DEPARTMENT OF HUMAN SERVICES
SENIORS AND PEOPLE WITH DISABILITIES DIVISION
OREGON ADMINISTRATIVE RULES

CHAPTER 411
DIVISION 320

COMMUNITY DEVELOPMENTAL DISABILITY PROGRAM

411-320-0010 Statement of Purpose
(Amended 7/13/2009)

The rules in OAR chapter 411, division 320 prescribe general administrative standards for operation of a community developmental disability program (CDDP).

(1) All CDDP contractors providing developmental disability services under a contract with the Seniors and People with Disabilities Division are required to meet the basic management, programmatic, health, safety, and human rights regulations in the management of the community service system for individuals with developmental disabilities.

(2) These rules prescribe the standards by which the Seniors and People with Disabilities Division provides services operated by the CDDP including but not limited to eligibility determination, case management, adult protective services, and crisis diversion services.

Stat. Auth.: ORS 409.050, 410.070, & 430.640
Stats. Implemented: ORS 427.005, 427.007, & 430.610 – 430.695

411-320-0020 Definitions
(Temporary Effective 7/4/2010 – 12/31/2010)

(1) "24-Hour Residential Program" means a comprehensive residential home or facility licensed by the Division under ORS 443.410 to provide residential care and training to individuals with developmental disabilities.

(2) "Abuse" means:

(a) Abuse of a child:

(A) As defined in ORS 419B.005; and

(B) Abuse as defined in OAR 407-045-0260, when a child resides in:

(i) Homes or facilities licensed to provide 24-hour residential services for children with developmental disabilities; or

(ii) Agencies licensed or certified by the Division to provide proctor foster care for children with developmental disabilities.

(b) Abuse of an adult as defined in OAR 407-045-0260.

(3) "Abuse Investigation and Protective Services" means 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.

(4) "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.

(5) "Adaptive Behavior" means the degree to which an individual meets the standards of personal independence and social responsibility expected for age and culture group. Other terms used to describe adaptive behavior include but are not limited to adaptive impairment, ability to function, daily living skills, and adaptive functioning. Adaptive behaviors are everyday living skills including but not limited to walking (mobility), talking (communication), getting dressed or toileting (self-care), going to school or work (community use), and making choices (self-direction).

(a) Adaptive behavior is measured by a standardized test administered by a psychologist, social worker, or other professional with a graduate degree and specific training and experience in individual assessment, administration, and test interpretation of adaptive behavior scales for individuals with developmental disabilities.

(b) "Significant impairment" in adaptive behavior means a composite score of at least two standard deviations below the norm or two or more areas of functioning that are at least two standard deviations below the norm including but not limited to communication, mobility, self-care, socialization, self-direction, functional academics, or self-sufficiency as indicated on a standardized adaptive test.

(6) "Administrative Review" means the formal process that is used by the Division when an individual or an individual's representative is not satisfied with the decision made by the community developmental disability program or support services brokerage about a complaint involving the provision of services or a service provider.

(7) "Adult" means an individual 18 years or older with developmental disabilities.

(8) "Advocate" means a person other than paid staff who has been selected by the individual, or by the individual's legal representative, 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.

(9) "Annual Plan" means:

(a) A written summary the services coordinator completes for an individual 18 years or older who is not receiving support services or comprehensive services; or

(b) The written details of the supports, activities, costs, and resources required for a child receiving family support services.

(10) "Assistant Director" means the assistant director of the Division, or that person's designee.

(11) "Care" means supportive services including but not limited to provision of room and board, supervision, protection, and assistance in bathing, dressing, grooming, eating, management of money, transportation, or recreation. The term "care" is synonymous with "services".

(12) "Chemical Restraint" means the use of a psychotropic drug or other drugs for punishment, or to modify behavior, in place of a meaningful behavior or treatment plan.

(13) "Child" means an individual under the age of 18 that has a provisional determination of developmental disability.

(14) "Choice" means the individual's expression of preference, opportunity for, and active role in decision-making related to the selection of assessments, services, service providers, goals and activities, and verification of satisfaction with these services. Choice may be communicated verbally, through sign language, or by other communication methods.

