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NOTICE OF PROPOSED RULEMAKING

INCLUDING STATEMENT OF NEED & FISCAL IMPACT

FILED
12/05/2023 12:43 PM
ARCHIVES DIVISION
SECRETARY OF STATE

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

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

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 01/21/2024 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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NEED FOR THE RULE(S)

OHA expanded services allowed under the 1915(i) Home and Community Based Services, State Plan Option. This change allows individual's access to a broader array of services to meet their short and long-term goals and objectives. These rules better identify the requirement that a 1915(i) service must be accessed every 30 days to maintain eligibility for the program.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Oregon Medicaid State Plan, 42 CFR Subpart M, 441.700-745.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

Medicaid programs worked with the office of behavioral health, the Division of Equity and Inclusion, Community Partners Outreach Program, Ombuds program, Aging and People with Disabilities, Community engagement team, the office of program integrity, providers, and consumers of services to draft the 1915(i) administrative rules. These partnerships and the work to develop a data dashboard will inform utilization across the state and within areas of the state. OHA can employ a strategic communicated approach to address lower than expected utilization.

FISCAL AND ECONOMIC IMPACT:

No fiscal or economic impact is expected on partners.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost

of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) Increase in services will cost the state less than $2.6 Million in general funds, the federal fund projections will be approximately $3.9 Million for a total of $6.5 Million.

(2)

(a) There is no additional anticipated cost on small businesses.

(b) There is no additional anticipated cost on small businesses.

(c) There is no additional anticipated cost on small businesses.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Providers of 1915(i) services were engaged prior to the state's request to update the rules.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

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, 410-173-0080, 410-173-0085, 410-173-0090, 410-173-0095, 410-173-0100

AMEND: 410-173-0000

RULE SUMMARY: Purpose of rules

CHANGES TO RULE:

410-173-0000
Purpose
(1) These rules ensure eligible individuals served by the Oregon Health Authority (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 an Individual~~s~~'s independence, empowerment, dignity, and human potential through the provision of person-centered and directed, flexible, efficient, appropriate, and cost-effective services.¶
(2) Services described in these rules include: ¶
(a) Home ~~Based Habilitation;¶~~
~~(b) HCBS Behavior~~and Community Based Services (HCBS)¶
(b) Community Based Integrated Supports (CBIS)¶
(c) Residential Habilitation~~; and~~ ¶
(~~c~~d) ~~HCBS~~ Psychosocial Rehabilitation for Persons with Chronic Mental Illness (PSR)~~.~~¶
(e) Housing Support Services¶
(f) Home Delivered Meals ¶
(3) Services described in this rule should improve eligible ~~i~~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 ~~i~~Individual's assessed needs. Payments are not intended to replace existing supports. ¶
(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

AMEND: 410-173-0005

RULE SUMMARY: Definitions

CHANGES TO RULE:

410-173-0005
Definitions
(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~~means functional activities required by an ~~i~~Individual for continued well-being that are essential for health and safety. A~~ctivitie~~DL's include eating, dressing/grooming, bathing/personal hygiene, mobility (ambulation and transfer~~), cognition (use information, make decisions~~ring), and elimination ~~(~~toileting~~,~~ bowel, and ~~bladder management)~~maintaining continence.¶
(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) "Aging and People with Disabilities (APD)" means the division in the Oregon Department of Human Services (ODHS or Department) that administers programs for older adults and people with disabilities.¶
(4) "Alternative Service Resources" means other resources for the provision of services to meet an ~~i~~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~~5) "Assistance" means the help needed by an ~~i~~Individual to complete ~~a~~Activities of ~~d~~Daily ~~l~~Living (ADL) and ~~i~~Instrumental ~~a~~Activities of ~~d~~Daily ~~l~~Living (IADL). For 1915(i) HCBS, assistance includes only the following activities:¶
(a) "Cueing" means giving verbal or visual clues during an activity to help an ~~i~~Individual complete the activity without hands-on assistance;¶
(b) "Hands-on" means a provider physically performs all or parts of an activity because an ~~i~~Individual is unable to do so; and¶
(c) "Supervision" means, along with cueing, helping the ~~i~~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 ~~i~~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 ~~i~~Individual encouragement and support~~;~~¶
(D) "Stand-by" means a provider is at the side of an ~~i~~Individual ready to step in and take over the task if the ~~i~~Individual is unable to complete the task independently.¶
(~~5~~6) "Assisted Living Facility" or "ALF" means a building, complex, or distinct part thereof, consisting of fully, self-contained, individual living units where six or more seniors and adult individuals with disabilities may reside in homelike surroundings. The assisted living facility offers and coordinates a range of supportive services available on a 24-hour basis to meet the activities of daily living, health, and social needs of the residents as described in these rules. A program approach is used to promote resident self-direction and participation in decisions that emphasize choice, dignity, privacy, individuality, and independence.¶
(7) "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~~(8) "Authorized Representative" means any adult with longstanding involvement in assuring the ~~i~~Individual's health and safety, appointed to participate in service planning process, and is:¶
(a) Chosen and appointed by the individual or their legal representative, if applicable~~;~~¶
(b) Not a paid provider of H~~CBS~~ome and Community Based Services (HCBS), and supports;¶
(c) Authorized, in writing or other method that clearly indicates consenting choice, by the ~~i~~Individual or legal representative, if applicable, to serve as the ~~i~~Individual's representative in connection with the provision of funded supports; and¶
(d) Responsible to act as the authorized representative until the ~~i~~Individual, or legal representative, if applicable, modifies the authorization or notifies the a~~gency that the authorized representative is no longer authorized to act~~

