an expense previously authorized in an Individual Support Plan.¶

(c) Assistance provided as a social benefit may not exceed the actual cost of the support required by an individual to be supported in the home of the individual.¶

(2042) "Staff" means a paid employee who is responsible for providing services and supports to an individual and whose wages are paid in part or in full with funds sub-contracted with a Community Developmental Disabilities Program, Brokerage, or contracted directly through the Department.¶

(2023) "Standard Model Agency (SMA)" is defined in OAR 411-450-0020.¶

(2034) "Substantiated" means an abuse investigation has been completed by the Department, or the designee of the Department, and abuse was determined. ¶

(2045) "Supine Restraint" means a physical restraint in which an individual is help face up on a floor or other surface. ¶

(2056) "Supplemental Security Income (SSI)" is administered by the Social Security Administration to provide benefits to people with disabilities and older adults with little or no income or resources.¶

(2067) "Support" means:¶

(a) For a child, the assistance the child and their family requires, solely because of the effects of a condition that makes the child eligible for developmental disabilities services, to maintain or increase the age-appropriate independence of the child, achieve age-appropriate community presence and participation of the child, and to maintain the child in the family home. Support is subject to change with time and circumstances.¶

(b) For an adult, the assistance the adult individual requires, solely because of the effects of an intellectual or developmental disability, to maintain or increase independence, achieve community presence and participation, and improve productivity. Support is subject to change with time and circumstances.¶

(2078) "Temporary Emergency Safety Plan (TESP)" means a document outlining the behavior supports and environment thought by a behavior professional to be necessary to support an individual exhibiting challenging behavior prior to the completion of a Functional Behavior Assessment and Positive Behavior Support Plan.¶

(2089) "Transfer" means an exit immediately followed by an entry at another location administered or operated by the same provider. A transfer is subject to the same standards as an entry and exit.¶

(2109) "Transition-Age" means:¶

(a) Not older than 24 years of age.¶

(b) Not younger than 14 years of age. With respect to Vocational Rehabilitation Services, people who are under 16 years of age may receive employment services with Department approval. With respect to the Office of Developmental Disabilities Services, people who are under 18 years of age may receive employment services with Department approval.¶

(2101) "Unacceptable Background Check" means an administrative process that produces information related to the background of a person that precludes the person from being an independent provider for one or more of the following reasons:¶

(a) Under OAR 407-007-0275, the person applying to be an independent provider has been found ineligible due to ORS 443.004.¶

(b) Under OAR 407-007-0275, the person was enrolled as an independent provider for the first time; or after any break in enrollment, after July 28, 2009, and has been found ineligible due to ORS 443.004.¶

(c) A background check and fitness determination has been conducted resulting in a "denied" status as defined in OAR 407-007-0010.¶

(2142) "Variance" means the temporary exemption from a provision of the rules granted by the Department upon written application.¶

(2123) "Volunteer" means any person assisting a provider without pay to support the services and supports provided to an individual.¶

(2134) "Workday" means 12:00 AM through 11:59 PM.¶

(2145) "Working Age" means an individual aged 21 to 60. Working age also includes an individual 18 to 21 if the individual has left school.¶

(2156) "Workweek" means 12:00 AM Sunday through 11:59 PM Saturday.¶

(2167) "Written Outcome" is defined in OAR 411-318-0005. ¶

(2178) "Young Adult" means an individual aged 18 through 20.

Statutory/Other Authority: ORS 409.050, 427.104, 430.662

Statutes/Other Implemented: ORS 409.010, 427.007, 427.101, 427.104, 430.215, 430.610, 430.662