(15) "Community Developmental Disability Program (CDDP)" means an entity that is responsible for planning and delivery of services for individuals with developmental disabilities in a specific geographic service area of the state operated by or under a contract with the Division or a local mental health authority.

(16) "Community Mental Health and Developmental Disability Program (CMHDDP)" means an entity that operates or contracts for all services for individuals with mental or emotional disturbances, drug abuse problems, developmental disabilities, and alcoholism and alcohol abuse problems under the county financial assistance contract with the Department.

(17) "Complaint" means a verbal or written expression of dissatisfaction with services or service providers.

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

(19) "Comprehensive Services" mean a package of developmental disability services and supports that include one of the following living arrangements regulated by the Division alone or in combination with any associated employment or community inclusion program regulated by the Division:

(a) Twenty-four hour residential services including but not limited to services provided in a group home, foster home, or through a supported living program; or

(b) In-home supports provided to an adult in the individual or family home costing more than the individual cost limit for support services.

(c) Comprehensive services do not include support services for adults enrolled in support services brokerages or for children enrolled in long-term supports for children or children's intensive in-home services.

(20) "County of Origin" means the individual's county of residence, unless a minor, then county of origin means the county where the jurisdiction of the child's guardianship exists.

(21) "Crisis" means:

(a) A situation as determined by a qualified services coordinator that would result in civil court commitment under ORS 427.215 to 427.306 and for which no appropriate alternative resources are available; or

(b) Risk factors described in OAR 411-320-0160(2) are present for which no appropriate alternative resources are available.

(22) "Crisis Diversion Services" mean short-term services provided for up to 90 days, or on a one-time basis, directly related to resolving a crisis, and provided to, or on behalf of, an individual eligible to receive crisis services.

(23) "Crisis Plan" means the community developmental disability program or regional crisis diversion program generated document, serving as the justification for, and the authorization of crisis supports and expenditures pertaining to an individual receiving crisis services provided under these rules.

(24) "Current Documentation" means documentation relating to an individual's developmental disability in regards to the individual's functioning within the last three years. Current documentation may include but is not limited to annual plans, behavior support plans, educational

records, medical assessments related to the developmental disability, psychological evaluations, and adaptive behavior assessments.

(25) "Department" means the Department of Human Services (DHS).

(26) "Developmental Disability (DD)" means a disability that originates in the developmental years, that is likely to continue, and significantly impacts adaptive behavior as diagnosed and measured by a qualified professional. Developmental disabilities include mental retardation, autism, cerebral palsy, epilepsy, or other neurological disabling conditions that require training or support similar to that required by individuals with mental retardation, and the disability:

(a) Originates before the individual reaches the age of 22 years, except that in the case of mental retardation, the condition must be manifested before the age of 18;

(b) Originates and directly affects the brain and has continued, or must be expected to continue, indefinitely;

(c) Constitutes a significant impairment in adaptive behavior; and

(d) Is not primarily attributed to a mental or emotional disorder, sensory impairment, substance abuse, personality disorder, learning disability, or Attention Deficit Hyperactivity Disorder (ADHD).

(27) "DHS Quality Management Strategy" means the Department's Quality Assurance Plan that includes the quality assurance strategies for the Division (http://www.oregon.gov/DHS/spd/qa/app_h_qa.pdf).

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

(29) "Eligibility Determination" means a decision by a community developmental disability program or by the Division regarding a person’s eligibility for developmental disability services pursuant to OAR 411-320-0080 and is either a decision that a person is eligible or ineligible for developmental disability services.

(30) "Eligibility Specialist" means an employee of the community developmental disability program or other agency that contracts with the county or Division to determine developmental disability eligibility.

(31) "Entry" means admission to a Division-funded developmental disability service provider.

(32) "Exit" means either termination from a Division-funded developmental disability service provider or transfer from one Division-funded program to another. Exit does not mean transfer within a service provider's program within a county.

(33) "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.

(34) "Founded Reports" means the Department's Children, Adults, and Families Division or Law Enforcement Authority (LEA) determination, 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.

(35) "Guardian" means a parent for individuals under 18 years of age, or a person or agency appointed and authorized by the courts to make decisions about services for an individual.

(36) "Health Care Provider" means a 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.

(37) "Health Care Representative" means:

(a) A health care representative as defined in ORS 127.505; or

(b) A person who has authority to make health care decisions for an individual under the provisions of OAR chapter 411, division 365.

