DEPARTMENT OF HUMAN SERVICES
AGING AND PEOPLE WITH DISABILITIES
OREGON ADMINISTRATIVE RULES

CHAPTER 411
DIVISION 65

SPECIALIZED LIVING SERVICES CONTRACTS

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411-065-0000 Purpose
(Amended 12/15/2013)

The purpose of these rules is to establish standards for specialized living service contracts. The standards provide an enhanced continuum of quality care in a home-like environment for specific target groups who are eligible for a live-in attendant, but because of special needs, are unable to live independently or receive services in other community-based care facilities and who would otherwise require nursing facility care. Services provided to residents in the Specialized Living Services Program are Medicaid home and community-based services, which may include specific services required because of physical, intellectual, or behavioral limitations in meeting self-care needs.

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 410.070

411-065-0005 Definitions
(Effective 9/1/2006)

(1) "Activities of Daily Living (ADL)" means activities usually performed in the course of a normal day in an individual's life, such as eating, dressing, bathing and personal hygiene, mobility, bowel and bladder control, and behavior.

(2) "Area Agency on Aging (AAA)" means the Department of Human Services (DHS) designated agency charged with the responsibility to provide a comprehensive and coordinated system of services to seniors or people with disabilities in a planning and service area. For purposes of these rules, the term Area Agency on Aging (AAA) is inclusive of both Type

A and Type B Area Agencies on Aging as defined in ORS 410.040 through 410.300.

(3) "Brain Injury" means sudden onset of a neurological disorder secondary to disease or trauma.

(4) "Client or Resident" means an individual for whom payment is made under Oregon's Title XIX.

(5) "Change of Ownership" means a change in the individual or organization responsible for operating the program. Events which change ownership include but are not limited to the following:

> (a) The form of the legal organization of the owner is changed (e.g., sole proprietor forms a partnership or corporation; a corporation or partnership dissolves);
>
> (b) The title of the organization is transferred to another party;
>
> (c) The facility which is the site of the specialized services program has its license or its lease terminated; or
>
> (d) The facility which is the site of the specialized services program terminates its contract for specialized services with the provider.

(6) "Cost Effective" means a comparison between service costs to the target group absent the specialized services and the service costs to the target group with the specialized services in relation to the goal of helping the members of the target group attain more independent living. Cost comparisons should include short-term and long-term costs and benefits, and the difference, if any, between local costs and average statewide costs for providing comparable services.

(7) "Department" means the Department of Human Services, Seniors and People with Disabilities (SPD).

(8) "Provider" means an organization or individual who contracts with the Department to coordinate and implement the specialized services.

(9) "Service Plan" means the observation, assessment, care planning and documentation of the client's physical, cognitive and psycho-social needs, and the supervision, coordination and documentation of the services provided to meet those needs.

(10) "Special Approval" means approval given by the Department and the local AAA to a provider offering specialized services that meet the intent of these rules. The approval is granted only to a specific location and provider and is not transferable.

(11) "Specialized Services" means identifiable services designed to meet the needs of persons in specific target groups which exist as the result of a problem, condition or dysfunction resulting from a physical disability or a behavioral disorder and require more than basic services of other established programs. These services will be directed toward helping the residents toward more independent living.

(12) "Target Group" means any group of persons with similar needs based on specific and identified disabilities of brain injury, brain injury quadriplegic, brain injury paraplegic, or quadriplegic, who are eligible for a live-in attendant, and who need restorative care that cannot be provided in existing services in Residential Care Facilities, Adult Foster Homes, or other Community Based Care Settings.

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 410.070

411-065-0015 Approval Procedure
(Effective 9/1/2006)

(1) Any person desiring to provide specialized services under the provision of these rules must request approval by submitting the following information in writing to the Department and local AAA:

> (a) Name of the provider and address of the facility where services will be provided;
>
> (b) Provider information regarding criminal history and signed Criminal Record Release Authorizations for supervisors and staff;

(c) A description of the target group for whom services will be provided, the age, and number of persons to be served;

(d) Admission criteria consistent with OAR 411-065-0030;

(e) Program plans for providing services, including but not limited to the following:

> (A) A description of supervisor and staff qualifications and training for the target group to be served;
>
> (B) Specific staff to client ratios whenever clients are present, consistent with OAR 411-065-0025; and
>
> (C) A description of client care management criteria including designating responsibility for Activities of Daily Living, specific specialized services for the target group.

