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TEMPORARY ADMINISTRATIVE ORDER

INCLUDING STATEMENT OF NEED & JUSTIFICATION

DMAP 12-2019

CHAPTER 410
OREGON HEALTH AUTHORITY
HEALTH SYSTEMS DIVISION: MEDICAL ASSISTANCE PROGRAMS

FILED
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ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: 1915(i) Home and Community Based Services State Plan Option

EFFECTIVE DATE: 06/01/2019 THROUGH 11/27/2019

AGENCY APPROVED DATE: 05/20/2019

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NEED FOR THE RULE(S):

The Division needs to add these rules to comply with Federal requirements based on 2014 changes to 1915 of the Social Security Act

JUSTIFICATION OF TEMPORARY FILING:

The Authority finds that failure to act promptly will result in serious prejudice to the public interest, the Authority, and recipients of Medicaid benefits. These rules need to be adopted promptly so that the Authority may reimburse for 1915(i) Home and Community Based Services (HCBS). HCBS rules allow the Authority to offer appropriate oversight and technical assistance to providers who offer services to 1915(i) eligible members consistent with the Oregon State Plan. Additionally, HCBS services are required per final regulations of section 1915 of the Social Security Act, issued in January 2014, to ensure individuals receiving long-term services and supports have full access to benefits of community living and opportunity to receive services in the most integrated setting possible. The final regulations required Oregon to compose a statewide transition plan to:

- Review their authority for HCB services and complete systemic changes to align with the federal regulations, including state plan amendments and rule promulgation;
- Outline how states would assess each HCBS setting to assure compliance with the federal regulations; and
- Develop ongoing monitoring strategies to assure HCBS funding is being used in HCBS compliant settings.

This temporary rule filing will align Oregon's Behavioral Health Services with the 1915(i) and help ensure HCBS funds are used only in compliant settings. Failure to comply with the statewide transition plan and section 1915 of the Social Security Act may put Oregon at risk of losing federal matching funds for HCBS services and result in the repayment of inappropriately allocated HCBS funds.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders, Chapter

309 Division 019 Outpatient Behavioral Health Services, Chapter 309 Division 040 Adult Foster Homes, Chapter 410 Division 120 Medical Assistance Programs, Chapter 410 Division 122 Durable Medical Equipment, Prosthetic Orthotics and Supplies (DMEPOS), Chapter 410 Division 172 Medicaid Payment for Behavioral Health Services, Chapter 410 Division 180 Traditional Health Workers, Chapter 411 Division 004 Home and Community-Based Services and Settings and Person-Centered Service Planning. All OARs are found on the Oregon Secretary of State Webpage: Oregon 1915(i) waiver located on the Oregon.gov webpage; Oregon Statewide Transition Plan located on the Oregon HCBS webpage; Home and Community Based Services Guidance, technical assistance, and trainings located at Medicaid.com/Medicaid/hcbs.

RULES:
410-173-0000, 410-173-0005, 410-173-0010, 410-173-0015, 410-173-0020, 410-173-0025, 410-173-0030, 410-173-0035, 410-173-0040, 410-173-0045, 410-173-0050, 410-173-0055, 410-173-0060, 410-173-0065, 410-173-0070, 410-173-0075

ADOPT: 410-173-0000

RULE TITLE: Purpose

RULE SUMMARY: 1915(i) Home and Community Based Services State Plan Option rules ensure individuals served by the Oregon Health Authority, Health Systems Division, have access to 1915(i) Home and Community Based State Plan Option Services. These rules allow the Authority to offer appropriate oversight and technical assistance to providers who offer services to 1915(i) eligible members consistent with the Oregon State Plan. Additionally, HCBS services are required per final regulations of section 1915 of the Social Security Act, issued in January of 2014, to ensure individuals receiving long-term services and supports have full access to benefits of community living and opportunity to receive services in the most integrated setting possible. These rules describe eligibility requirements, the services and supports available to 1915(i) eligible individuals, person-centered planning processes, and documentation standards required of HCBS providers.

RULE TEXT:
(1) These rules ensure eligible individuals[JD1] served by the Oregon Health Authority, Health Systems Division (Division), have access to 1915(i) Home and Community Based State Plan Option services that are not defined in other rules in this chapter. These rules describe services intended to increase individuals' independence, empowerment, dignity, and human potential through the provision of flexible, efficient, appropriate, and cost-effective services.
(2) Services described in these rules include:
(a) Home Based Habilitation;
(b) HCBS Behavioral Habilitation; and
(c) HCBS Psychosocial Rehabilitation for Persons with Chronic Mental Illness (PSR).
(3) Services described in this rule should improve eligible individuals' access to the greater community to the same degree as individuals who do not require services and supports to remain in their home or community.
(4) Payments for the services outlined in these rules are limited to the lowest possible cost that meet the individual's assessed needs.
(5) Medicaid is a payer of last resort. All other payment sources shall be billed prior to billing Medicaid for services.

STATUTORY/OTHER AUTHORITY: ORS 409.050, 413.042, 413.085, 427.104, 430.662

STATUTES/OTHER IMPLEMENTED: ORS 409.050, 413.042, 413.085, ORS 427.007, 430.610, 430.620, 430.662 - 430.670

ADOPT: 410-173-0005

RULE TITLE: Definitions

RULE SUMMARY: 1915(i) Home and Community Based Services State Plan Option rules ensure individuals served by the Oregon Health Authority, Health Systems Division, have access to 1915(i) Home and Community Based State Plan Option Services. These rules allow the Authority to offer appropriate oversight and technical assistance to providers who offer services to 1915(i) eligible members consistent with the Oregon State Plan. Additionally, HCBS services are required per final regulations of section 1915 of the Social Security Act, issued in January of 2014, to ensure individuals receiving long-term services and supports have full access to benefits of community living and opportunity to receive services in the most integrated setting possible. These rules describe eligibility requirements, the services and supports available to 1915(i) eligible individuals, person-centered planning processes, and documentation standards required of HCBS providers.

RULE TEXT:

(1) "Activities of Daily Living (ADL)," in addition to the definition of ADL in OAR 410-122-0010 for Home and Community Based Services, means personal and functional activities required by an individual for continued well-being that are essential for health and safety. Activities include eating, dressing/grooming, bathing/personal hygiene, mobility (ambulation and transfer), and elimination (toileting, bowel, and bladder management).

(2) “Adult Foster Home (AFH)” means any home licensed by the Division in which residential care is provided to five or fewer individuals who are not related to the provider by blood or marriage as described in ORS 443.705 through 443.825. If an adult family member of the provider receives care, they shall be included as one of the individuals within the total license capacity of the AFH. An AFH or individual that advertises, including word-of-mouth advertising, to provide room, board, and care and services for adults is considered an AFH.

(3) "Alternative Service Resources" means other resources for the provision of services to meet an individual's needs. Alternative service resources include but are not limited to natural supports or other community supports. Alternative service resources are not paid by Medicaid and shall be identified through the person-centered planning process. When possible, alternative service resources shall be used in lieu of Medicaid paid supports.

