

**CHAPTER 411  
DIVISION 34**

**STATE PLAN PERSONAL CARE SERVICES**

**411-034-0000 Purpose**

*(Adopted 3/15/1996)*

(1) These Administrative Rules are established to ensure personal care services will support and augment independence, empowerment, dignity, and human potential through provision of flexible, efficient, and suitable services to eligible clients. Personal care services are intended to supplement the client's own personal abilities and resources.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

**411-034-0010 Definitions**

*(Adopted 3/15/1996)*

As used in these rules, unless the context demands otherwise, the following definitions apply:

(1) "Activities of Daily Living" (ADL) means those self-care activities which must be accomplished by an individual for continued well-being including mobility, dressing and grooming, bathing and personal hygiene, toileting/bladder care, and eating.

(2) "Case Management" means the service which ensures the effective provision of services to the client.

(3) "Case Manager" means a person who ensures client entry, assessment, case planning, service implementation, and evaluation of the effectiveness of the services.

(4) "Client" means the individual eligible for personal care services.

(5) "Cognition" means functions of the brain which assist in orientation to person, place and/or time, decision-making, learning, and memory.

(6) "Contractor" means an incorporated entity or person contracting with the Senior and Disabled Services Division or its designee to provide personal care services.

(7) "Cost Effective" means judging that a specific service meets the client's service needs and costs less than other service options considered.

(8) "Designee" means the State Office for Services to Children and Families (formerly Children Services Division), Adult and Family Services (AFS) Division, Mental Health and Developmental Disabilities Services Division (MHDDSD), an Area Agency on Aging, or any other governmental subdivision with whom Senior and Disabled Services Division has an interagency agreement or contract.

(9) "Division" means the Senior and Disabled Services Division (SDSD) of the Department of Human Resources.

(10) "Full Assistance" means the client is unable to do any part of a task listed in OAR 411-034-0020; i.e., it must be done entirely by someone else.

(11) "Home" means the primary residence of an individual that is not licensed as a foster home, residential care facility, assisted living facility, any other residential program, or a nursing facility.

(12) "Immediate Family" means the spouse of a person or the parent or step parent.

(13) "Independent" means the client can perform the task without help.

(14) "Minimal Assistance" means the client is able to perform a majority of a task, but requires some assistance.

(15) "Personal Care Services" means a task which helps with the client's activities of daily living and other activities as listed in OAR 411-034-0020.

(16) "Personal Care Services Contract" means a written agreement between SDSD or its designee and a qualified provider which describes the work to be performed and terms of payment.

(17) "Provider" or "Qualified Provider" means the individual who actually performs the service and meets the description cited in OAR 411-034-0050.

(18) "Nursing Care Plan" means the portion of the care plan developed by the RN which is taught, assigned and/or delegated to the care provider. The plan describes the client's needs and preferences along with interventions which describe by whom, when and how often the care and services are provided.

(19) "Service Need" means those functions or activities with which the client requires personal care support.

(20) "Substantial Assistance" means a client can perform only a small portion of a task and requires assistance with a majority of a task.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

#### **411-034-0020 Scope of Services**

*(Adopted 3/15/1996)*

(1) Personal care services are intended to be essential supportive services done by a qualified provider which enable an individual to move into and/or remain in his/her own home.

(2) The extent of the services may vary, but the number of hours is limited as described in OAR 411-034-0090. The services include:

(a) Basic personal hygiene - providing or assisting with bathing (tub, bed bath, shower); shampoo, hair grooming; shaving; nail care; foot care; dressing; skin care;

(b) Toileting/bowel and bladder care - assisting to and from bathroom, on and off toilet/commode, diapering, bedpan; external cleansing of

perineal area; external cleansing of Foley catheter; emptying catheter drainage bag; changing colostomy or ileostomy bag in stabilized situations; encouraging adequate fluid intake; maintenance bowel care;

(c) Mobility, transfers, comfort - assisting with ambulation with and without aids; repositioning of bedridden or wheelchair-using individuals; encouraging active range-of-motion exercises; assisting with passive range-of-motion exercise; assisting with transfers with or without mechanical devices;

(d) Nutrition - preparing nutritious meals; planning and preparing special diets; assuring adequate fluid intake; feeding;

(e) Medications/Oxygen use - assisting with administration of medications; assuring medication is taken as ordered by physician; observing for reactions; reminding appropriate persons when prescriptions need to be refilled; maintaining clean oxygen equipment; assuring adequate oxygen supply; and

(f) Delegated nursing tasks.

(3) When any of the services listed in Subsection (2)(a) through (e) of this rule are essential to the health and welfare of the client, the following supportive services may also be provided:

(a) Housekeeping tasks necessary to maintain the client in a healthy and safe environment;

(b) Arranging for necessary medical appointments;

(c) Observation of client's status and reporting of any significant changes to physician or other appropriate person;

(d) First aid and handling of emergencies; and

(e) Extra support due to confusion/dementia/mental illness/other cognitive deficits.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

### **411-034-0030 Eligibility**

*(Adopted 3/15/1996)*

(1) Persons receiving personal care services under these rules must be current Medicaid clients and may not be receiving services from a licensed residential service program that provides ADL care such as the services received by residents of a foster home, assisted living facility, group home, or other residential care program.