(f) A description of facility space and equipment will be sufficient to meet the needs of the group served, including adaptations for and absence of barriers for non-ambulatory persons consistent with OAR 411-065-0045;

(g) A written policy implementing documentation and confidentiality requirements contained in OAR 411-065-0020 and 411-065-0040, and client rights requirements of 411-065-0046;

(h) Exit criteria consistent with OAR 411-065-0035;

(i) A statement of need for the specialized living services and how the services will be cost effective within the meaning of OAR 411-065-0005;

(j) Proposed annual budget identifying sources of revenue; and

(k) Any other information about the provider or target groups as the Department may reasonably require that would facilitate the evaluation of the provider's request for approval.

(2) The Department and local AAA will conduct the initial review of the proposal for specialized living services. The AAA will provide the Department with a statement as to the need of such specialized services for that area and whether the services will be cost effective.

(3) Final approval of the proposal will be given by the Contract Administrator of the Department or his or her designee based on demonstrated need for the service, the cost effectiveness of the proposed program and evidence of the provider's ability to comply with these rules. The Department may attach conditions to the approval which limit, restrict, or specify other criteria for operation of the specialized living services program.

(4) The AAA will annually evaluate an approved program. The annual evaluation will re-examine the demonstrated need for the specialized services, the cost-effectiveness of the program and the provider's compliance with these rules, before the Department extends the program approval for another year.

(5) No approval is transferable or applicable to any location or persons other than those specified in the contract. A change of ownership of the provider will require a new request for approval in compliance with section (1) of this rule.

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 410.070

411-065-0020 Compliance and Documentation
(Effective 9/1/2006)

(1) Providers must document appropriate qualifications and training or supervisors and staff to provide care and services for the target group.

(2) Providers must maintain documentation that the approved services are in fact being provided to each client consistent with the care management plan of each client as recorded in each client's record.

(3) Authorized Department and AAA representatives must have immediate access to clients and records. "Access" to client records means the right to personally read charts and records in order to document continuing

eligibility for payment, quality of care or alleged abuse. Authorized Department and AAA representatives must be able to make and remove copies of charts and records from the program's premises as required to carry out the above responsibilities.

(4) Authorized Department and AAA representatives must have the right to privately interview any client and any program supervisor or staff in carrying out the above responsibilities.

(5) Authorized Department and AAA representatives may, upon proper identification enter and inspect a facility which has a specialized living services approval and contract at any time to secure compliance with, or prevent a violation of provision of these rules.

(6) If authorized Department and AAA representatives are not permitted access consistent with the requirements of the rule, a search warrant may be obtained.

(7) Completed reports in inspections and evaluations except for confidential information, will be available to the public upon request, during business hours.

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 410.070

411-065-0025 Staffing Requirements
(Effective 9/1/2006)

(1) The provider must have staff of sufficient number and qualifications to meet the specialized needs of the target group.

(2) The number and quality of staff will be specified by the Department contract at the time of approval of the contract. At least one staff person must be in attendance at all times when a resident is on the premises.

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 410.070

411-065-0030 Admission Criteria
(Effective 9/1/2006)

(1) Each provider will develop admission criteria specific to the target group to be served.

(2) Each person must be stabilized in their physical and emotional adjustments to their disability and be able to participate in planning for services to meet their needs.

(3) Each Title XIX eligible person must be screened through the Department's Pre-Admission Screening process to determine suitability for placement based on specific admission criteria.

(4) First priority for any individual needing placement in a specialized living services setting will be a resident of a nursing facility or an acute hospital.

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 410.070

411-065-0035 Exit Criteria
(Effective 9/1/2006)

(1) A resident may choose to leave a specialized living services program whenever the program is no longer of benefit. A resident may also be moved if his or her condition deteriorates either mentally or physically to the point that his or her needs can no longer be met by the specialized living services program.

(2) At the time of termination, the resident will be given assistance in securing other placement and resources as needed.

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 410.070

411-065-0040 Records
(Effective 9/1/2006)

(1) The provider must maintain confidential records for each resident that contains the client's service plan, a copy of written client right rules and

documentation that the rules have been discussed with the client, and all pertinent medical, social and financial information. Narrative entries describing the client's progress must be made no less often than every 30 days. Disclosure of information from any records must be in accordance with applicable laws and rules.

(2) The provider will keep records, books and documents as may be required by contract by the Department that will be made available for inspection to authorized state or federal personnel or persons authorized on their behalf.