(4) "Assistance" means the help needed by an individual to complete activities of daily living and instrumental activities of daily living. For 1915(i) HCBS, assistance includes only the following activities:

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

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

(c) “Supervision” means, along with cueing, helping the individual know when or how to carry out the task. Supervision may be in the form of monitoring, set-up, reassurance, or stand-by to ensure the individual completes the task. Need for assistance may not be based on possible or preventative measures:

(A) "Monitoring" means a provider observes an individual to determine if assistance is needed;

(B) “Set-up" means the preparation, cleaning, and maintenance of personal effects, supplies, assistive devices, or equipment so an individual may perform an activity;

(C) "Reassurance" means to offer an individual encouragement and support;

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

(5) “Authority” means the Oregon Health Authority, the agency established in ORS 413 that administers the funds for Titles XIX and XXI of the Social Security Act. It is the single state agency for the administration of the medical assistance program under ORS 414. For purposes of these rules, the agencies under the authority of the Oregon Health Authority are the Public Health Division, Health Systems Division, External Relations, Health Policy and Analytics, Fiscal and Operations, Office of Equity and Inclusion, and the Oregon State Hospital.

(6) "Authorized Representative" means a person with longstanding involvement in assuring the individual's health,

safety, and welfare that is appointed by an individual to participate in service planning on the individual's behalf. In all cases, unless the individual is incapable, the individual's consent is obtained before designating a representative on the individual's behalf. When feasible, the individual's authorization of a representative is made in writing or by another method that clearly indicates the individual's free, consenting choice. An individual's representative may not be a paid provider to the individual receiving services and supports.

(7) “Cultural Competence” means the provider of 1915(i) HCBS shall participate in the state’s efforts to promote the delivery of services in a culturally competent manner to all enrollees, including those with limited English proficiency, diverse cultural and ethnic backgrounds, and non-conforming gender identity.

(8) “Cultural Consideration” means to promote the delivery of services in a culturally competent manner to all enrollees, including those with limited English proficiency and diverse cultural and ethnic backgrounds, disabilities, and regardless of gender, sexual orientation, or gender identity.

(9) “Fiduciary” means a guardian or conservator appointed under the provisions of ORS 125 or any other person appointed by a court to assume duties with respect to a protected person under the provisions of ORS 125.

(10) “Functional Needs Assessment” means the comprehensive assessment or reassessment conducted by a qualified mental health professional that documents an individual’s physical, mental, and social functioning and the Individual’s need for 1915(i) Home and Community-Based Services using Authority-approved tools. The functional needs assessment tools for 1915(i) HCBS are the Level of Care Utilization System (LOCUS) and the Level of Service Inquiry (LSI).

(11) “Habilitation” means services that support an individual to maintain, learn, or improve skills and functioning in their activities of daily living (ADL) and instrumental activities of daily living (IADL). Habilitation is aimed at raising the level of physical, mental, and social functioning of an individual.

(12) “Home and Community Based Services (HCBS)” means services and supports that assist eligible individuals to remain in their home and community in accordance with the Code of Federal Regulations, approved Medicaid State Plan authorities, and Oregon Administrative Rules[CSC1] [JD2] .

(13) “Home and Community-Based Settings” or “HCB Settings” means a physical location meeting the qualities of 42 CFR §441.710(a)(1) and (2), OAR 410-173-0035, and OAR 411-0004 where an individual receives HCBS.

(14) “Home Based Habilitation” means services that are designed to assist and support an individual to maintain, learn, or improve skills and functioning in ADL and IADL due to the symptoms of a behavioral health condition. Services and supports may be delivered in licensed and non-licensed home and community-based settings that are not considered secure.

(15) “Individually-Based Limitation (IBL)” means any limitation outlined in OAR 410-173-0040 due to health and safety risks. An IBL is based on specific assessed needs and only implemented with informed consent from the individual or, as applicable, [JD3] the legal representative of the individual, as described in OAR 410-173-0005.

(16) “Instrumental Activities of Daily Living (IADL)” means those self-management activities performed by an individual on a day-to-day basis that are not essential to basic self-care and independent living. IADLs Individual include but are not limited to housekeeping, including laundry, shopping, transportation, medication management, and meal preparation.

(17) “Independent and Qualified Agent (IQA)” means an entity meeting the provider qualification requirements identified in 42 CFR §441.730 and under contract with the Division who:

(a) Determines 1915(i) program eligibility initially, annually, when an individual’s circumstances or needs change significantly, or upon individual request;

(b) Provides education and technical assistance regarding HCBS and settings;

(c) Coordinates and assists the individual in directing the person-centered planning process;

(d) Drafts, documents, regularly reviews and updates person-centered service plans;

(e) Prior authorizes HCBS;

(f) Conducts quality assurance and quality improvement activities;

(g) Completes the face-to-face needs-based assessment; and

(h) Performs transition management.
(18) "Individual" means the Medicaid-eligible person applying for or receiving 1915(i) program services.
(19) “Legal Representative” means a person who has been legally designated by court order to make financial or health care decisions for another individual. The legal representative only has authority to act within the scope and limits of his or her authority as designated by the court or other agreement. Legal representatives acting outside of his or her authority or scope shall meet the definition of authorized representative. Legal representative includes the individuals’:
(a) Legal guardian;
(b) Payee or Fiduciary; or
(c) Court-imposed restrictions for individuals on probation or parole.
(20) “Legally Responsible Relative” means a relative of the individual receiving 1915(i) services who by law is responsible for the support and care of another person.
(21) “Level of Care Utilization System (LOCUS)” means a single assessment instrument that uses quantifiable measures to guide assessment, level of care placement decisions, continued stay criteria for applicable settings, and clinical outcomes in a variety of settings for both mental health and addiction [CSC4] [JD5] purposes.
(22) “Level of Service Inquiry (LSI)” means a person-centered assessment used to determine residential service and support needs of an individual experiencing functional deficits resulting from the symptoms of a diagnosed mental health condition.
(23) “Medically Appropriate” has the meaning as defined in OAR 410-120-0000 and 410-172-0630.
(24) “Natural Support" means resources and supports (e.g., relatives, friends, significant others, neighbors, roommates, or the community associates) who voluntarily provide services and supports to an individual without the expectation of compensation. Natural supports are identified in collaboration with the individual and the potential "natural support." The natural support is required to have the skills, knowledge, and ability to provide the needed services and supports and shall be identified within the PCSP.
(25) “Person-Centered Service Plan (PCSP)” means the written document prepared by the IQA or the person-centered service plan coordinator that details the supports, desired outcomes, activities, and resources required for an individual to achieve and maintain personal goals, health, and safety as described in OAR 410-173-0030. The PCSP shall be completed and signed prior to the individual receiving HCBS. The PCSP is not satisfied by a document primarily prepared by a provider.
(26) "Person-Centered Service Plan Coordinator" means the Qualified Mental Health Professional employed by the Division’s contracted IQA who is designated to provide service coordination and person-centered service planning with individuals, their person-centered services planning team, and authorized representative, if applicable.
(27) “Person-Centered Planning Process” means the process required by 42 CFR § 441.720 and used by the IQA to develop and approve a written PCSP jointly with the individual, their identified person-centered service planning team, and legal or authorized representative, if applicable. The person-centered planning process is directed by the individual to the maximum extent possible. The process and service plan shall meet the requirements of OAR 410-173-0025 and are based on the independent assessment of the individual’s assessed needs.
(28) "Provider Owned, Controlled, or Operated Residential Setting" means:
(a) The residential provider is responsible for delivering HCBS 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 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.
(29) “Psychosocial Rehabilitation Services (PSR)” means services that are medical or remedial and recommended by a

licensed physician or other licensed practitioner to reduce impairment to an individual's functioning associated with the symptoms of a mental disorder or to restore functioning to the highest degree possible. PSR helps individuals compensate for or eliminate functional deficits, environmental and interpersonal barriers, and helps individuals integrate as an active and productive member of their family and community with the least possible professional intervention.