(2) Personal care services are not available for persons in a prison, hospital, sub-acute care facility, nursing facility, or other institution.

(3) Payment for personal care services shall be provided for a person needing the service as authorized by a physician in accordance with a plan of treatment or, at the option of the Division, authorized for the individual in accordance with a case plan approved by the Division or its designee.

(4) Payments for personal care services are not intended to replace the resources available to a client from their relatives, friends, and neighbors. They are not intended to replace routine care commonly needed by an infant or child typically provided by a parent. Additionally, they should not be used to replace other governmental services. Care plans will be based upon the least costly means of providing adequate care.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

### **411-034-0050 Qualified Provider**

*(Adopted 3/15/1996)*

(1) A qualified provider is an individual who, in the judgment of the Division or its designee, can demonstrate by background, skills, and abilities that he/she is capable of safely and adequately providing the services authorized.

(2) A qualified provider shall maintain a drug-free work place and have an acceptable criminal record as defined in OAR Chapter 411, Division 009.

(3) A qualified provider paid by the Department shall not be a member of the client's immediate family.

(4) A qualified provider may be employed through a contract agency or as an individual contractor under an individual provider number. Rates for such services will be set by the Division.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

#### **411-034-0070 Quality Assurance, Assessment, Authorization, and Monitoring**

*(Adopted 3/15/1996)*

This rule details quality assurance responsibilities in the assessment, case planning, prior authorization of payment for services, and on-going monitoring of a care plan as performed by case managers, Registered Nurses, or other person(s) designated by the Division or interagency agreement to perform similar activities.

##### **(1) Case Manager Quality Assurance Responsibilities:**

(a) **Assessment:** The case manager/designated person will assess the service needs of the client by identifying services the client is currently eligible for, services currently being provided, and resources meeting any, some, or all of the person's needs. The case manager shall interview the client and, when appropriate, other interested persons to assess the client's ability to perform the task(s) listed in 411-034-0020.

(b) **Prior Authorization:** Payment for personal care services must be prior authorized by the Division or its designee based on these rules, the service needs of the client as documented in the written care plan, and the cost effectiveness of the proposed services. If a client is served by a Division designee not providing case management

services, then the Division will be responsible for case planning and service payment authorization.

(c) Case Planning:

(A) The case manager will prepare a care plan defining those tasks in which the client requires minimal, substantial or full assistance; the methods which currently address some or all of those assistance needs; and the number of hours of personal care services requested by and required by the client.

(B) The care plan will describe the tasks to be performed by the qualified provider, note the maximum hours to be reimbursed for those services, indicate the expected outcomes and estimate the cost of care. This plan will be reviewed with the client and, if appropriate, interested parties prior to implementation.

(d) Nursing Referral: The case manager or designee may refer medical aspects of the assessment process to a Registered Nurse (RN) when it appears the client may need services requiring RN supervision under the Nurse Delegation Act (OAR Chapter 851 Division 047). The following are indicators of the need to delegate the medical portion of the assessment.

(A) Medical instability;

(B) Potential for skin breakdown or pressure ulcers;

(C) Multiple health problems or frailty with a strong probability of deterioration; or

(D) Potential for increased self-care, but instruction and support for the client are needed to reach goals.

(e) On-going Monitoring and Authorization: The case manager shall meet with the client and, when appropriate, interested parties not less than every 180 days to review the plan; review its cost effectiveness; and authorize any further expenditures.

## (2) Registered Nurse Quality Assurance Responsibilities

(a) Assessment: In accordance with the Nurse Practice Act and the Nurse Delegation Act, the Registered Nurse shall assess the need of each client if referred by the case manager, designee, or Pre-Admission Screening Team for medically-related services to assist with tasks listed in OAR 411-034-0020.

### (b) Nursing Care Plan:

(A) The nursing care plan must comply with the Nurse Practice Act, Oregon Revised Statutes 678.010 to 678.410, and the Oregon State Board of Nursing Administrative Rules Chapter 851, Divisions 045 and 047.

(B) The nurse shall interview the client and, when appropriate, other interested parties or take other actions to assess the client's ability to perform these tasks. The nurse shall prepare a care plan which defines the tasks with which the client requires minimal, substantial or full assistance; the methods currently addressing some or all of those assistance needs; the medically-related services requested and required by the client needing to be met through personal care expenditures; and what natural supports are meeting any, some, or all of the client's assessed medical needs. Realistic goals for clients shall be included in the care plan.

(C) The nursing care plan shall be reviewed with the client and, if appropriate, interested parties prior to implementation. The plan shall indicate the treatment needed and the expected outcomes of care and shall be reviewed by the nurse with the client and provider. The frequency of review will be based on the client's needs, but the plan shall be reviewed at least every 180 days. A copy of the nursing care plan must be included in the referring case manager's case plan file.

(c) Maximum hours for each contracted nurse service will be established by the Division.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

**411-034-0090 Payment Limitations**

*(Adopted 3/15/1996)*

(1) The number of ADL service hours per calendar month shall be based on projected amounts of time to perform specific assistance to the client. Except for persons “grandfathered” in per Section (2) of this rule, the total of these hours shall not exceed twenty hours per month. These hours may be spread throughout the month or used in large blocks.

(2) Persons receiving more than 20 hours of services per month as of March 14, 1996, may continue to receive the same number of hours of services until alternative services or an alternative program is developed.

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