

**DEPARTMENT OF HUMAN SERVICES
DEVELOPMENTAL DISABILITIES
OREGON ADMINISTRATIVE RULES**

**CHAPTER 411
DIVISION 317**

GENERAL DEFINITIONS

411-317-0000 Definitions for Developmental Disability Services

(Adopted 12/28/2014)

Unless the context indicates otherwise, the following definitions apply to the rules in OAR chapter 411, divisions 300 to 375:

(1) "Abuse Investigation" means the reporting and investigation activities as required by OAR 407-045-0300 and any subsequent services or supports necessary to prevent further abuse as required by OAR 407-045-0310.

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

(3) "Activities of Daily Living (ADL)" are the basic personal everyday activities, such as eating, using the restroom, grooming, dressing, bathing, and transferring.

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

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

(6) "Adult" means an individual who is 18 years or older with an intellectual or developmental disability.

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

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

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

(10) "Case Management" means the functions performed by a services coordinator or personal agent. Case management includes, but is not limited to, determining service eligibility, developing a plan of authorized services, and monitoring the effectiveness of services and supports.

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

(12) "Child" means an individual who is less than 18 years of age that has a provisional determination of an intellectual or developmental disability.

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

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

(15) "Complaint" means an oral or written expression of dissatisfaction with a developmental disability service or provider.

(16) "Complaint Investigation" means the investigation of a complaint that has been made to a proper authority that is not covered by an investigation of abuse.

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

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

(19) "Designated Representative" means any adult, such as a parent, family member, guardian, advocate, or other person, who is chosen by an individual or the legal representative of the individual, not a paid provider for the individual, and authorized by the individual or the legal representative of the individual to serve as the representative of the individual or the legal representative of the individual in connection with the provision of funded supports. An individual or a legal representative of the individual is not required to appoint a designated representative.

(20) "Entry" means admission to a Department-funded developmental disability service.

(21) "Exit" means termination or discontinuance of a Department-funded developmental disability service.

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

(23) "Founded Report" means the determination by the Department or Law Enforcement Authority (LEA), based on the evidence, that there is reasonable cause to believe that conduct in violation of the child abuse

statutes or rules has occurred and such conduct is attributable to the person alleged to have engaged in the conduct.

(24) "Guardian" means the parent for an individual less than 18 years of age or a person or agency appointed and authorized by a court to make decisions about services for an individual.

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

(26) "Hearing" means a contested case hearing subject to OAR 137-003-0501 to 137-003-0070, which results in a final order.

(27) "Home and Community-Based Waiver Services" mean the services approved by the Centers for Medicare and Medicaid Services in accordance with section 1915(c) of the Social Security Act.

(28) "Independence" means the extent to which an individual exerts control and choice over his or her own life.

(29) "Individual" means a child or an adult with an intellectual or developmental disability applying for, or determined eligible for, Department-funded services. Unless otherwise specified, references to individual also include the legal or designated representative of the individual, who has the ability to act for the individual and to exercise the rights of the individual.

(30) "Instrumental Activities of Daily Living (IADL)" are the activities other than activities of daily living required to continue independent living, such as:

(a) Meal planning and preparation;

(b) Managing personal finances;

- (c) Shopping for food, clothing, and other essential items;
- (d) Performing essential household chores;
- (e) Communicating by phone or other media; and
- (f) Traveling around and participating in the community.

(31) "Integration" as defined in ORS 427.005 means:

- (a) Use by individuals with intellectual or developmental disabilities of the same community resources used by and available to other people;
- (b) Participation by individuals with intellectual or developmental disabilities in the same community activities in which people without disabilities participate, together with regular contact with people without disabilities; and
- (c) Residence by individuals with intellectual or developmental disabilities in homes or in home-like settings that are in proximity to community resources, together with regular contact with people without disabilities in their community.

(32) "Legal Representative" means a person who has the legal authority to act for an individual.

- (a) For a child, the legal representative is the parent of the child unless a court appoints another person or agency to act as the guardian of the child; and
- (b) For an adult, the legal representative is the attorney at law who has been retained by or for the adult, the person acting under the authority granted in a power of attorney, or the person or agency authorized by a court to make decisions about services for the adult.

(33) "Mandatory Reporter":

(a) Means any public or private official as defined in OAR 407-045-0260 who:

(A) Comes in contact with a child with or without an intellectual or developmental disability and has reasonable cause to believe the child has suffered abuse, or comes in contact with any person whom the public or private official has reasonable cause to believe abused the child, regardless of whether or not the knowledge of the abuse was gained in the official capacity of the public or private official.

(B) While acting in an official capacity, comes in contact with an adult with an intellectual or developmental disability and has reasonable cause to believe the adult has suffered abuse, or comes in contact with any person whom the public or private official has reasonable cause to believe abused the adult.

(b) Nothing contained in ORS 40.225 to 40.295 affects the duty to report imposed by this definition, except that a psychiatrist, psychologist, clergy, attorney, or guardian ad litem appointed under ORS 419B.231 is not required to report if the communication is privileged under ORS 40.225 to 40.295.

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

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

(36) "Natural Support" means:

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

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

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

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

(39) "OHP Plus" means only the Medicaid benefit packages provided under OAR 410-120-1210(4)(a) and (b). This excludes individuals receiving Title XXI benefits.

(40) "OSIPM" means "Oregon Supplemental Income Program-Medical" as described in OAR 461-001-0030. OSIPM is Oregon Medicaid insurance coverage for individuals who meet the eligibility criteria described in OAR chapter 461.

(41) "Person-Centered Planning":

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

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

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

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

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

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

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

(43) "Primary Caregiver" means the person identified in an Individual Support Plan as providing the majority of services and support for an individual in the home of the individual.

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

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

(46) "Productivity" as defined in ORS 427.005 means regular engagement in income-producing work, preferable competitive employment with supports and accommodations to the extent necessary, by an individual that is measured through improvements in income level, employment status, or job advancement or engagement by an individual in work contributing to a household or community.

(47) "Protection" means the necessary actions offered to an individual as soon as possible to prevent subsequent abuse or exploitation of the individual, to prevent self-destructive acts, or to safeguard the person, property, and funds of the individual.

(48) "Protective Physical Intervention" means any manual physical holding of, or contact with, an individual that restricts freedom of movement.

(49) "Protective Services" mean the necessary actions offered to an individual as soon as possible to prevent subsequent abuse or exploitation of the individual, to prevent self-destructive acts, or to safeguard the person, property, and funds of the individual.

(50) "Provider" means a person, agency, organization, or business selected by an individual that provides recognized Department-funded services and is approved by the Department or other appropriate agency to provide Department-funded services.

(51) "Restraint" means any physical hold, device, or chemical substance that restricts, or is meant to restrict, the movement or normal functioning of an individual.

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

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

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

(55) "Services" include, but are not limited to, supervision, protection, and assistance in bathing, dressing, grooming, eating, management of money, or transportation. Services also include being aware of the general whereabouts of an individual at all times and monitoring the activities of the individual to ensure the health, safety, and welfare of the individual.

(56) "Significant Other" means a person selected by an individual to be the friend of the individual.

(57) "Staff" means paid employees who are responsible for providing services and supports to individuals and whose wages are paid in part or in

full with funds sub-contracted with a community developmental disability program, support services brokerage, or contracted directly through the Department.

(58) "Substantiated" means an abuse investigation has been completed by the Department or the designee of the Department and the preponderance of the evidence establishes the abuse occurred.

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

(60) "Transfer" means movement of an individual from one type of service to another type of service administered or operated by the same provider.

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

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 409.050