(30) "Qualified Mental Health Associate (QMHA)" means an individual delivering services under the direct supervision of a QMHP who meets the minimum qualifications as authorized by the Local Mental Health Authority (LMHA) or designee and specified in OAR 309-019-0125.

(31) "Qualified Mental Health Professional (QMHP)" means a Licensed Medical Practitioner (LMP) or any other individual meeting the minimum qualifications as authorized by the LMHA or designee and outlined in OAR 309-019-0125.

(32) "Service Need" means the cueing, hands-on assistance, and supervision an individual requires from another person or equipment to complete functions or activities as independently as possible. Service need is based on the independent assessment of the individual's needs.

(33) "Representative Payee" or "Payee" means an individual designated by the Social Security Administration to receive money payments of aid.

(34) "Residential Treatment Facility (RTF)" means a program licensed by the Division to provide services on a 24-hour basis for six to 16 individuals as described in ORS 443.400(11).

(35) "Residential Treatment Home (RTH)" means a program that is licensed by the Division and operated to provide services on a 24-hour basis for up to five individuals as defined in ORS 443.400(12).

(36) "These Rules" mean the rules in OAR 410, division 173.

STATUTORY/OTHER AUTHORITY: ORS 409.050, 412.001, 413.042, 413.085, 414.025, 443.738, 427.104, 430.662

STATUTES/OTHER IMPLEMENTED: ORS 409.050, 413.042, 413.085, 414.025, 443.738, 410.600, 427.007, 430.610, 430.620, 430.662 - 430.670

ADOPT: 410-173-0010

RULE TITLE: Eligibility

RULE SUMMARY: 1915(i) Home and Community Based Services State Plan Option rules ensure individuals served by the Oregon Health Authority, Health Systems Division, have access to 1915(i) Home and Community Based State Plan Option Services. These rules allow the Authority to offer appropriate oversight and technical assistance to providers who offer services to 1915(i) eligible members consistent with the Oregon State Plan. Additionally, HCBS services are required per final regulations of section 1915 of the Social Security Act, issued in January of 2014, to ensure individuals receiving long-term services and supports have full access to benefits of community living and opportunity to receive services in the most integrated setting possible. These rules describe eligibility requirements, the services and supports available to 1915(i) eligible individuals, person-centered planning processes, and documentation standards required of HCBS providers.

RULE TEXT:

(1) Individuals applying to receive state plan 1915(i) HCBS shall be determined by the Department of Human Services (Department) to meet Title XIX Medicaid eligibility criteria. The Department shall complete Title XIX Medicaid eligibility determinations according to OAR chapter 461, division 135, division 140, and division 155. Individuals denied eligibility to Title XIX shall receive a basic decision notice from the Department in accordance with OAR 461-175.

(2) Eligibility for 1915(i) HCBS is established through a diagnostic and face-to-face needs-based assessment by an external IQA who meets the requirements of a QMHP.

(3) To be eligible for services under the 1915(i) HCBS, documentation shall support that the individual meets the following requirements:

(a) Enrolled in Title XIX Medicaid;

(b) Twenty-one years of age or older;

(c) Diagnosed with a chronic mental illness as defined in ORS 426.495(1)(c)(B);

(d) Requires assistance in at least two instrumental activities of daily living (IADL) due to symptoms of a behavioral health condition; and

(e) Requires the provision of one or more 1915(i) services at least monthly.

(4) Eligibility reevaluation for 1915(i) HCBS shall be completed on the following schedule:

(a) At least every 12 months; and

(b) When an individual requests reevaluation; and

(c) When there is documented evidence indicating the individual's circumstances or needs have changed significantly.

(5) If it is determined the individual is not eligible for 1915(i) HCBS based on the needs-based criteria, the recipient shall be notified by the Division or the Division's designee in writing within three business days. Notification to the recipient shall provide a hearing request form and notice of hearing rights explaining the right to a contested case hearing through the Office of Administrative Hearings under the Oregon Administrative Procedures Act.

STATUTORY/OTHER AUTHORITY: ORS 409.050, 413.042, 413.085, 414.025, 414.070, 427.104, 430.662

STATUTES/OTHER IMPLEMENTED: ORS 409.050, 413.042, 413.085, 414.025, 414.070, 427.007, 430.610, 430.620, 430.662 - 430.670

ADOPT: 410-173-0015

RULE TITLE: Prior Authorization

RULE SUMMARY: 1915(i) Home and Community Based Services State Plan Option rules ensure individuals served by the Oregon Health Authority, Health Systems Division, have access to 1915(i) Home and Community Based State Plan Option Services. These rules allow the Authority to offer appropriate oversight and technical assistance to providers who offer services to 1915(i) eligible members consistent with the Oregon State Plan. Additionally, HCBS services are required per final regulations of section 1915 of the Social Security Act, issued in January of 2014, to ensure individuals receiving long-term services and supports have full access to benefits of community living and opportunity to receive services in the most integrated setting possible. These rules describe eligibility requirements, the services and supports available to 1915(i) eligible individuals, person-centered planning processes, and documentation standards required of HCBS providers.

RULE TEXT:

(1) All 1915(i) HCBS require prior authorization before service delivery or payment for services.

(2) Prior authorization and medical appropriateness for Home Based Habilitation and HCBS Behavioral Habilitation are satisfied by face-to-face assessments of 1915(i) HCBS State Plan Option eligibility, re-eligibility, and an individual's assessed need for the service using the LOCUS and LSI and documented in the person-centered service plan.

(3) HCBS Psychosocial Rehabilitation for persons with chronic mental illness must be deemed medically appropriate by a QMHP as outlined in OAR 410-120-0000 and OAR 410-172-0630 and for which required documentation has been submitted. Per these rules, once deemed medically appropriate by a QMHP, PSR services are prior authorized for as long as deemed necessary by a QMHP, but no longer than 12 months.

(4) The Division or IQA may authorize only PSR services that are medically appropriate as outlined in OAR 410-120-0000 and OAR 410-172-0630 and for which required documentation has been submitted.

(5) Providers who may be paid for 1915(i) HCBS shall:

(a) Meet all necessary provider qualifications, including relevant experience, as outlined in: OAR[CSC3] chapter 309, division 019; OAR chapter 410, division 172; and OAR chapter 410, division 180.

(b) Be enrolled by the Division as a Medicaid provider as outlined in OAR 410-120-1260.

(6) The Division may authorize payment for the type of service that meets the recipient's assessed needs as determined by a functional needs assessment and that is adequately documented in the individuals PCSP. The Division or the IQA may request additional information from the provider to determine medical appropriateness.