(38) "Hearing" means the formal process following an action that would terminate, suspend, reduce, or deny a service. This is a formal process required by federal law (42 CFR 431.200-250). A hearing is also known as a Medicaid Fair Hearing, Contested Case Hearing, and Administrative Hearing.

(39) "Home" means an individual's primary residence that is not under contract with the Department to provide services to an individual as a licensed or certified foster home, residential care facility, assisted living facility, nursing facility, or other residential support program site.

(40) "Imminent Risk" means:

> (a) An adult who is in crisis and shall be civilly court-committed to the Department under ORS 427.215 to 427.306 within 60 days without the use of crisis diversion services; or
>
> (b) A child who is in crisis and shall require out-of-home placement within 60 days without the use of crisis diversion services.

(41) "Incident Report" means a written report of any unusual incident involving an individual.

(42) "Independence" means the extent to which individuals with developmental disabilities exert control and choice over their own lives.

(43) "Individual" means an adult or a child with developmental disabilities for whom services are planned and provided.

(44) "Individualized Education Plan (IEP)" means a written plan of instructional goals and objectives in conference with the teacher, parent or guardian, student, and a representative of the school district.

(45) "Individual Support Plan (ISP)" means the written details of the supports, activities, and resources required for an individual to achieve personal goals. The Individual Support Plan is developed at minimum annually to reflect decisions and agreements made during a person-centered process of planning and information gathering. The Individual Support Plan is the individual's plan of care for Medicaid purposes.

(46) "Individual Support Plan (ISP) Team" means a team composed of the individual served, agency representatives who provide service to the individual (if appropriate for in-home supports), the guardian (if any), the services coordinator, and may include family or other persons requested to develop the Individual Support Plan or requested by the individual.

(47) "Integration" means:

(a) The use by individuals with developmental disabilities of the same community resources that are used by and available to other persons in the community;

(b) Participation in the same community activities in which persons without a developmental disability participate, together with regular contact with persons without a developmental disability; and

(c) Individuals with developmental disabilities live in homes that are in proximity to community resources and foster contact with persons in their community.

(48) "Intellectual Functioning" means functioning as assessed by a qualified professional using one or more individually administered general intelligence tests.

(49) "Legal Representative" means the parent, if the individual is under age 18, unless the court appoints another person or agency to act as guardian. For those individuals over the age of 18, a legal representative means an attorney at law who has been retained by or for an individual, or a person or agency authorized by the court to make decisions about services for the individual.

(50) "Local Mental Health Authority (LMHA)" means:

(a) The county court or board of county commissioners of one or more counties that operate a community mental health and developmental disability program;

(b) The tribal council in the case of a Native American reservation;

(c) The board of directors of a public or private corporation if the county declines to operate or contract for all or part of a community mental health and developmental disability program; or

(d) The advisory committee for the community developmental disability program covering a geographic service area when managed by the Division.

(51) "Majority Agreement" means for the purpose of entry, exit, transfer, and annual Individual Support Plan team meetings, that no one member of the Individual Support Plan team has the authority to make decisions for the team unless so authorized by the team process. Service providers, families, community developmental disability programs, advocacy agencies, or individuals are considered as one member of the Individual Support Plan team for the purpose of reaching majority agreement.

(52) "Management Entity" means the community developmental disability program or private corporation that operates the regional crisis diversion program, including acting as the fiscal agent for regional crisis diversion funds and resources.

(53) "Mandatory Reporter" means any public or private official who:

(a) Comes in contact with and has reasonable cause to believe a child has suffered abuse, or comes in contact with any person whom the official has reasonable cause to believe abused a child, regardless of whether or not the knowledge of the abuse was gained in the reporter's official capacity. Nothing contained in ORS 40.225 to 40.295 shall affect the duty to report imposed by this section, except that a psychiatrist, psychologist, clergyman, attorney, or guardian ad litem appointed under ORS 419B.231 shall not be required to report such information communicated by a person if the communication is privileged under ORS 40.225 to 40.295.