(3) If the provider manages a client's money, a separate account record must be maintained in the client's name. The provider must not commingle, borrow from, or pledge any funds of a client.

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 410.070

411-065-0045 Facility Standards
(Effective 9/1/2006)

(1) Specialized living services that are provided in a community based setting must meet applicable zoning, building, housing, water, sewer and fire safety codes, rules, and regulations. If an exception or waiver is granted by a regulatory agency, the Department may accept the waiver or exception as long as it does not jeopardize the health, safety or welfare of the residents.

(2) The facility must be constructed in such a way as to be adaptable to meet the physical needs of the resident.

(3) The facility must maintain in good repair and operable conditions all structures, installed equipment, grounds and living units so as to maintain health and safety.

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 410.070

411-065-0046 Client Rights
(Effective 9/1/2006)

(1) Each client receiving specialized living services must be assured the same civil and human rights accorded to other citizens.

(2) The provider must document in writing, implement and fully inform each client of policies and procedures that protect clients' rights, including:

(a) Adequate food, housing, clothing, medical and health care and personal services;

(b) Visits to and from family members, friends, advocates, legal and medical professionals;

(c) Confidential communications;

(d) Personal property;

(e) Privacy;

(f) Freedom from involuntary training, treatment, participation in activities and chemical or mechanical restraints;

(g) Religious practices as personally preferred;

(h) Voting;

(i) Access to community resources, including recreation, agency services.

(3) Providers shall not inflict or tolerate to be inflicted, physical, sexual or emotional abuse or punishment, intimidation, threats, exploitation, or neglect of clients.

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 410.070

411-065-0047 Denial, Termination, Nonrenewal or Suspension of Approval
(Effective 9/1/2006)

(1) Failure to Comply. The Department may deny, terminate, or refuse to renew provider approvals with providers who fail to comply with OAR 411-065-0000 through 411-065-0050 relating to specialized living services contracts.

(2) Emergency Suspension. When the Department has reason to believe that imminent danger to clients exists, the Department may immediately suspend the provider's approval and take action necessary to protect the health and safety of clients.

(3) Suspension or Termination of Payments. Since valid approval is a condition precedent to payment under a contract for specialized living services, the denial, termination, nonrenewal or suspension of approval provides grounds for suspending or termination payments under a specialized living services contract.

(4) Any denial, termination, nonrenewal or suspension shall be done in accordance with the rules of the division and ORS chapter 183.

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 410.070

411-065-0048 Conditions for Payment
(Effective 9/1/2006)

(1) No payment will be made to any person or organization from the Department for specialized living services without first obtaining approval from the Department as prescribed in these rules.

(2) Where specialized living services are provided in a residential care facility, or an adult foster home or independent living unit, the following requirements apply:

> (a) Facilities that meet the definition of residential care facility in ORS 443.400 to 443.455 must be licensed and certified pursuant to OAR 411-054-0000 et seq.;

(b) Facilities that meet the definition of an adult foster home in ORS 443.705 to 443.825 must be licensed and certified pursuant to OAR 411-050-0400 et seq.; and

(c) Facilities that meet the definition of independent living units must meet the requirements of OAR chapter 411, division 030.

(3) The provider must sign a written contract with the Department as described in OAR 411-065-0050.

(4) The provider must bill the Department in accordance with established rules and guidelines.

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 410.070

411-065-0049 Reimbursement
(Effective 9/1/2006)

(1) The total monthly rate for specialized living services must not exceed the amount approved for each resident in accordance with the terms of the contract signed by the Department.

(2) Any add-on costs for nursing services must not exceed the RN Contract fee rate.

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 410.070

411-065-0050 Contract
(Effective 9/1/2006)

(1) Each specialized living services provider will have a contractual agreement with the Department specifying: type of administrative and direct care staff; terms of payment and procedures; roles and responsibilities of each party; and general provisions. The contract does not guarantee the number of Department clients who will be referred to or maintained in a program.

(2) Specialized living services contracts are effective for one year. In conjunction with the annual program evaluation, the Department will consider the results of the program evaluation prior to making its determination to renew the contract.

(3) The terms of the contract will establish the conditions upon which the contract may be terminated. A provider has no right to continuation of a specialized living services contract beyond the specific year in which a written contract has been executed. Approval of a provider's specialized living services program pursuant to OAR 411-065-0015 does not create an express or implied contract in the absence of a fully executed written contract with the Department.

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 410.070