(7) Required documentation for PSR services shall support the individual's assessed need for the service. The authorization request shall include:

(a) A cover sheet detailing relevant provider and recipient Medicaid numbers;

(b) Requested dates of service;

(c) HCPCS or CPT procedure codes requested;

(d) The amount of service or units requested;

(e) A behavioral health assessment and service plan meeting the requirements described in OAR 309-019-0135; and

(f) Any additional clinical information supporting medical justification for the services requested.

(8) The Division or the IQA may not authorize PSR services under the following circumstances:

(a) The request received by the Division or IQA was not complete;

(b) The provider did not hold the appropriate license, certificate, or credential at the time services were requested;

(c) The recipient was not eligible for Title XIX Medicaid at the time services were requested;

(d) The provider cannot produce appropriate documentation to support medical appropriateness;

(e) The services requested are not in compliance with OAR 410-120-1260 through 1860.

(9) Authorization for payment may be given for a past date of service if:

(a) The individual is determined retroactively eligible for the date of service;

(b) The services provided meet all other criteria and are compliant with all relevant Oregon Administrative Rules; and

(c) The request for authorization is received within 90 days of the date of service.
(10) Any requests for prior authorization after 90 days from date of service require documentation from the provider that the provider could not obtain authorization within 90 days of the date of service.
(11) Payment for prior authorized services is valid for the time-period specified on the authorization notice but may not exceed 12 months from the date of service.
(12) Prior authorization expires when an individual is found to be no longer eligible for 1915(i) HCBS.
(13) Decisions on prior authorization of PSR services shall be subject to random, periodic utilization review and retrospective review to ensure approved, paid services meet the definition of medical appropriateness outlined in OAR 410-120-0000 and OAR 410-172-0630 or are consistent with the Functional Needs Assessment.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.025, 430.640

STATUTES/OTHER IMPLEMENTED: ORS 413.042, 414.025, 430.640, 414.065, 430.705, 430.715

ADOPT: 410-173-0020

RULE TITLE: Functional Needs Assessment

RULE SUMMARY: 1915(i) Home and Community Based Services State Plan Option rules ensure individuals served by the Oregon Health Authority, Health Systems Division, have access to 1915(i) Home and Community Based State Plan Option Services. These rules allow the Authority to offer appropriate oversight and technical assistance to providers who offer services to 1915(i) eligible members consistent with the Oregon State Plan. Additionally, HCBS services are required per final regulations of section 1915 of the Social Security Act, issued in January of 2014, to ensure individuals receiving long-term services and supports have full access to benefits of community living and opportunity to receive services in the most integrated setting possible. These rules describe eligibility requirements, the services and supports available to 1915(i) eligible individuals, person-centered planning processes, and documentation standards required of HCBS providers.

RULE TEXT:

(1) The IQA shall meet face-to-face with individuals or if applicable, their legal or authorized representative and in consultation with other persons identified by the individual to complete a Functional Needs Assessment to determine:

(a) The individual's abilities or need for assistance with IADLs and ADLs;

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

(c) The actual or predicted need for assistance from another person within the assessment time frame.

(2) As part of the person-centered functional needs assessment process, the IQA uses a standardized assessment that includes:

(a) The LOCUS; and

(b) LSI.

(3) Reassessments of functional needs are conducted face-to-face with the individual on the following schedule:

(a) No less frequently than annually, prior to the annual 1915(i) program eligibility date, and no earlier than 60 days prior to the annual eligibility redetermination date; and

(b) When the individual or their legal representative, if applicable, requests reassessment; or

(c) When the individual’s needs or circumstances have changed significantly.

STATUTORY/OTHER AUTHORITY: ORS 409.050, 413.042, 413.085, 443.738, 427.104, 430.662

STATUTES/OTHER IMPLEMENTED: ORS 409.050, 413.042, 413.085, 443.738, 410.020, 427.007, 430.610, 430.620, 430.622 - 430.670

ADOPT: 410-173-0025

RULE TITLE: Person-Centered Service Planning Process

RULE SUMMARY: 1915(i) Home and Community Based Services State Plan Option rules ensure individuals served by the Oregon Health Authority, Health Systems Division, have access to 1915(i) Home and Community Based State Plan Option Services. These rules allow the Authority to offer appropriate oversight and technical assistance to providers who offer services to 1915(i) eligible members consistent with the Oregon State Plan. Additionally, HCBS services are required per final regulations of section 1915 of the Social Security Act, issued in January of 2014, to ensure individuals receiving long-term services and supports have full access to benefits of community living and opportunity to receive services in the most integrated setting possible. These rules describe eligibility requirements, the services and supports available to 1915(i) eligible individuals, person-centered planning processes, and documentation standards required of HCBS providers.

RULE TEXT:

(1) A person-centered service plan shall be developed through a person-centered service planning process that shall include the following:

(a) Be directed by the individual accessing 1915(i) services and supports;

(b) Include the individual and those people chosen by the individual;

(c) Provide necessary information and support to ensure the individual directs the person-centered service planning process to the maximum extent possible and is enabled to make informed choices and decisions;

(d) Be timely, responsive to changing needs, occurs at times and locations convenient to the individual, and is reviewed at least annually;

(e) Reflect cultural considerations of the individual;

(f) Use language, format, and presentation methods appropriate for effective communication according to the needs and abilities of the individual and, as applicable, the legal representative or authorized representative of the individual;

(g) Include strategies for resolving disagreement within the process, including clear conflict of interest guidelines for all planning participants that include:

(A) Discussing concerns of each person-centered service planning team member and determining acceptable solutions;

(B) Supporting the individual in arranging and conducting a person-centered service planning meeting;

(C) Utilizing any available greater community conflict resolution resources;

(D) Referring concerns to the Oregon Residential Facilities Ombudsman; or

(E) Following existing, program-specific grievance or complaint processes.

(h) Offer choices to the individual regarding the services and supports the individual receives and from whom and record the alternative HCBS settings that were considered by the individual;

(i) Provide a method for the individual or, as applicable, the legal representative or authorized representative of the individual to request updates to the person-centered service plan for the individual;

(j) Be conducted to reflect what is important to the individual to ensure delivery of services in a manner reflecting personal preferences and ensuring health and welfare;

(k) Identify the strengths and preferences, service and support needs, goals, and desired outcomes of the individual;

(L) Include but is not limited to individually identified goals and preferences related to relationships, greater community participation, employment, income and savings, healthcare and wellness, and education;

(m) Include risk factors and plans to minimize any identified risk factors, including:

(A) Identification of back-up plans, as needed; and

(B) Identification of procedures to follow when the primary provider is unable to deliver approved services.

(n) Results in a person-centered service plan conducted by the IQA.