(b) While acting in an official capacity, comes in contact with and has reasonable cause to believe an adult with developmental disabilities has suffered abuse, or comes in contact with any person whom the official has reasonable cause to believe abused an adult with developmental disabilities. Pursuant to ORS 430.765(2) psychiatrists, psychologists, clergy, and attorneys are not mandatory reporters with

regard to information received through communications that are privileged under ORS 40.225 to 40.295.

(54) "Mechanical Restraint" means any mechanical device, material, object, or equipment that is attached or adjacent to an individual's body that the individual cannot easily remove or easily negotiate around that restricts freedom of movement or access to the individual's body.

(55) "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.

(56) "Mental Retardation" means significantly sub-average general intellectual functioning defined as intelligence quotient's (IQ's) under 70 as measured by a qualified professional and existing concurrently with significant impairment in adaptive behavior that are manifested during the developmental period, prior to 18 years of age. Individuals of borderline intelligence, IQ's 70-75, may be considered to have mental retardation if there is also significant impairment of adaptive behavior as diagnosed and measured by a qualified professional. The adaptive behavior must be directly related to the issues of mental retardation. Definitions and classifications must be consistent with the "Manual of Terminology and Classification in Mental Retardation" by the American Association on Mental Deficiency, 1977 Revision.

(a) Mild mental retardation is used to describe the degree of retardation when intelligence test scores are 50 to 69. Individuals with IQ's in the 70 to 75 range may be considered as having mental retardation if there is significant impairment in adaptive behavior.

(b) Moderate mental retardation is used to describe the degree of retardation when intelligence test scores are 35 to 49.

(c) Severe mental retardation is used to describe the degree of retardation when intelligence test scores are 20 to 34.

(d) Profound mental retardation is used to describe the degree of retardation when intelligence test scores are below 20.

(57) "Monitoring" means the periodic review of the implementation of services identified in the Individual Support Plan or annual summary, and the quality of services delivered by other organizations.

(58) "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.

(59) "OIT" means the Department of Human Services, Office of Investigations and Training.

(60) "Oregon Intervention System (OIS)" means a system of providing training to people who work with designated individuals to intervene physically or non-physically to keep individuals from harming self or others. The Oregon Intervention System is based on a proactive approach that includes methods of effective evasion, deflection, and escape from holding.

(61) "Physical Restraint" means any manual physical holding of, or contact with an individual that restricts the individual's freedom of movement.

(62) "Physician" means a person licensed under ORS chapter 677 to practice medicine and surgery.

(63) "Physician Assistant" means a person licensed under ORS 677.505 to 677.525.

(64) "Plan of Care" means a written document developed for each individual by the support team using a person-centered approach that describes the supports, services, and resources provided or accessed to address the needs of the individual.

(65) "Productivity" means:

> (a) Engagement in income-producing work by an individual with developmental disabilities that is measured through improvements in income level, employment status, or job advancement; or
>
> (b) Engagement by an individual with developmental disabilities in work contributing to a household or community.

(66) "Protection" and "Protective Services" means necessary actions taken as soon as possible to prevent subsequent abuse or exploitation of the individual, to prevent self-destructive acts, and to safeguard an individual's person, property, and funds.

(67) "Psychologist" means:

(a) A person possessing a doctorate degree in psychology from an accredited program with course work in human growth and development, tests, and measurement; or

(b) A state certified school psychologist.

(68) "Psychotropic Medication" means medication the prescribed intent of which is to affect or alter thought processes, mood, or behavior including but not limited to anti-psychotic, antidepressant, anxiolytic (anti-anxiety), and behavior medications. The classification of a medication depends upon its stated, intended effect when prescribed.

(69) "Qualified Professional" means a:

(a) Licensed clinical psychologist (Ph.D., Psy.D.) or school psychologist;

(b) Medical doctor (MD); or

(c) Doctor of osteopathy (DO).

(70) "Region" means a group of Oregon counties defined by the Division that have a designated management entity to coordinate regional crisis and backup services and be the recipient and administration of funds for those services.

(71) "Regional Crisis Diversion Program" means the regional coordination of the management of crisis diversion services for a group of designated counties that is responsible for the management of the following developmental disability services:

(a) Crisis intervention services;

(b) Evaluation of requests for new or enhanced services for certain groups of individuals eligible for developmental disability services; and

(c) Other developmental disability services that the counties compromising the region agree shall be delivered more effectively or automatically on a regional basis.