on their behalf.¶
(7uthority or authority's contractor that the authorized representative is no longer authorized to act on their behalf.¶
(9) "Chronic Mental Health Illness" means an individual who is diagnosed by a psychiatrist, a licensed clinical psychologist, a licensed independent practitioner as defined in ORS 426.005 or a non-medical examiner certified by OHA or ODHS as havening chronic schizophrenia, a chronic major affective disorder, a chronic paranoid disorder, or another chronic psychotic mental disorder other than those caused by substance abuse.¶
(10) "Cognitive impairment" means an Individual may be physically capable of performing ADL's or IADL's but may have limitations in performing these tasks due to remembering, learning new things, concentrating, or making decisions that affect their everyday life. Personal care services may be required because a cognitive impairment prevents an Individual from knowing when or how to carry out the task. Assistance may include cueing or supervision to support the Individual while performing the task. This does not include or replace community-based integrated support services that support the Individual to develop the skills needed to complete the task independently.¶
(11) "Community-Based Integrated Supports (CBIS)" means services and supports offered to Individuals who require assistance in the acquisition, retention, or improvement with life management, socialization skills and community engagement and community integration and engagement to maintain their maximum level of functioning and integration within the broader community. ¶
(12) "Court-imposed restrictions for individuals under the jurisdiction of a civil or criminal court, or under the jurisdiction of the Oregon Psychiatric Security Review Board" (PRSB) means a court order imposing requirements or restrictions on adult offenders placed on supervision, either in lieu of incarceration or as a condition of release from prison. Individuals who received court-imposed restrictions while on probation or parole accept the court order or the court ordered entity or program as their decision-making authority for the purposes of the rules described in 410-173-0000 through 410-173-00075.¶
(813) "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, carceral histories, disabilities, and regardless of gender, sexual orientation, or gender identity.¶
(914) "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, carceral histories, disabilities, and regardless of gender, sexual orientation, or gender identity.¶
(105) "Delegated Nursing Task" means a registered nurse (RN) authorizes a person as described in OAR 851-047-0000 who is not licensed to provide or perform a nursing task. In accordance with OAR chapter 851 division 047, the RN shall, prior to issuing written authorization of a delegated nursing task, assess a specific eligible individual's care needs, evaluate the person's ability to perform the specific nursing task, provide the person with education and training to perform the nursing task, and supervise and re-evaluate the Individual and the person performing the task.¶
(16) "Face-to-Face" means a personal interaction where both words can be heard and facial expressions can be seen, either in person or through telehealth services where there is a live streaming audio and video, if medically appropriate and necessary. face-to-face could include communication methods such as telehealth/telemedicine, in lieu of in-person visits, in accordance with HIPAA, as directed by OHA and as chosen by the Individual. Medically appropriate and necessary accommodations shall be made for individuals with disabilities including those with hearing or sight impairments. For telehealth the following conditions must be met:¶
(a) The agent performing the assessment is independent and qualified as defined in 42 CFR � 441.730 and meets the provider qualifications defined by the State, including any additional qualifications or training requirements for the operation of required information technology.¶
(b) The individual receives appropriate support during the assessment, including the use of any necessary on-site support-staff.¶
(c) The individual provides informed consent for this type of assessment.¶
(17) "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.¶
(118) "Functional Needs Assessment" means the comprehensive assessment or reassessment conducted by a qthe Independent Qualified mAgental health professional (IQA), that documents an iIndividual's physical, mental, and social functioning that impacts an Individual's ability to perform everyday tasks, and the iIndividual'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)assessment tools.¶
(19) "Group Home" has the same meaning as Oregon's Department of Human Services (ODHS) 24-hour residential setting and means a residential home, apartment, or duplex, licensed by the Department under ORS

443.410, where home and community-based services are provided to individuals with intellectual or developmental disabilities. A 24-hour residential setting is considered a provider owned, controlled, or operated residential setting.¶
(~~1~~20) "Habilitation" means services that support an ~~i~~Individual to develop, 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~~competencies necessary to function as independently as possible to the extent as they would if they did not have a disability or chronic condition.¶
(21~~3~~) "Home and Community Based Services (HCBS)" means services and supports that assist eligible ~~i~~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.¶
(~~14~~22) "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-~~0~~004-0020 where an ~~i~~Individual receives HCBS.¶
(~~15~~23) "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~~Delivered Meals" means services provided to Individuals who live in their own homes, are home bound, are unable to do meal preparation, and do not have another person available for meal preparation. Provision of the home delivered meal reduces the need for reliance on paid staff during some mealtimes by providing meals in a cost-effective manner. It is an Individuals choice whether they want to receive home delivered meals, nor not.¶
(24) "Housing Support Services" means the services determined necessary in the Person-Centered Service plan (PCSP) for an Individual to obtain and reside in an independent community~~-based~~ setting~~s~~ that ~~are not considered secure~~is tailored to the goal of maintaining an Individual's personal health and welcome in a HCBS where the person ins directly responsible for their own living expenses.¶
(~~16~~25) "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 ~~i~~Individual or, as applicable, the legal representative or authorized representative of the individual, as described in ~~OAR 410-173-0005~~these rules .¶
(~~17~~26) "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.¶
(~~18~~27) "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~~;~~ Residential Services as described in these rules;¶
(f) Conducts quality assurance and quality improvement activities;~~-~~¶
(g) Completes the face-to-face needs-based assessment in person; and~~-~~¶
(h) Performs transition management.~~-~~¶
(~~19~~28) "Individual" means the Medicaid-eligible person applying for or receiving 1915(i) program services.¶
(2~~0~~9) "Informed consent" means the service options, risks, and benefits have been explained to the ~~i~~Individual~~ and~~, legal representative, ~~if applicabl~~or authorized representative, in a manner that they understand, and the ~~i~~Individual ~~and~~ legal representative or authorized representative have agreed to the services on or prior to the first date of service.¶
(~~21~~30) "Legal Representative" means a person who has been legally designated by court order to make financial or health care decisions for another ~~i~~Individual. The legal representative only has authority to act within the scope and limits of ~~his or~~ their authority as designated by the court or other agreement. Legal representatives acting outside of ~~his or~~ their authority or scope shall meet the definition of authorized representative.~~-~~¶
(~~22~~31) "Legally Responsible Relative" means an unpaid relative of the ~~i~~Individual receiving 1915(i) services who by law is responsible for the support and care of another person.~~-~~¶
(~~2~~32) "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 purposes.¶
(~~24~~33) "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.¶
(2 and the existence of other physical, oral, and behavioral health conditions.¶
(34) "Local Mental Health Authority (LMHA)" has the same meaning as Community Mental Health Program (CMHP) as described in OAR Chapter 309, Division 014.¶
(35) "Medically Appropriate" has the meaning as defined in OAR 410-120-0000 and 410-172-0630.¶
(2636) "Medically Necessary" has the meaning as defined in OAR 410-120-0000.¶
(37) "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 iIndividual without the expectation of compensation. Natural supports are identified in collaboration with the iIndividual 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 PCSPerson-Centered Service Plan (PCSP).¶
(2738) "Peer Support Specialist" means a certified person providing peer delivered services toNotice of Planned Action" means a written notice mailed to the Individual as described in OAR 410-120-1865 in the event an iIndividual or family member with similar life experience. A peer support specialist must be: ¶
(a) A self-identified person curr's course of treatment or covered services will be denied, terminated, suspended, or reduced.¶
(39) "ODDS" means the Oregon Departmently or formerly receiving mental health services; or ¶
(b) A self-identified person in recovery from an addiction disorder, who of Human Services, Office of Developmental Disabilities Services.¶
(40) "OHP" means the Oregon Health Plan¶
(41) "Oregon Department of Human Services (Department)" or "ODHS" meetans the abstinence requirements for recovering staff in alcohol and other drug treatment programs; ¶
(c) A self-identified person in recovery from problem gambling; or ¶
(d) A family member ofgency established in ORS Chapter 409, including such divisions, programs and offices as may be established therein.¶
(42) "Peer Support Specialist" means a certified person as defined in ORS 414.025 providing peer delivered services to an iIndividual who is a current or former recipient of addictions or mental health servior family member with similar life experiences.¶
(2843) "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 iIndividual to achieve and maintain personal goals, health, and safety as described in OAR 410-173-0025. The PCSP shall be completed and signed prior to the iIndividual receiving HCBS. The PCSP is not satisfied by a document primarily prepared by a provider.¶
(29a) The PCSP authorizes the Medicaid services that may be rendered and claimed;¶
(b) The effective date of the PCSP is upon signature by the individual, or authorized representative, the providers of services, and the IQA PCSP coordinator;¶
(c) Billing for services is not authorized prior to the PSCP effective date or for any services not included in the PCSP(43) "Person-Centered Service Plan Coordinator (PCSP Coordinator)" means the Qualified Mental Health Professional (QMHP) or licensed professional operating within the scope of their license and 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 legal or authorized representative, if applicable.¶
(3044) "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 iIndividual 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, approved and agreed upon needs.¶
(3145) "Provider Owned, Controlled, or Operated Residential Setting" means:¶
(a) The residential provider is responsible for delivering HCBS to iIndividuals 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 iIndividual leases directly from a third party that has no direct or indirect financial relationship with the provider;¶
(c) When an iIndividual receives services in the home of a family member, the home is not considered provider-owned, controlled, or operated.¶