(2) Person-Centered Service Plans (PCSP):

(a) The IQA documents the person-centered service plan on behalf of the individual and provides the necessary information and supports to ensure the individual directs the person-centered service planning process to the maximum

extent possible;
(b) The person-centered service plan shall be developed by the individual, the legal representative or authorized representative of the individual, if applicable, and the IQA. Others may be included at the invitation of the individual and, as applicable, the legal representative or authorized representative;
(c) To avoid conflict of interest, the PCSP may not be developed by the provider of HCBS. Exceptions may be granted when the Authority has determined that the only willing and qualified entity to provide case management and develop the PCSP in a specific geographic area also provides HCBS;
(d) The written PCSP reflects:
(A) HCBS and setting options based on the needs, preferences, strengths, and desired outcomes of the individual, and for residential settings, the available resources of the individual for room and board;
(B) The HCBS and settings are chosen by the individual and are integrated in, and support full access to the greater community;
(C) Opportunities to seek employment and work in competitive integrated employment settings for those individuals who desire to work. If the individual wishes to pursue employment, a non-disability specific setting option shall be presented and documented in the person-centered service plan;
(D) Opportunities to engage in community life, control personal resources, and receive services in the greater community to the same degree of access as people not receiving HCBS;
(E) The strengths and preferences of the individual;
(F) The service and support needs of the individual;
(G) The goals and desired outcomes of the individual;
(H) The providers of services and supports, including unpaid natural supports provided voluntarily and other alternative resources;
(I) The amount, duration, and scope of services to be provided;
(J) Risk factors identified through the person-centered services planning process and measures in place to mitigate each identified risk;
(K) Individually-based limitations as identified through person-centered planning that limit or restrict HCBS settings to keep the individual and others safe from harm;
(L) Individualized backup plans and strategies when needed;
(M) People who are important in supporting the individual;
(N) The person responsible for monitoring the person-centered service plan;
(O) Language, format, and presentation methods appropriate for plain and effective communication according to the needs and abilities of the individual receiving services and, as applicable, the legal representative or authorized representative of the individual;
(P) The written informed consent of the individual or, as applicable, the legal representative or authorized representative of the individual, indicating agreement with the information, supports and services identified within the PCSP;
(Q) Signatures of the individual or, as applicable, the legal representative or authorized representative of the individual, participants in the person-centered service planning process, providers responsible for the implementation of the PCSP, and people identified as providing natural supports within the PCSP;
(R) Provisions to prevent unnecessary or inappropriate services and supports;
(e) The individual or, as applicable, the legal representative or authorized representative of the individual, decides on the level of information in the person-centered service plan that is shared with providers. To effectively provide services, providers shall have access to the portion of the person-centered service plan that the provider is responsible for implementing;
(f) The PCSP is distributed to the individual and, as applicable, the legal representative or authorized representative of the individual, and other people involved in the person-centered service plan as described above in subsection (e) of this section;

(g) The PCSP shall justify and document any individually-based limitation as described in OAR 410-173-0040 when conditions under OAR 410-173-0035(1)(d) and (2)(d-j)) may not be met due to threats to the health and safety of the individual or others;
(h) The person-centered service plan shall be reviewed and revised:
(A) At least annually and upon reassessment of functional needs;
(B) At the request of the individual or, as applicable, the legal representative or authorized representative of the individual; or
(C) When the circumstances or needs of the individual change significantly.

STATUTORY/OTHER AUTHORITY: ORS 409.050, 413.042, 413.085, 414.025, 443.738, 427.104, 430.662

STATUTES/OTHER IMPLEMENTED: ORS 409.050, 413.042, 413.085, 414.025, 443.738, 410.020, 427.007, 430.610, 430.620, 430.662 - 430.670

ADOPT: 410-173-0030

RULE TITLE: Qualifications for Home and Community Based Services Providers

RULE SUMMARY: 1915(i) Home and Community Based Services State Plan Option rules ensure individuals served by the Oregon Health Authority, Health Systems Division, have access to 1915(i) Home and Community Based State Plan Option Services. These rules allow the Authority to offer appropriate oversight and technical assistance to providers who offer services to 1915(i) eligible members consistent with the Oregon State Plan. Additionally, HCBS services are required per final regulations of section 1915 of the Social Security Act, issued in January of 2014, to ensure individuals receiving long-term services and supports have full access to benefits of community living and opportunity to receive services in the most integrated setting possible. These rules describe eligibility requirements, the services and supports available to 1915(i) eligible individuals, person-centered planning processes, and documentation standards required of HCBS providers.

RULE TEXT:

(1) Providers of 1915(i) HCBS shall meet the following qualifications for each type of service they are providing.

(2) AFH providers shall:

(a) Be 21 years of age or older;

(b) Comply with the 1915(i) HCBS setting qualities identified in OAR 410-173-0035;

(c) Participate in the person-centered planning process as described in OAR 410-173-0025;

(d) Document the services as outlined in OAR 410-173-0045; and

(e) Comply with OAR 309-040, rules governing AFHs.

(3) RTF providers shall:

(a) Be at least 18 years of age;

(b) Comply with the 1915(i) HCBS setting qualities identified in OAR 410-173-0035;

(c) Participate in the person-centered planning process as described in OAR 410-173-0025;

(d) Document the services as outlined in OAR 410-173-0045; and

(e) Comply with OAR 309-035 rules governing RTFs.

(4) RTH providers shall:

(a) Be at least 18 years of age;

(b) Comply with the 1915(i) HCBS setting qualities identified in OAR 410-173-0035;

(c) Participate in the person-centered planning process as described in OAR 410-173-0025;

(d) Document the services as outlined in OAR 410-173-0045; and

(e) Comply with OAR 309-035 rules governing RTHs.

(5) Behavioral Health Providers of 1915(i) HCBS shall comply with the qualifications and competencies outlined in OAR 309-019-0125, 309-035-0135, 309-040-0360 and be employed by or contracted with a provider organization certified by the Authority as described in OAR 309-008.

(6) 1915(i) HCBS providers, as identified above, shall adhere to the following provider qualifications:

(a) Demonstrate by background, skills and abilities the capability to safely and adequately provide the services authorized, in the judgment of the Authority or its designee;

(b) Maintain a drug-free work place and be approved through the criminal history check process described in OAR 407-007 and OAR 943-007;

(c) Not be the eligible individual's spouse or another legally responsible relative;

(d) Be authorized to work or operated in the United States, in accordance with U.S. Department of Homeland Security, Bureau of Citizenship and Immigration rules.

(e) Complete criminal history background checks and re-checks in accordance with OAR 407-007. A provider’s failure to complete a new criminal history check authorization shall result in the inactivation of the provider enrollment. Once inactivated, a provider must reapply and meet the standards described in this rule to have their provider enrollment reactivated; and

(f) Not be included on any US Office of Inspector General Exclusion lists.

STATUTORY/OTHER AUTHORITY: ORS 124.050 - 124.095, 409.040, 413.032, 413.042, 413.071, 413.085, 414.025, 426.500, 443.738, 409.050, 427.104, 430.662

STATUTES/OTHER IMPLEMENTED: ORS 124.050 - 124.095, 409.040, 413.032, 413.042, 413.071, 413.085, 414.025, 426.500, 443.738, 427.007, 430.610, 430.620, 430.662 - 430.670

ADOPT: 410-173-0035

RULE TITLE: Home and Community Based Services and Setting Qualities

RULE SUMMARY: 1915(i) Home and Community Based Services State Plan Option rules ensure individuals served by the Oregon Health Authority, Health Systems Division, have access to 1915(i) Home and Community Based State Plan Option Services. These rules allow the Authority to offer appropriate oversight and technical assistance to providers who offer services to 1915(i) eligible members consistent with the Oregon State Plan. Additionally, HCBS services are required per final regulations of section 1915 of the Social Security Act, issued in January of 2014, to ensure individuals receiving long-term services and supports have full access to benefits of community living and opportunity to receive services in the most integrated setting possible. These rules describe eligibility requirements, the services and supports available to 1915(i) eligible individuals, person-centered planning processes, and documentation standards required of HCBS providers.