(72) "Respite" means short-term care and supervision provided to an individual on a periodic or intermittent basis because of the temporary absence of, or need for relief of, the primary care giver.

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

(74) "Review" means a request for reconsideration of a decision made by a service provider, community developmental disability program, support services brokerage, or the Division.

(75) "Service Element" means a funding stream to fund program or services including but not limited to foster care, 24-hour residential, case management, supported living, support services, crisis diversion services, in-home comprehensive services, or family support.

(76) "Service Provider" means a public or private community agency or organization that provides recognized mental health or developmental disability services and is approved by the Division, or other appropriate agency, to provide these services. The term "provider" or "program" is synonymous with "service provider."

(77) "Services Coordinator" means an employee of the community developmental disability program or other agency that contracts with the county or Division, who is selected to plan, procure, coordinate, monitor Individual Support Plan services, and to act as a proponent for individuals with developmental disabilities. The term "case manager" is synonymous with "services coordinator".

(78) "State Training Center" means the Eastern Oregon Training Center.

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

(80) "Support" means assistance that individuals require, solely because of the affects of developmental disability, to maintain or increase independence, achieve community presence and participation, and improve productivity. Support is flexible and subject to change with time and circumstances.

(81) "Support Services Brokerage" means an entity, or distinct operating unit within an existing entity, that uses the principles of self-determination to perform the functions associated with planning and implementation of support services for individuals with developmental disabilities.

(82) "Support Team" means a group, composed of members as determined by an individual receiving services or the individual's legal guardian, that participates in the development of the individual's plan of care.

(83) "These Rules" mean the rules in OAR chapter 411, division 320.

(84) "Transfer" means movement of an individual from a service site to another service site within a county, administered by the same service provider that has not been addressed within the Individual Support Plan.

(85) "Transition Plan" means a written plan for the period of time between an individual's entry into a particular service and when the individual's Individual Support Plan is developed and approved by the Individual Support Plan team. The transition plan includes a summary of the services necessary to facilitate adjustment to the services offered, the supports necessary to ensure health and safety, and the assessments and consultations necessary for the Individual Support Plan development.

(86) "Unusual Incident" means incidents involving serious illness or accidents, death of an individual, injury or illness of an individual requiring inpatient or emergency hospitalization, suicide attempts, a fire requiring the services of a fire department, an act of physical aggression, or any incident requiring abuse investigation.

(87) "Variance" means a temporary exception from a regulation or provision of these rules that may be granted by the Division, upon written application by the community developmental disability program.

(88) "Volunteer" means any person providing services without pay to individuals receiving case management services.

Stat. Auth.: ORS 409.050, 410.070, & 430.640
Stats. Implemented: ORS 427.005, 427.007, & 430.610 – 430.695

411-320-0030 Organization and Program Management
(Amended 7/1/2010)

(1) ORGANIZATION AND INTERNAL MANAGEMENT. Each service provider of community developmental disability services funded by the Division must have written standards governing the operation and management of the program. Such standards must be up to date, available upon request, and include:

(a) An up-to-date organization chart showing lines of authority and responsibility from the LMHA to the CDDP manager and the components and staff within the agency;

(b) Position descriptions for all staff providing community developmental disability services;

(c) Personnel policies and procedures concerning:

(A) Recruitment and termination of employees;

(B) Employee compensation and benefits;

(C) Employee performance appraisals, promotions, and merit pay;

(D) Staff development and training;

(E) Employee conduct (including the requirement that abuse of an individual by an employee, staff, or volunteer of the CDDP is prohibited and is not condoned or tolerated); and

(F) Reporting of abuse (including the requirement that any employee of the CDDP is to report incidents of abuse when the employee comes in contact with and has reasonable cause to believe that an individual has suffered abuse). Notification of mandatory reporting status must be made at least annually to all employees and documented on forms provided by the Division.

(2) MANAGEMENT PLAN. The CDDP must maintain a current plan assigning responsibility for the developmental disabilities program management functions and duties described in this rule. The management plan must assure that the functions and duties are assigned to people who have the knowledge and experience necessary to perform them, as well as ensuring that these functions shall be implemented.