(3246) "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.¶
(3347) "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.¶
(348) "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.¶
(3549) "Recovery Assistant" means a provider who provides a flexible range of services. Recovery assistants provide face-to-face services in accordance with a service plan that enables a participant to maintain a home or apartment, encourages the use of existing natural supports, and fosters involvement in treatment, social, and community activities. A recovery assistant shall:-¶
(a) Be at least 18 years old;-¶
(b) Meet the background check requirements described in OAR 410-180-0326; 950-060-0060;¶
(c) Conform to the standards of conduct as described in OAR 410-18950-060-034080.¶
(3650) "Representative Payee" or "Payee" means an individual designated by the Social Security Administration to receive money payments of aid.¶
(3751) "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).¶
(3852) "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).¶
(539) "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.¶
(4054) "Skilled Services means services delegated by a Registered Nurse (RN) under Oregon's Nurse Practice Act maybe considered personal care services when the RN provides appropriate training and delegation of the listed nursing tasks in accordance with the Oregon Nurse Practice Act. (OAR Chapter 851 Division 047).¶
(55) "Therapeutic Activities" means group and generalized activity therapy as determined in the person-centered service plan, related to the care and treatment of the Individual and administered by a qualified provider to Individuals diagnosed with a behavioral health condition that result in the improvement or reduction of symptoms and are not for recreation. (56) "Serious and Persistent Mental Illness (SPMI)" means the current DSM diagnostic criteria for at least one of the following conditions, as a primary diagnosis for an adult 18 years of age or older:¶
(a) Schizophrenia spectrum and other psychotic disorders;¶
(b) Depressive disorders;¶
(c) Bipolar and related disorders;¶
(d) Obsessive Compulsive Disorder (OCD);¶
(e) Post Traumatic Stress Disorder (PTSD) and Other Specified Trauma- and Stressor-Related Disorder due to cultural syndromes; or¶
(f) Borderline personality disorder.¶
(56) "These Rules" means the rules in OAR 410, division 173.¶
(57) "Transition Management" means the services and supports offered to an Individual to assist them transition from a residential setting to an independent living setting of their choice.
Statutory/Other Authority: ORS 409.050, ORS 412.001, ORS 413.042, ORS 413.085, ORS 414.025, ORS 443.738, ORS 427.104, ORS 430.662
Statutes/Other Implemented: ORS 409.050, ORS 413.042, ORS 413.085, ORS 414.025, ORS 410.600, 427.007, 430.610, 430.620, 430.662 - 430.670

AMEND: 410-173-0010

RULE SUMMARY: Describes Eligibility

CHANGES TO RULE:

410-173-0010
Eligibility
(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 an in-person face-to-face needs-based assessment by an external IQA who meets the requirements of a QMHP.¶
(a) Telehealth is considered face to face and it is the Individuals choice to conduct the assessment face-to-face in person or via telehealth.¶
(b) In-Person or telehealth options are based on the choice and preference of the Individual accessing HCBS.¶
(3) During the initial interaction or engagement with the Individual, the IQA case manager provides information to the Individual, or those people chosen by the Individual regarding service eligibility, any necessary referral processes, and services and supports covered under the 1915(i) HCBS State Plan Option or other eligible Medicaid services. The IQA case manager shall provide education, instruction, and information about the following:¶
(a)The needs assessment and the person-centered planning process, and how they are conducted;¶
(b) The range and scope of individual choices and options;¶
(c) The process for changing the person-centered service plan;¶
(d) The grievance and appeals process;¶
(e) The Individual's rights, including federal and state HCBS rights:¶
(A) The risks and responsibilities of self-direction;¶
(B) Free choice of providers and service delivery models;¶
(f) Reassessment and review schedules;¶
(g) Defining goals, needs and preferences;¶
(h) Identifying and accessing services, supports and resources;¶
(i) Development of risk management agreements; and¶
(j) Recognizing and reporting critical events, including abuse allegations.¶
(k) How to access and make reasonable accommodation requests.¶
(L) Education, instruction, and information are provided orally and in writing in a manner and language easily understood by the individual and others the Individual has chosen to participate in the person-centered assessment and planning process. The IQA has developed print and online information about home and community-based services and supports, including information about available providers, services and the processes to referral and access to HCBS covered services and providers.¶
(34) To be eligible for services under the 1915(i) HCBS, documentation shall support that the iIndividual meets the following requirements: ¶
(a) Enrolled in Title XIX Medicaid;ligible for services under the 1915(i) HCBS, documentation shall support that the individual meets the following requirements:¶
(b) Twenty-one years of age or older;¶
(c) Diagnosed with a chronic mental illness as defined in ORS 426.495(1)(c)(B); or a Severe and Persistent Mental Illness, other than those caused by substance use¶
(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 monthlyevery 30 days.¶
(45) Eligibility reevaluation for 1915(i) HCBS shall be completed on the following schedule:¶
(a) At least every 12 months; and¶
(b) When an iIndividual requests reevaluation; anda reassessment; or¶
(c) When there is documented, evidence indicating the Individual's circumstances or needs have changed significantly.¶
(56) Reassessment shall not be requested by any person or entity without consultation and consent of the Individual or the Individual's legal representative or authorized representative. ¶
(7) Individuals are not eligible to receive 1915(i) HCBS when the individual is receiving duplicate services as delivered through Medicare or other Medicaid programs, services, or other private insurance.¶

(8) The Individual may choose to receive services through any authority but may not receive duplicate services.¶
(9) If it is determined the individual is not eligible for 1915(i) HCBS based on the needs-based criteria, the individual and their legal representative or authorized representative, if applicable, shall be notified by the Authority through a nNotice of planned aAction mailed within three business days after completion of their functional needs assessment. 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, ORS Chapter 183, and the rules adopted thereunder.
Statutory/Other Authority: ORS 409.050, ORS 413.042, ORS 413.085, 413.085,ORS 414.025, ORS 414.070, ORS 427.104, ORS 430.662
Statutes/Other Implemented: ORS 409.050, ORS 413.042, ORS 413.085, 413.085,ORS 414.025, ORS 414.070, 427.007, 430.610, 430.620, 430.662 - 430.670

AMEND: 410-173-0015

RULE SUMMARY: Service Authorization

CHANGES TO RULE:

410-173-0015
Prior Authorization
(1) A~~ll 1915(i) HCBS require prior authorization before service delivery or payment for services. ¶~~
~~(2) Prior autho~~uthorization and medical appropri~~z~~ati~~on~~eness and medical ~~appropriateness for Home Based Habilitation and HCBS Behavior~~necessity for Residential Habilitation are satisfied by face-to-face eligibility or re-eligibility 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~~services, and include:¶
(a) Completion of Division approved functional needs assessment tools; and¶
(b) Documenting the service in the person-centered service plan~~.~~; and¶
(~~3~~c) ~~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~~Agreed to in writing by the individual, legal representative or authorized representative, providers, Case Management Entity (CME) and IQA PCSP Coordinator.¶
(2) HCBS and supports for persons with chronic mental illness or an SPMI shall be deemed medically appropriate and necessary by a QMHP or other licensed provider within the scope of their practice, as outlined in OAR 410-120-0000 and OAR 410-172-0630 and for which required documentation has been submitted.¶
(~~5~~3) ~~Providers who may be paid for 1915(i) HCBS shall:¶~~
~~(a) Meet all necessary provider qualifications, including relevant experience, as outlined in: OAR 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~~Once deemed medically appropriate and necessary, HCBS identified in the PCSP are authorized for as long as deemed necessary by the QMHP, but no longer than 12 months.¶
(~~6~~4) The Division may authorize payment for the type of service that meets the ~~recipient~~Individual's assessed needs as determined by a ~~f~~Functional ~~n~~Needs ~~a~~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 and medical necessity.¶
(~~7~~5) 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~~6) 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~~7) ~~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 servic~~Retroactive payments are not allowable. The service cannot be billed until it is documented and agreed upon by appropriate parties as describe by this rule.¶

(~~11~~8) 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 a~~9) Authorizations expire~~s~~ when an individual is found to be no longer eligible for 1915(i) HCBS.¶
(1~~3~~0) D~~ecisions on prior authorization of PSR services~~ivision authorized HCBS shall be subject to random, periodic utilization review and retrospective review to ensure approved, paid services meet the definition of medical appropriateness and medical necessity as 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, ORS 414.065, 430.705, 430.715

AMEND: 410-173-0020

RULE SUMMARY: Functional Needs Assessment

CHANGES TO RULE:

410-173-0020
Functional Needs Assessment
(1) The IQA shall meet in person or face- to- face as chosen by the Individual with Individual~~s~~ 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 ~~i~~Individual functioned during the thirty (30) days prior to the assessment date with consideration of how the ~~person~~Individual is likely to function in the thirty (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 expiration date of the current plan; or¶~~
~~(b) When the individual or their legal representative, if applicable, requests reassessment; or¶~~
~~(c) When the individual's needs or circumstances have changed significantly~~Division approved standardized assessment tool.
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, ORS 410.020, 427.007, 430.610, 430.620, 430.622 - 430.670

AMEND: 410-173-0025

RULE SUMMARY: Person-Centered Service Planning Process

CHANGES TO RULE:

410-173-0025
Person-Centered Service Planning Process
(1) A person-centered service plan shall be developed through a person-centered service planning process that shall includes the following:¶
(a) Be completed face-to-face with the Individual to ensure the individual's involvement and direction in the development of their PCSP;¶
(b) Be directed by the iIndividual accessing 1915(i) services and supports;¶
(c) Include the iIndividual and those people chosen by the Individual;¶
(d to participate in the planning process;¶
(d) Reflect the services, supports, and delivery of those services and supports in a way that is important to the Individual;¶
(e) Provide necessary information and support to ensure the iIndividual directs the person-centered service planningir PCSP process to the maximum extent possible and is enabled to make informed choices and decisions to. This information and support shall include:¶
(A) Notification to the individual accessing 1915(i) HCBS services informing them of their right to invite others they want to attend their PCSP meeting;¶
(B) Notification to the iIndividual's legal representative and/or authorized representative, if applicable, informing them of the right to be included in the person-centered service planning process; and¶
(ef) BProcesses that are timely, responsive to changing needs, occurs at times and locations chosen by and convenient to the Individual, and is reviewed at least ann; ¶
(g) A review of the PCSP with the individual, and legal or authorized representative, every 90 days or more often as determined by the Individually;¶
(fh) RPractices must reflect cultural considerations and values of the iIndividual;¶
(gi) Use language, format, and presentation methods appropriate for effective communication according to the needs and abilities of the iIndividual and, as applicable, the legal representative or authorized representative of the iIndividual;¶
(hj) 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 iIndividual in arranging and conducting a person-centered service planning meeting;¶
(C) Utilizing any available greater community conflict resolution resources;¶
(D) ReferringFor those living in a residential facility refer concerns to the Oregon Residential Facilities, Ombudsman; orperson; and¶
(E) For those living independently refer concerns to the Oregon Health Plan Ombuds person; and¶
(EF) Following existing, program-specific grievance or complaint processes.;¶
(ik) Offer choices to the iIndividual regarding the services and supports the iIndividual receives and from whom and record the alternative HCBS settings that were considered by the Individual;¶
(jL) Provide a method for the iIndividual or, as applicable, the legal representative or authorized representative of the Individual to request updates to the person-centered service plan for the iIndividual;¶
(km) Be conducted to reflect what is important to the iIndividual to ensure delivery of services in a manner reflecting personal preferences and ensuring health and welfare;¶
(Ln) Identify the strengths and preferences, service and support needs, goals, and desired outcomes of the iIndividual;¶
(mo) 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;¶
(np) 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.¶
(oq) Results in a person-centered service plan conducted by the IQA and implemented by the provider of HCBS in the home and community settings.¶
(2) Person-Centered Service Plans (PCSP):¶
(a) The IQA documents the person-centered service plan on behalf of the iIndividual and provides the necessary information and supports to ensure the iIndividual directs the person-centered service planning process to the

maximum extent possible~~;~~¶
(b) The person-centered service plan shall be developed and signed a~~nnually~~t least every 365 calendar days, by the Individual, the legal representative or authorized representative of the ~~i~~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) Authorizes Medicaid services and is effective upon the date the PSCP is signed by all parties listed above and services cannot be claimed prior to the service plan effective date.¶
(d) To avoid conflict of interest, the PCSP may not be developed by the provider of HCBS~~.~~;¶
(~~d~~e) The written PCSP reflects:¶
(A) HCBS and setting options based on the needs, preferences, strengths, and desired outcomes of the ~~i~~Individual, and for residential settings, the available resources of the ~~i~~Individual for room and board;¶
(B) The HCBS and settings are chosen by the ~~i~~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 ~~i~~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~~ to include:¶
(i) Requested dates of service;¶
(ii) The amount of service or units requested; and¶
(iii) Procedure codes for each type of service.;¶
(J) The name and contact information of the provider or community-based organization providing HCBS to the Individual¶
(K) Risk factors identified through the person-centered services planning process and measures in place to mitigate each identified risk;¶
(~~K~~L) Individually~~-~~ based limitations as identified through person-centered planning that limit or restrict HCBS settings to keep the ~~i~~Individual and others safe from harm;¶
(~~L~~M) Individualized backup plans and strategies~~ when needed;~~¶
(~~M~~N) People who are important in supporting the Individual;¶
(~~N~~O) The person responsible for monitoring the person-centered service plan~~;~~, including the Individual, legal representative, or authorized representative¶
(~~O~~P) Language, format, and presentation methods appropriate for plain and effective communication according to the needs and abilities of the ~~i~~Individual receiving services and, as applicable, the legal representative or authorized representative of the Individual;¶
(~~P~~Q) The written informed consent of the ~~i~~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~~R) Signatures of the ~~i~~Individual or, as applicable, the legal representative or authorized representative of the ~~i~~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~~S) Provisions to prevent unnecessary or inappropriate services and supports;¶
(~~e~~f) The ~~i~~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~~g) The PCSP is distributed to the ~~i~~Individual and, as applicable, the legal representative or authorized representative of the ~~i~~Individual, and other people involved in the person-centered service plan as described above in subsection (e) of this section;¶
(~~g~~h) 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~~3) The person-centered service plan shall be reviewed and revised~~:~~ as directed by the Individual, their legal

representative or authorized representative¶
(Aa) At least annually and upon reassessment of functional needs;¶
(Bb) At the request of the iIndividual or, as applicable, the legal representative or authorized representative of the Individual; or ¶
(Cc) When documentation supports the circumstances or needs of the iIndividual have changed significantly.¶
(4) The PCSP shall be signed by the Individual, and legal or authorized representative any time a revision occurs.
Statutory/Other Authority: ORS 409.050, 413.042, 413.085, 414.025, 443.738, ORS 427.104
Statutes/Other Implemented: ORS 409.050, 413.042, 413.085, 414.025, 443.738, ORS 410.020, 427.007, 430.610, 430.620, 430.662 - 430.670