RULE TEXT:

(1) Residential and non-residential HCBS settings shall support individuals in having the same opportunities for integration, access, choice, and rights as individuals not accessing 1915(i) HCBS.

(2) Providers of 1915(i) HCBS shall develop and implement policies and procedures to address the following HCBS residential and non-residential setting requirements;

(a) The setting is integrated in and supports the same degree of access to the greater community as people not receiving HCBS, including opportunities for individuals enrolled in or receiving HCBS to:

(A) Seek employment and work in competitive integrated employment settings;

(B) Engage in greater community life;

(C) Control personal resources; and

(D) Receive services in the greater community.

(b) The residential or non-residential setting is selected by an individual or, as applicable, the legal representative or authorized representative of the individual, from among available setting options, including non-disability specific settings and an option for a private unit in a residential setting. The setting options shall:

(A) Be identified and documented in the person-centered service plan for the individual;

(B) Be based on the desires, needs, preferences, and strengths of the individual;

(C) Protect an individual's rights of privacy, dignity, respect, and freedom from coercion, restraint, and seclusion:

(i) A physical emergency restraint as outlined in OAR 309-035-0105 may be used to prevent immediate injury to an individual who is in danger of physically harming themselves or others;

(ii) A physical emergency restraint shall use only the degree of force reasonably necessary for protection and for the least amount of time necessary.

(D) Optimizes, but does not regiment, individual initiative, autonomy, self-direction, and independence in making life choices including, but not limited to: Daily activities, physical environment, and with whom the individual chooses to interact; and

(E) Facilitates individual choice regarding services and supports and who provides the services and supports.

(c) Provider owned, controlled, or operated residential settings shall:

(A) Meet all the qualities in section (1) of this rule;

(B) Be physically accessible to an individual;

(C) Be a specific physical place that may be owned, rented, or occupied by an individual under a legally enforceable residency agreement. The individual has, at a minimum, the same responsibilities and protections from an eviction that a tenant has under the Oregon landlord tenant law. For a setting in which landlord tenant laws do not apply, the residency agreement shall provide protections for the individual and address eviction and appeal processes. The eviction and appeal processes shall be substantially equivalent to the processes provided under landlord tenant laws;

(D) Provide the individual privacy in their own unit;

(E) Provide locks on individual doors lockable by the individual, with the individual and only appropriate staff having a

key to the unit.
(f) Provide choice of roommates to individuals sharing units;
(g) Provide individuals the freedom to decorate and furnish their own unit as agreed to within the residency agreement;
(h) Allow individuals to have visitors of their choosing at any time;
(i) Provide individuals the freedom and support to control their own schedule and activities; and
(j) Provide individuals the freedom and support to have access to food at any time.
(4) Providers initially licensed or certified by the Authority on or after January 1, 2016, shall meet the requirements in these rules prior to being issued a license by the Division.
(5) HCBS settings do not include the following:
(a) A nursing facility;
(b) An institution as outlined in ORS 426.010;
(c) An intermediate care facility for individuals with intellectual disabilities;
(d) A hospital providing long-term care services; and
(e) Any other setting that has the qualities of an institution that include:
(A) A setting located in a building that is also a publicly or privately-operated facility that provides inpatient institutional treatment;
(B) A setting located in a building on the grounds of or immediately adjacent to a public institution;
(C) A setting that has the effect of isolating individuals receiving HCBS from the greater community; or
(D) A non-residential setting that isolates individuals from the greater community.
(6) A setting that is presumed to have the qualities of an institution, as outlined in section (5) of this rule, shall be subject to a heightened scrutiny process. The setting shall have the opportunity to deny the presumption by submitting evidence of their compliance with these rules. Upon review of the evidence, if the Division determines:
(a) A setting has not overcome the presumed qualities of an institution, 1915(i) funding may not be used; or
(b) A setting has provided adequate evidence to rebut the presumption that it has the qualities of an institution, the Division shall submit the evidence to the federal Centers for Medicare and Medicaid Services (CMS) after a 30-day public comment period. If CMS determines that a setting has not overcome the presumed qualities of an institution, 1915 (i)HCBS funding may not be used.

STATUTORY/OTHER AUTHORITY: ORS 409.040, 409.050, 413.032, 413.042, 413.071, 413.085, 426.500, 443.738, 409.050, 427.104, 430.662

STATUTES/OTHER IMPLEMENTED: ORS 409.040, 409.050, 413.032, 413.042, 413.071, 413.085, 426.500, 443.738, 427.007, 430.610, 430.620, 430.662 - 430.670

ADOPT: 410-173-0040

RULE TITLE: Individually-Based Limitations

RULE SUMMARY: 1915(i) Home and Community Based Services State Plan Option rules ensure individuals served by the Oregon Health Authority, Health Systems Division, have access to 1915(i) Home and Community Based State Plan Option Services. These rules allow the Authority to offer appropriate oversight and technical assistance to providers who offer services to 1915(i) eligible members consistent with the Oregon State Plan. Additionally, HCBS services are required per final regulations of section 1915 of the Social Security Act, issued in January of 2014, to ensure individuals receiving long-term services and supports have full access to benefits of community living and opportunity to receive services in the most integrated setting possible. These rules describe eligibility requirements, the services and supports available to 1915(i) eligible individuals, person-centered planning processes, and documentation standards required of HCBS providers.

RULE TEXT:
(1) When certain HCBS setting qualities may not be met due to a threat to the health and safety of an individual or others, a provider shall submit a request for an individually-based limitation (IBL) to the IQA.
(2) An IBL shall be supported by a specific assessed need and documented in the PCSP. The IQA shall complete a Division-approved form documenting the IBL. The form identifies and documents, at a minimum, the following requirements:
(a) The specific and individualized assessed need justifying the IBL;
(b) The positive interventions and supports used prior to any IBL;
(c) Less intrusive methods that have been tried but did not work;
(d) A clear description of the limitation that is directly proportionate to the specific assessed need;
(e) Regular collection and review of data to measure the ongoing effectiveness of the IBL;
(f) Established time limits for periodic reviews of the IBL to determine if the limitation should be terminated or remains necessary;
(g) The informed consent of the individual or, as applicable, the legal representative of the individual, including any discrepancy between the wishes of the individual and the consent of the legal representative, as evidenced by a signature and date;
(h) An assurance that the interventions and support do not cause harm to the individual; and
(i) Documentation that the IBL shall be reviewed on a timeframe agreed upon by the PCS planning team at least every 12 months.
(3) Providers are responsible for:
(a) Maintaining a copy of the completed and signed form documenting the consent to the appropriate limitation. The form shall be signed by the individual, or, if applicable, the legal representative of the individual;
(b) Regular collection and review of data to measure the ongoing effectiveness of and the continued need for the individually-based limitation; and
(c) Requesting a review of the individually-based limitation when a new individually-based limitation is indicated, or a change or removal of an individually-based limitation is needed.