AMEND: 410-173-0030

RULE SUMMARY: Qualifications for Home and Community Based Services Providers

CHANGES TO RULE:

410-173-0030
Qualifications for Home and Community Based Services Providers
(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 identifi~~ as described in this rule and:¶
(a) Meet all necessary provider qualifications, including relevant experience, as outlined in: OAR ~~410-173-0035; ¶~~
~~(c) Participate in the person-centered planning process as described in OAR 410-173-0025;~~chapter 309, division 019; OAR chapter 410, division 172; and OAR chapter 950, division 060; and¶
(~~d~~b) ~~Document the services as outlined in OAR 410-173-0045; and¶~~
~~(e) Comply with OAR 309-040, rules governing Adult Foster Homes~~Be enrolled by the Division as a Medicaid provider as outlined in OAR 410-120-1260.¶
(~~3~~2) ~~Residential Treatment Facility (RTF)~~AFH providers shall:¶
(a) Be ~~at least 18~~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 ~~309-035 rules governing Residential Treatment Facilities.¶~~
~~(4)~~ Chapter 309, Division040, rules governing Adult Foster Homes.¶
(3) Residential Treatment Facility (RTF) and Residential Treatment Homes (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-~~Chapter, 309 Division 035 rules governing Residential Treatment ~~Home~~Facilities and Residential Treatment Homes for Adults with Mental Health Disorders.¶
(~~5~~4) ~~B~~Outpatient behavioral ~~H~~health ~~P~~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~~. Providers exempt from licensure or registration per ORS 675.090(f), 675.523(3), or 675.825(c) shall be employed by or contracted with a provider organization certified by the Authority under ORS 430.610 to 430.695 as described in OAR ~~309-008~~410-172-0660.¶
(~~6~~5) 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-~~Chapter 407, Division007 and OAR Chapter 943 Division 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-~~Chapter 407 Division 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, ORS 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, ORS 427.007, 430.610, 430.620, 430.662 - 430.670

AMEND: 410-173-0035

RULE SUMMARY: Home and Community Based Services and Setting Qualities

CHANGES TO RULE:

410-173-0035
Home and Community Based Services and Setting Qualities
(1) Residential and non-residential HCBS settings shall support iIndividuals in having the same opportunities for integration, access, choice, and rights as iIndividuals not accessing 1915(i) HCBS.¶
(2) Providers of 1915(i) HCBS shall develop and, implement, and maintain 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 iIndividuals 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 iIndividual or, as applicable, the legal representative or authorized representative of the iIndividual, 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 Individual's person-centered service plan for the individual;¶
(B) Be based on the desires, needs, preferences, and strengths of the iIndividual;¶
(C) Protect an iIndividual's rights of privacy, dignity, respect, and freedom from coercion, restraint, and seclusion:
¶
(i) A physical emergency restraint as outlined in OARs 309-035-0105 and 309-040-0305 may be used to prevent immediate injury to an iIndividual 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.¶
(iii) A physical emergency restraint shall be documented and maintained in the providers records, identifying the reason for the restraint and the duration of the restraint.¶
(D) Optimizes, but does not regiment, individual initiative, autonomy, self-direction, and independence in making life choices including, but not limited to: Ddaily activities, physical environment, and with whom the iIndividual 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 iIndividual 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 iIndividual privacy in their own unit;¶
(E) Provide locks on individual doors lockable by the iIndividual, with the iIndividual and only appropriate staff having a key to the unit.¶
(fd) Provide choice of roommates to iIndividuals sharing units;¶
(ge) Provide iIndividuals the freedom to decorate and furnish their own unit as agreed to within the residency agreement;¶
(hf) Allow iIndividuals to have visitors of their choosing at any time;¶
(ig) Provide iIndividuals the freedom and support to control their own schedule and activities; and¶
(jh) Provide iIndividuals the freedom and support to have access to food at any time.¶
(43) 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.¶
(54) 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.¶
(65) 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, ORS 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, ORS 427.007, 430.610, 430.620, 430.662 - 430.670

AMEND: 410-173-0040

RULE SUMMARY: Individually Based Limitations

CHANGES TO RULE:

410-173-0040
Individually-Based Limitations
(1) When certain HCBS setting qualities may not be met due to a threat to the health and safety of an ~~i~~Individual or others, a provider shall submit a request for an ~~i~~Individually~~-b~~ Based ~~l~~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 ~~i~~Individual or, as applicable, the legal representative of the individual, including any discrepancy between the wishes of the ~~i~~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 ~~i~~Individual; and¶
(i) Documentation that the IBL shall be reviewed on a timeframe agreed upon by the PCS planning team at least every twelve (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 ~~i~~Individual, or, if applicable, the legal or authorized 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, ORS 426.072, 430.021, 430.735, ORS 443.738, ORS 443.739
Statutes/Other Implemented: ORS 409.050, 413.042, 413.085, ORS 443.738, 427.007, 430.610, 430.620, 430.662 - 430.670

AMEND: 410-173-0045

RULE SUMMARY: Documentation Standards

CHANGES TO RULE:

410-173-0045
Documentation Standards
(1) Providers shall rendering HCBS are required to 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 documentcomply with documentation standards found in OAR 410-120-1360 and OAR 410-172-0620 in addition to the following:¶
(a) The name of the iIndividual receiving 1915(i) HCBS services;¶
(b) The Medicaid Identification Number of the iIndividual receiving 1915(i) HCBS services;¶
(c) The name of the provider offering 1915(i) HCBS services;¶
(d) Type of service being provided;, as described in the PCSP including:¶
(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.¶
(5) All Medicaid 1915(i) services provided in a person's own, or family home must be captured using an Electronic Visit Verification (EVV) system to meet requirements in the 21st Century Cures Act. EVV systems shall electronically capture the following information at the time the service is occurring:¶
(a) Type of service performed;¶
(b) Individual receiving the service;¶
(c) Date and location of the service;¶
(d) Individual providing the service; and¶
(e) Time the service begins and ends.¶
(6) Information contained in the record shall be appropriate in quality and quantity to meet the professional standards applicable to the provider and any additional standards for documentation found in these rules, other Division rules, and pertinent contracts.
Statutory/Other Authority: ORS 124.050 - 124.095, 163.275, 443.765
Statutes/Other Implemented: ORS 124.050 - 124.095, 163.275, 443.765

AMEND: 410-173-0050

RULE SUMMARY: HCBS Community Based Integrated Supports

CHANGES TO RULE:

410-173-0050
Home Based Habilitation Services
(1) ~~H~~Come~~ Based Habilitation Services~~munity-Based Integrated Supports (CBIS) are ~~provided face-to-face as outlined in the~~services and supports offered to Individual's ~~PCSP and include:¶~~
~~(a) Assistance or support with ADLs and IADLs as defined in these rules;¶~~
~~(b) Assistance to access and maintain inclus~~that require assistance in the acquisition, retention, or improvement with life management, socialization skills and community engagement and community integration and engagement to maintain their maximum level of function-ing and ~~access to the great~~integration within the broader community, to the same degree as Individuals who do not access Medicaid 1915(i) ~~H~~CB~~S;¶~~
~~(c) Assistance to navigate in the community to the same degree as~~IS. These services are provided in-person or face-to-face as described and approved in the Individual's ~~who do not access Medicaid 1915(i) HCBS services;¶~~
~~(d) Assistance to maintain, develop, or improve i~~PCSP and include:¶
(a) Supervision, support, training, and assistance necessary for an individual to develop, maintain or improve skills and competencies necessary to function as independently as possible in the following areas:¶
(A) Independent living skills~~;~~¶
(~~e~~B) ~~Assistance to maintain, develop, or improve socializ~~Behavior management skills;¶
(C) Self-Advocacy skills;¶
(D) Financial literacy;¶
(E) Social skills;¶
(F) Communication skills;¶
(~~f~~G) ~~Assistance to maintain, develop, or improve self-advocacy skills;¶~~
~~(g) Services to develop and maintain skills that aid in~~Therapeutic activities; and¶
(H) Community integration, access, and inclusion¶
(b) Home and Community-Based skill reintegration service. These services support and individual to re-build the skills and complete tasks for themselves rather than completing the task for an ~~I~~individual~~'s ability to live in the most integrated community setting possible; and~~.¶
(c) Case management, service coordination, peer delivered services programs, and programs and resources managed by the IQA and directed by the individual through person-centered service planning, to include:¶
(~~h~~A) Identification of back-up plans as needed to~~:¶~~
~~(A) M~~ 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~~CBIS are delivered consistent with the amount, duration, and scope of services identified in the PCSP, demonstrated through documentation as identified in 410-173-0045.¶
(3) ~~Home Based Habilitation Services~~ CBIS 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~~¶
(4) CBIS 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;~~Chapter 309 Division 019, OAR Chapter 410 Division 172, or OAR Chapter 950 Division 060:¶
(a) QMHP¶
(b) QMHA¶
(c) Recovery Assistant or Mentor;¶
(d) Certified Peer Support Specialist Peer Wellness Specialist, including family and youth support and wellness specialists, meeting the qualifications described in OAR chapter 309 division 019 and shall meet the requirements in OAR chapter 950 division 060 for certification and continuing education; and¶
(~~b~~e) ~~RTH providers;¶~~
~~(c) RTF providers;¶~~
~~(d) QMHP;¶~~
~~(e) QMHA;~~ Mental Health Intern¶
(5) Provision of CBIS is allowed for eligible individuals who are being temporarily served in an acute care hospital

setting in order to enable direct care workers or other home and community-based providers to accompany individuals to acute care hospital setting.¶
(a) CBIS will be focused on providing personal, behavioral and communication supports not otherwise provided in an acute care hospital;¶
(b) The service may only be delivered in the acute care hospital setting for up to thirty (30) days;¶
(c) Identified in an Individual's person-centered service plan;¶
(fd) Recovery AssistantProvided to meet needs of the Individual that are not met through the provision of hospital services;¶
(ge) Certified Peer Support SpecialisNot be a substitute for services that the hospital is obligated to provide through its conditions of participation or under Federal or State law, or under another applicable requirement; and¶
(hf) Mental Health InternDesigned to ensure smooth transitions between acute care settings and home and community-based settings, and to preserve the Individual's functional abilities.
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

AMEND: 410-173-0055

RULE SUMMARY: Eligibility Criteria for Community Based Integrated Supports

CHANGES TO RULE:

410-173-0055
Eligibility Criteria for Home Based Habilitation
(1) To be eligible for ~~Home Based Habilitation Services~~CBIS defined in this rule, ~~i~~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~~CBIS 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 or authorized representative's signature of informed consent on the Individual's PCSP.¶
(3) These services cannot duplicate services received though other authorities.
Statutory/Other Authority: ORS 413.042, 426.495, 430.610, 430.630
Statutes/Other Implemented: ORS 413.042, 426.495, 430.610, 430.630

AMEND: 410-173-0060

RULE SUMMARY: HCBS Residential Habilitation

CHANGES TO RULE:

410-173-0060
HCBS Behavioral Habilitation
(1) HCBS BehaviorResidential Habilitation Services are designed to assist and support an iIndividual to maintain, lrearncquire, or improve skills and functioning in ADL and IADL due to the symptoms of a behavioral health condition.¶
(2) HCBS BehaviorResidential Habilitation Services consists of the following service provisions identified in the PCSP:¶
(a) Behavioral supportshall include supervision, support, training, and assistance necessary for an Individual to develop, maintain or improve skills and competencies necessary to function as independently as possible and to the same degree as individuals who do not access 1915(i) HCBS in the following areas:¶
(a) Behavior management skills;¶
(b) Financial literacy;¶
(c) Social Skills;¶
(d) Communication skills;¶
(be) Training and education-psychosocial skills;herapeutic activities;¶
(f) Community integration access, and inclusion; and¶
(g) Community navigation skills¶
(3) Case management, service coordination, peer delivered services programs, and programs and resources managed by the IQA and directed by the individual through person-centered service planning, to include:¶
(a) Identification of back-up plans as needed to mitigate health and safety risks to the individual or others; and¶
(cb) Active thIdentify procedures to follow when the primary provider is unable to deliver apiproved services.¶
(34) HCBS Behavioral Habilitation Services shall include the following:¶
(a) Evidence-based or evidence-informed practices; andNurse delegation tasks may be delivered as identified on the Individual's PCSP and as defined in OAR 410-173-0005, 309-035-0105 and 309-035-0215. Skilled services delegated by a Registered Nurse (RN) under Oregon's Nurse Practice Act may be considered personal care services and included in HCBS Residential Habilitation when the RN provides appropriate training and delegation of the listed nursing tasks in accordance with the Oregon Nurse Practice Act (OAR Chapter 851 Division 047).¶
(b5) The amount, frequency, duration, and scope of services identified in the PCSPCompleting ADL or IADL or nurse delegation tasks includes a range of assistance, based on assessed need, provided to Individual's with disabilities and chronic conditions that enables them to accomplish ADL/IADL tasks they would normally do for themselves if they did not have a disability or chronic condition. Assistance may be in the form of hands-on assistance, supervision and/or cueing.¶
(46) HCBS BehaviorResidential Habilitation Services shall be provided in the following settings, as identified in the PCSP:¶
(a) Community;-¶
(b) Individual's own or family hOHA licensed RTF- not Secured Residential Treatment Facilities;¶
(c) OHA, BH licensed RTH Homes;¶
(c) AFH;¶
(d) RTF;¶
(e) RTH.d) OHA, BH licensed AFH;¶
(e) ODHS, APD licensed AFH;¶
(f) ODHS, ODDS licensed AFH;¶
(g) ODHS, APD licensed RCF;¶
(h) ODHS, APD licensed ALF;¶
(i) ODHS, ODDS certified Group Care Homes and State Operated Group Homes for Adults¶
(57) HCBS BehaviorResidential 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;¶
(dchapter 309 division 019, OAR chapter 410 division172, or OAR chapter 950 division060:¶
(a) OHA licensed AFH provider meeting the qualifications described in OAR chapter 309 division 040;¶
(b) OHA licensed RTH providers meeting the qualifications described in OAR chapter 309 division 035¶
(c) OHA licensed RTF providers meeting the qualifications described in OAR chapter 309 division 035;¶