STATUTORY/OTHER AUTHORITY: ORS 409.050, 413.042, 413.085, 426.072, 430.021, 430.735, 443.738, 443.739

STATUTES/OTHER IMPLEMENTED: ORS 409.050, 413.042, 413.085, 443.738, 427.007, 430.610, 430.620, 430.662 - 430.670

ADOPT: 410-173-0045

RULE TITLE: Documentation Standards

RULE SUMMARY: 1915(i) Home and Community Based Services State Plan Option rules ensure individuals served by the Oregon Health Authority, Health Systems Division, have access to 1915(i) Home and Community Based State Plan Option Services. These rules allow the Authority to offer appropriate oversight and technical assistance to providers who offer services to 1915(i) eligible members consistent with the Oregon State Plan. Additionally, HCBS services are required per final regulations of section 1915 of the Social Security Act, issued in January of 2014, to ensure individuals receiving long-term services and supports have full access to benefits of community living and opportunity to receive services in the most integrated setting possible. These rules describe eligibility requirements, the services and supports available to 1915(i) eligible individuals, person-centered planning processes, and documentation standards required of HCBS providers.

RULE TEXT:
(1) Providers shall maintain records that fully support the extent of services for which payment is requested and provide the records to the Division or IQA upon request.
(2) All records shall document the following:
(a) The name of the individual receiving 1915(i) HCBS services;
(b) The Medicaid Identification Number of the individual receiving 1915(i) HCBS services;
(c) The name of the provider offering 1915(i) HCBS services;
(d) Type of service being provided;
(e) Date of service;
(f) Start time of each service; and
(g) End time of each service.
(3) Providers shall document services and supports provided to the individual and how the services and supports relate to identified goals and objectives outlined in the PCSP.
(4) Providers shall document the services and supports addressing the following HCBS qualities:
(a) Employment and volunteer opportunities;
(b) Individual choice of community activities and community access;
(c) Access to and control of personal resources; and
(d) Strategies identified in the PCSP to ensure the health and safety of the individual or others.

STATUTORY/OTHER AUTHORITY: ORS 124.050 - 124.095, 163.275, 443.765

STATUTES/OTHER IMPLEMENTED: ORS 124.050 - 124.095, 163.275, 443.765

ADOPT: 410-173-0050

RULE TITLE: Home Based Habilitation Services

RULE SUMMARY: 1915(i) Home and Community Based Services State Plan Option rules ensure individuals served by the Oregon Health Authority, Health Systems Division, have access to 1915(i) Home and Community Based State Plan Option Services. These rules allow the Authority to offer appropriate oversight and technical assistance to providers who offer services to 1915(i) eligible members consistent with the Oregon State Plan. Additionally, HCBS services are required per final regulations of section 1915 of the Social Security Act, issued in January of 2014, to ensure individuals receiving long-term services and supports have full access to benefits of community living and opportunity to receive services in the most integrated setting possible. These rules describe eligibility requirements, the services and supports available to 1915(i) eligible individuals, person-centered planning processes, and documentation standards required of HCBS providers.

RULE TEXT:

(1) Home Based Habilitation Services are provided face-to-face as outlined in the individual's PCSP and include:

(a) Assistance or support with ADLs and IADLs as defined in these rules;

(b) Assistance to access and maintain inclusion in and access to the greater community to the same degree as individuals who do not access 1915(i) HCBS;

(c) Assistance to navigate in the community to the same degree as individuals who do not access Medicaid 1915(i) HCBS services;

(d) Assistance to maintain, develop, or improve independent living skills;

(e) Assistance to maintain, develop, or improve socialization skills;

(f) Assistance to maintain, develop, or improve self-advocacy skills;

(g) Services to develop and maintain skills that aid in an individual's ability to live in the most integrated community setting possible; and

(h) Identification of back-up plans as needed to:

(A) Mitigate health and safety risks to the individual or others; and

(B) Identify procedures to follow when the primary provider is unable to deliver approved services.

(2) Home Based Habilitation Services are delivered consistent with the amount, duration, and scope of services identified in the PCSP, demonstrated through documentation as identified in 410-173-0040.

(3) Home Based Habilitation Services shall be provided in the following settings, as identified in the PCSP:

(a) Community;

(b) Individual's own or family home;

(c) AFH;

(d) RTF; or

(e) RTH.

(4) Home Based Habilitation Services shall be provided by the following provider types who meet the qualifications defined in OAR 309-019, OAR 410-172, or OAR 410-180:

(a) AFH providers;

(b) RTH providers;

(c) RTF providers;

(d) QMHP;

(e) QMHA;

(f) Recovery Assistant;

(g) Certified Peer Support Specialist; and

(h) Mental Health Intern.

STATUTORY/OTHER AUTHORITY: ORS 413.032, 413.042, 426.495, 430.610, 430.630

STATUTES/OTHER IMPLEMENTED: ORS 413.032, 413.042, 426.495, 430.610, 430.630

ADOPT: 410-173-0055

RULE TITLE: Eligibility Criteria for Home Based Habilitation

RULE SUMMARY: 1915(i) Home and Community Based Services State Plan Option rules ensure individuals served by the Oregon Health Authority, Health Systems Division, have access to 1915(i) Home and Community Based State Plan Option Services. These rules allow the Authority to offer appropriate oversight and technical assistance to providers who offer services to 1915(i) eligible members consistent with the Oregon State Plan. Additionally, HCBS services are required per final regulations of section 1915 of the Social Security Act, issued in January of 2014, to ensure individuals receiving long-term services and supports have full access to benefits of community living and opportunity to receive services in the most integrated setting possible. These rules describe eligibility requirements, the services and supports available to 1915(i) eligible individuals, person-centered planning processes, and documentation standards required of HCBS providers.

RULE TEXT:
(1) To be eligible for Home Based Habilitation Services defined in this rule, individuals shall:
(a) Be eligible for 1915(i) HCBS as outlined in OAR 410-173-0010;
(b) Have identified needs for assistance with ADLs or IADLs requiring services and supports in the home and community that natural supports are unable to provide; and
(c) Not be eligible for the service through Medicare other Medicaid programs or other medical coverage.
(2) Individuals determined eligible to receive Home Based Habilitation Services shall be provided the choice of services and supports, who provides those services and supports, and where those services and supports are provided. The individual's choice shall be reflected by their signature, or, if appropriate, the legal representative's signature of informed consent.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 426.495, 430.610, 430.630

STATUTES/OTHER IMPLEMENTED: ORS 413.042, 426.495, 430.610, 430.630

ADOPT: 410-173-0060

RULE TITLE: HCBS Behavioral Habilitation

RULE SUMMARY: 1915(i) Home and Community Based Services State Plan Option rules ensure individuals served by the Oregon Health Authority, Health Systems Division, have access to 1915(i) Home and Community Based State Plan Option Services. These rules allow the Authority to offer appropriate oversight and technical assistance to providers who offer services to 1915(i) eligible members consistent with the Oregon State Plan. Additionally, HCBS services are required per final regulations of section 1915 of the Social Security Act, issued in January of 2014, to ensure individuals receiving long-term services and supports have full access to benefits of community living and opportunity to receive services in the most integrated setting possible. These rules describe eligibility requirements, the services and supports available to 1915(i) eligible individuals, person-centered planning processes, and documentation standards required of HCBS providers.

RULE TEXT:
(1) HCBS Behavioral Habilitation Services are designed to assist and support an individual to maintain, learn, or improve skills and functioning in ADL and IADL due to the symptoms of a behavioral health condition.
(2) HCBS Behavioral Habilitation Services consists of the following service provisions identified in the PCSP:
(a) Behavioral supports;
(b) Training and education-psychosocial skills;
(c) Active therapies.
(3) HCBS Behavioral Habilitation Services shall include the following:
(a) Evidence-based or evidence-informed practices; and
(b) The amount, frequency, duration, and scope of services identified in the PCSP.
(4) HCBS Behavioral Habilitation Services shall be provided in the following settings, as identified in the PCSP:
(a) Community;
(b) Individual's own or family home;
(c) AFH;
(d) RTF;
(e) RTH.
(5) HCBS Behavioral Habilitation Services shall be provided by the following provider types who meet the qualifications defined in OAR 309-019, OAR 410--172, or OAR 410-180:
(a) AFH providers;
(b) RTF providers;
(c) RTH providers;
(d) QMHP;
(e) QMHA;
(f) Recovery Assistant;
(g) Certified Peer Support Specialist; or
(h) Mental Health Intern.

STATUTORY/OTHER AUTHORITY: ORS 413.032, 413.042, 411.025, 426.495, 430.610, 430.630

STATUTES/OTHER IMPLEMENTED: ORS 413.032, 413.042, 426.495, 430.610, 430.630

ADOPT: 410-173-0065

RULE TITLE: Eligibility Criteria for HCBS Behavioral Habilitation

RULE SUMMARY: 1915(i) Home and Community Based Services State Plan Option rules ensure individuals served by the Oregon Health Authority, Health Systems Division, have access to 1915(i) Home and Community Based State Plan Option Services. These rules allow the Authority to offer appropriate oversight and technical assistance to providers who offer services to 1915(i) eligible members consistent with the Oregon State Plan. Additionally, HCBS services are required per final regulations of section 1915 of the Social Security Act, issued in January of 2014, to ensure individuals receiving long-term services and supports have full access to benefits of community living and opportunity to receive services in the most integrated setting possible. These rules describe eligibility requirements, the services and supports available to 1915(i) eligible individuals, person-centered planning processes, and documentation standards required of HCBS providers.

RULE TEXT:

(1) To be eligible for HCBS Behavioral Habilitation Services defined in this rule, individuals shall:

(a) Be eligible for 1915(i) HCBS per OAR 410-173-0010;

(b) Have assessed needs for HCBS Behavioral Habilitation Services requiring services and supports in the home and community that natural supports are unable to consistently provide;

(c) Not be eligible for the service through Medicare, other Medicaid programs, or other medical coverage; and

(d) Access one or more 1915(i) services at least one time every 30 days.

(2) Individuals determined eligible to receive HCBS Behavioral Habilitation Services shall be provided the choice of services and supports, who provides those services and supports, and where those services and supports are provided. The individual's choice shall be reflected by their signature, or, if appropriate, the legal representative's signature of informed consent.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 426.495, 430.630, 430.640

STATUTES/OTHER IMPLEMENTED: ORS 413.042, 426.495, 430.630, 430.640

ADOPT: 410-173-0070

RULE TITLE: HCBS Psychosocial Rehabilitation for Persons with Chronic Mental Illness

RULE SUMMARY: 1915(i) Home and Community Based Services State Plan Option rules ensure individuals served by the Oregon Health Authority, Health Systems Division, have access to 1915(i) Home and Community Based State Plan Option Services. These rules allow the Authority to offer appropriate oversight and technical assistance to providers who offer services to 1915(i) eligible members consistent with the Oregon State Plan. Additionally, HCBS services are required per final regulations of section 1915 of the Social Security Act, issued in January of 2014, to ensure individuals receiving long-term services and supports have full access to benefits of community living and opportunity to receive services in the most integrated setting possible. These rules describe eligibility requirements, the services and supports available to 1915(i) eligible individuals, person-centered planning processes, and documentation standards required of HCBS providers.

RULE TEXT:

(1) PSR services shall be identified and agreed upon within the PCSP and shall:

(a) Support the desires and goals of the individual receiving services;

(b) Increase the independence of the individual receiving PSR;

(c) Reduce an individual's need for assistance from another person; and

(d) Maintain the health and safety of the individual and others in the home or community.

(2) PSR services shall be provided face-to-face, as outlined in the PCSP, include the services listed in section (3) of this rule, and include the following:

(a) Comprehensive medication services as prescribed by an LMP;

(b) Individual therapy;

(c) Group therapy;

(d) Family therapy;

(e) Psychiatric skills training;

(f) Behavioral health counseling therapy;

(g) Psychiatric activity therapy or community psychiatric supportive treatment; and

(h) Assertive community treatment.

(3) PSR services shall be consistent with the following:

(a) Evidence-based or evidence-informed practices; and

(b) The amount, frequency, duration, and scope of services delivered as identified in the PCPS.

(4) PSR services shall be provided in the following settings, as identified within the PCSP:

(a) Community;

(b) AFH;

(c) RTH; or

(d) RTF.

STATUTORY/OTHER AUTHORITY: ORS 413.032, 413.042, 426.495, 430.630, 430.640

STATUTES/OTHER IMPLEMENTED: ORS 413.032, 413.042, 426.495, 430.630, 430.640

ADOPT: 410-173-0075

RULE TITLE: Eligibility Criteria for HCBS Psychosocial Rehabilitation for Persons with Chronic Mental Illness

RULE SUMMARY: 1915(i) Home and Community Based Services State Plan Option rules ensure individuals served by the Oregon Health Authority, Health Systems Division, have access to 1915(i) Home and Community Based State Plan Option Services. These rules allow the Authority to offer appropriate oversight and technical assistance to providers who offer services to 1915(i) eligible members consistent with the Oregon State Plan. Additionally, HCBS services are required per final regulations of section 1915 of the Social Security Act, issued in January of 2014, to ensure individuals receiving long-term services and supports have full access to benefits of community living and opportunity to receive services in the most integrated setting possible. These rules describe eligibility requirements, the services and supports available to 1915(i) eligible individuals, person-centered planning processes, and documentation standards required of HCBS providers.

RULE TEXT:

(1) To be eligible for PSR services outlined in these rules, individuals shall:

(a) Be eligible for 1915(i) HCBS as outlined in OAR 410-173-0010;

(b) Have assessed needs for PSR requiring services and supports in the home and community; and

(c) Not be eligible for the service through Medicare, other Medicaid programs, or other medical coverage.

(2) Individuals determined eligible to receive PSR shall be provided the choice of services and supports, who provides those services and supports, and where those services and supports are provided to meet the individual's assessed needs. The individual's choice shall be reflected by their signature, or, if appropriate, the legal representative's signature indicating informed consent.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 426.495, 430.630, 430.640

STATUTES/OTHER IMPLEMENTED: ORS 413.042, 426.495, 430.630, 430.640