(d) ODHS, APD licensed Adult Foster Homes meeting qualification described in OAR 411 division 050;¶
(e) ODHS, ODDS licensed Adult Foster Homes meeting qualification described in OAR chapter 411 division 360;¶
(f) ODHS, APD licensed Residential Care Facilities meeting qualifications described in OAR chapter 411 division 054¶
(g) ODHS, APD licensed Assisted Living Facilities meeting qualifications described in chapter 411 division 054; or¶
(h) ODHS, ODDS certified Group Care Homes and State Operated Group Homes for Adults meeting qualifications described in OAR chapter 411 division 325.¶
(i) ODHS licensed community-based settings;¶
(j) QMHP;¶
(ek) QMHA;-¶
(fL) Recovery Assistant or Mentor;¶
(gm) Certified Peer Support Specialist; or¶
(hn) Mental Health Intern.¶
(8) Payment does not include the cost of room and board.
Statutory/Other Authority: ORS 413.032, 413.042, ORS 411.025, ORS 426.495, 430.610, 430.630
Statutes/Other Implemented: ORS 413.032, 413.042, ORS 426.495, 430.610, 430.630

AMEND: 410-173-0065

RULE SUMMARY: Eligibility Criteria for HCBS Residential Habilitation

CHANGES TO RULE:

410-173-0065
Eligibility Criteria for HCBS ~~Behavior~~Residential Habilitation
(1) To be eligible for HCBS ~~Behavior~~Residential Habilitation Services defined in this rule, ~~i~~Individuals shall:~~ ~~¶
(a) Be eligible for 1915(i) HCBS per OAR 410-173-0010~~;~~¶
(b) Have assessed needs for HCBS ~~Behavior~~Residential 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 ~~Behavior~~Residential 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 ~~i~~Individual's choice shall be reflected by their signature, or, if appropriate, the legally authorized representative, or authorized representative's signature of informed consent.¶
(3) These services cannot duplicate services received though other authorities.
Statutory/Other Authority: ORS 413.042, 426.495, 430.630, 430.640
Statutes/Other Implemented: ORS 413.042, 426.495, 430.630, 430.640

AMEND: 410-173-0070

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

CHANGES TO RULE:

410-173-0070
HCBS Psychosocial Rehabilitation for Persons with Chronic Mental Illness
(1) Psychosocial Rehabilitation (PSR) services shall be identified and agreed upon within the PCSP and shall:¶
(a) Support the desires and goals of the iIndividual receiving services;¶
(b) Increase the independence of the iIndividual receiving PSR;¶
(c) Reduce an iIndividual's need for assistance from another person; and¶
(d) Maintain the health and safety of the iIndividual and others in the home or community.¶
(2) PSR services shall be provided in-person, face-to-face, as outlined in the PCSPor via telehealth, in lieu of in person visits when supported by an Individual's needs, and in accordance with HIPAA. PSR services are identified, and agreed to by the Individual, includeing the services lisamount, frequency, duration and scope of services in the PCSP, as appropriated in section (3) of this rulethe amount, frequency, duration, modality, and scope of services identified and approved in the Individual's PCSP, 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 as described in OAR 309-019-0225 through 309-019-0255.¶
(34) 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.¶
(45) PSR services shall be provided in the following settings, as identified within the PCSP:¶
(a) Community;¶
(b) AFH;¶
(c) RTH; or¶
(d) RTF, and provided by appropriate provider types identified in (5) of this rule:¶
(a) Community;¶
(b) Individuals own or family home;¶
(c) OHA licensed AFH;¶
(d) OHA licensed RTH;¶
(e) OHA licensed RTF.¶
(f) ODHS, APD licensed Adult Foster Homes;¶
(g) ODHS, ODDS licensed Adult Foster Homes¶
(h) ODHS, APD licensed Residential Care Facilities that are not considered secure¶
(i) ODHS, APD licensed Assisted Living Facilities¶
(j) ODHA, ODDS certified Group Care Homes and State Operated Group Homes for Adults¶
(6) PSR services shall be provided by the following provider types who meet the qualifications defined in OAR chapter 309 division 019, OAR chapter 410 division 172, or OAR chapter 410 division180:¶
(a) LMP;¶
(b) QMHP;¶
(c) QMHA;¶
(d) Mental Health Intern; or¶
(e) Behavioral health organization certified by the Authority under ORS 430.610 to 430.695.¶
(7) Provision of PSR is allowed for eligible Individuals who are being temporarily served in an acute care hospital setting to enable direct care workers or other home and community-based providers to accompany individuals to acute care hospital setting.¶
(a) These services will be focused on providing personal, behavioral and communication supports not otherwise provided in an acute care hospital;¶
(b) The service will only be delivered in the acute care hospital setting for up to thirty (30) days;¶
(c) Identified in an Individual's person-centered service plan;¶
(d) Provided to meet needs of the Individual that are not met through the provision of hospital services;¶
(e) Not be a substitute for services that the hospital is obligated to provide through its conditions of participation

or under Federal or State law, or under another applicable requirement; and¶
(f) Designed to ensure smooth transitions between acute care settings and home and community-based settings, and to preserve the Individual's functional abilities¶
(8) Psychosocial rehabilitation services under the 1915(i) differ in nature, scope, supervision arrangements, and provider type (including provider training and qualifications) from psychosocial rehabilitation services otherwise available.
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

AMEND: 410-173-0075

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

CHANGES TO RULE:

410-173-0075
Eligibility Criteria for HCBS Psychosocial Rehabilitation for Persons with Chronic Mental Illness
(1) To be eligible for PSR services outlined in these rules, ~~i~~Individuals shall:~~ ~~¶
(a) Be eligible for 1915(i) HCBS as outlined in OAR 410-173-0010~~;~~ and¶
(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 ~~i~~Individual's assessed needs. The ~~i~~Individual's choice shall be reflected by their signature, or, if appropriate, the legal or authorized representative's signature indicating informed consent.¶
(3) These services cannot duplicate services received through other authorities-Medicaid, Medicare, or other medical coverage.
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: 410-173-0080

RULE SUMMARY: Housing Support Services

CHANGES TO RULE:

410-173-0080
Housing Support Services
(1) HCBS Housing Support Services shall be provided to Individuals as determined medically necessary and appropriate for an Individual to obtain and reside in an independent community setting and are tailored to the goal of maintaining an Individual's personal health and welfare in a HCB setting where an Individual is responsible for their living expenses.¶
(2) Housing support services may include one or more of the following individual housing and tenancy sustaining services:¶
(a) Coordination with the Individual to plan, participate in, review, and modify their Individualized housing support plan on a regular basis, including redetermination and/or planning meetings, to reflect current needs and preferences, and address existing or recurring housing retention barriers; ¶
(b) Provide assistance with securing and maintaining entitlements and benefits (including rental assistance) necessary to maintain community integration and housing stability (e.g., assisting Individuals in obtaining documentation, assistance with completing documentation, navigating the process to secure and maintain benefits, and coordinating with the entitlement/benefit assistance agency;¶
(c) Provide assistance with securing supports to preserve the most independent living;¶
(d) Monitoring and follow-up to ensure that linkages are established, and services are addressing housing needs; ¶
(e) Providing supports to assist the individual in the development of independent living skills to remain in the most integrated setting ¶
(A) Skills coaching to maintain a healthy living environment;¶
(B) Skills coaching to develop and manage a household budget;¶
(C) Skills coaching to interact appropriately with neighbors or roommates;¶
(D) Skills coaching to reduce social isolation;¶
(E) Skills coaching to utilize local transportation. ¶
(f) Provide supports to assist the Individual in communicating with the landlord and/or other property manager;¶
(g) Education and training on the roles, rights, and responsibilities of the tenant and landlord;¶
(h) Provide training and resources to assist the Individual with complying with his/her lease; ¶
(i) Assisting the Individual to reduce the risk of eviction by providing services to prevent eviction (e.g.; to improve conflict resolution skills, coaching, role-playing and communication strategies targeted towards resolving disputes with landlords and neighbors; communicating with landlords and neighbors to reduce the risk of eviction; addressing biopsychosocial behaviors that put housing at risk; providing ongoing support with activities related to household management; and linking the tenant to community resources to prevent eviction); ¶
(j) Providing early identification and intervention for actions or behaviors that may jeopardize housing; ¶
(k) Assistance with connecting the Individual to expert community resources to address legal issues impacting housing and thereby adversely impacting health, such as assistance with breaking a lease due to unhealthy living conditions. ¶
(3) Housing support services may not include: ¶
(a) Payment of ongoing rent or other room and board cost; ¶
(b) Capital costs related to the development or modification of housing; ¶
(c) Expenses for utilities or other regular occurring bills; ¶
(d) Goods or services intended for leisure or recreation¶
(e) Duplicative services from other state or federal programs; ¶
(f) Services to Individuals in a correctional institution or an Institution of Mental Disease (IMD) (other than services that meet the exception to the IMD exclusion), or in an institutional setting.¶
(4) Housing support services shall be provided by the following provider types meeting all the rule requirements as an enrolled qualified Medicaid provider under OAR 407-120-0300 through 0400 and OAR 410-120-1260:¶
(a) Housing supports providers shall meet the following qualifications and competencies: ¶
(A) A degree in a human/social services field or a relevant field or at least one year of relevant professional experience and/or training in the field of service; and ¶
(B) Knowledge of principles, methods, and procedures of services included under housing support services, or comparable services meant to support activities to assess need, arrange for, and procure needed housing resources.¶
(b) General business contractors, includes retail/online stores, property managers, utility companies, shall meet the following qualifications and competencies:¶

(A) Any required license, certification or other state required standard to operate the type of business relevant to the item or service being requested. For example, payments for utilities must be made to a utility provider that is authorized to operate in the State of Oregon. The utility provider maintains all appropriate licenses, certifications, etc. to operate as a utility provider in the State. Providers completing necessary home accessibility adaptions must be licensed, bonded, insured; and¶
(B) Hold a current Construction Contractors Board (CCB) license.¶
(c) Self-employed registered nurses holding a current Oregon State Board of Nursing license practicing under the standards and scope of practice for licensed nurses. ¶
(5) Be committed to cultural responsiveness training and language accessibility to ensure equity in service delivery.
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: 410-173-0085

RULE SUMMARY: Eligibility for Housing Support Services

CHANGES TO RULE:

410-173-0085
Eligibility for Housing Support Services
(1) To be eligible for Housing Support Services outlined in these rules, Individuals shall:¶
(a) Be eligible for 1915(i) Housing Support Services be outlined in these rules or OAR 410-173-0010;¶
(b) Have assessed needs for Housing Support Services as approved and documented in the PCSP;¶
(c) Not have other resources to provide the same housing support services identified in the PSCP¶
(2) Individuals determined eligible to receive Housing Support Services 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 or authorized representative's signature indicating informed consent.¶
(3) These services cannot duplicate services received though other authorities.
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: 410-173-0090

RULE SUMMARY: Home Delivered Meals

CHANGES TO RULE:

410-173-0090
Home Delivered Meals
(1) 1915(i) home delivered meals shall be provided to eligible Individuals who are home bound, live in their own home, and are unable to complete meal preparation, to assist an individual to remain in their own home and are intended to:¶
(a) Reduce the reliance on paid staff during one mealtime per day.¶
Preparation¶
(b) Ensure meal preparation for one meal per day.¶
(2) Home delivered meal services shall be provided in the following settings, as identified, and approved within the PCSP¶
(a) Community; or¶
(b) Individuals own or family home.
Statutory/Other Authority: ORS 411.060, 411.070, ORS 410.070
Statutes/Other Implemented: ORS 410.070

ADOPT: 410-173-0095

RULE SUMMARY: Eligibility for Home Delivered Meals

CHANGES TO RULE:

410-173-0095
Eligibility for Home Delivered Meals
(1) To be eligible for 1915(i) home delivered meals and Individual must: ¶
(a) Be 1915(i) HCBS as outlined in OAR 410-173-0010 eligible;¶
(b) Have assessed needs for Home Delivered Meals as documented and approved in the PCSP;¶
(c) Be homebound and live in their own home;¶
(d) Not have natural supports available that are willing and able to provide meal preparation services;¶
(2) Individuals determined eligible to receive Home Delivered Meals 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, the Individual's legal or authorized representative's, signature.¶
(3) These services cannot duplicate services received though other authorities.
Statutory/Other Authority: ORS 411.060, 411.070, ORS 410.070
Statutes/Other Implemented: ORS 410.070

ADOPT: 410-173-0100

RULE SUMMARY: Provider Qualifications for Home Delivered Meals

CHANGES TO RULE:

410-173-0100
Provider Qualifications for Home Delivered Meals
(1) To be in alignment with the provision of services, home delivered meal providers must have contracts with, or be, an Area Agency on Aging or AAA as defined in OAR 411-002-0100(1).¶
(2) The provider must be in compliance, during all stages of food service operation, with applicable federal, state and local regulations, codes, and licensor requirements relating to fire; health; sanitation; safety; building and other provisions relating to the public health, safety, and welfare of meal patrons.¶
(3) The provider must demonstrate that menu standards are developed to sustain and improve a participant's health through the provision of safe and nutritious meals that are approved by a dietician.¶
(4) Each provider must be an enrolled Medicaid provider approved to provide Medicaid home delivered meals.¶
(5) The provider must ensure that all requirements in OAR 411-040-0035 through 411-040-0037 are met.¶
(6) Providers must ensure that anyone who delivers meals:¶
(a) Have passed a background check as defined in OAR 407-007-0275; or¶
(b) Uses an approved carrier.¶
(7) All requests for Medicaid home delivered meals received by the provider must be referred to the Department or the Medicaid AAA office for prior authorization.¶
(8) Meal providers must not solicit program income or voluntary donations from Medicaid eligible participants.
Statutory/Other Authority: ORS 411.060, 411.070, ORS 410.070
Statutes/Other Implemented: ORS 410.070