(3) PROGRAM MANAGEMENT. Staff delivering developmental disability services must be organized under the leadership of a designated CDDP manager and receive clerical support services sufficient to perform their required duties.

(a) The LMHA, public entity, or the public or private corporation operating the CDDP must designate a full-time employee who must, on at least a part-time basis, be responsible for management of developmental disability services within a specific geographic service area.

(b) In addition to other duties as may be assigned in the area of developmental disability services, the CDDP must at a minimum develop and assure:

(A) Implementation of plans as may be needed to provide a coordinated and efficient use of resources available to serve individuals;

(B) Maintenance of positive and cooperative working relationships with families, advocates, service providers, support service brokerages, the Division, local government, and other state and local agencies with an interest in developmental disability services;

(C) Implementation of programs funded by the Division to encourage pursuit of defined program outcomes and monitor the programs to assure service delivery that is in compliance with related contracts and applicable local, state, and federal requirements;

(D) Collection and timely reporting of information as may be needed to conduct business with the Division including but not limited to information needed to license foster homes, collect federal funds supporting services, and investigate complaints related to services or suspected abuse; and

(E) Use of procedures that attempt to resolve complaints involving individuals or organizations that are associated with developmental disability services.

(4) QUALIFIED STAFF. Only qualified staff shall provide developmental disability services.

(a) Each CDDP must provide a qualified CDDP manager, services coordinator, eligibility specialist, quality assurance coordinator, and abuse investigator specialist for adults with developmental disabilities, or have an agreement with another CDDP to provide a qualified eligibility specialist, quality assurance coordinator, and abuse investigator specialist for adults with developmental disabilities.

(A) CDDP MANAGER.

(i) The CDDP manager must have knowledge of the public service system for developmental disability services in Oregon and at least:

(I) A bachelor's degree in behavioral, social, health science, special education, public administration, or human service administration AND a minimum of four years experience, with at least two of those years of experience in developmental disability services that provided recent experience in program

management, fiscal management, and staff supervision; or

(II) Six years of experience in supervision or six years of experience in staff technical or professional level work related to developmental disability services.

(ii) On an exceptional basis, the CDDP may hire a person who does not meet the qualifications in section (4)(a)(A)(i) of this rule if the county and the Division have mutually agreed on a training and technical assistance plan that assures that the person shall quickly acquire all needed skills and experience.

(iii) When the position of CDDP manager becomes vacant, an interim CDDP manager must be appointed to serve until a permanent CDDP manager is appointed. The CDDP must request a variance as described in section (5) of this rule if the person appointed as interim CDDP manager does not meet the qualifications in section (4)(a)(A)(i) of this rule and the term of the appointment totals more than 180 days.

(B) CDDP SUPERVISOR. The CDDP supervisor (when available) must have knowledge of the public service system for developmental disability services in Oregon and at least:

(i) A bachelor's degree or equivalent course work in a field related to management such as business or public administration, or a field related to developmental disability services, may be substituted for up to three years required experience; or

(ii) Five years of experience in supervision or five years of experience in staff technical or professional level work related to developmental disability services.

(C) SERVICES COORDINATOR. The services coordinator must have knowledge of the public service system for developmental disability services in Oregon and at least:

(i) A bachelor's degree in behavioral science, social science, or a closely related field; or

(ii) A bachelor’s degree in any field AND one year of human services related experience; or

(iii) An associate’s degree in a behavioral science, social science, or a closely related field AND two years human services related experience; or

(iv) Three years of human services related experience.

(D) ELIGIBILITY SPECIALIST. The eligibility specialist must have knowledge of the public service system for developmental disability services in Oregon and at least:

(i) A bachelor's degree in behavioral science, social science, or a closely related field; or

(ii) A bachelor’s degree in any field AND one year of human services related experience; or

(iii) An associate’s degree in a behavioral science, social science, or a closely related field AND two years human services related experience; or

(iv) Three years of human services related experience.

(E) QUALITY ASSURANCE COORDINATOR. The quality assurance coordinator must have knowledge of the public service system for developmental disability services in Oregon and at least:

(i) A bachelor's degree in business or public administration, behavioral or social sciences, finance, political science, or any degree demonstrating the

capacity for the knowledge and skills AND two years professional level evaluative, analytical, and planning work; or

(ii) Any combination of experience and education equivalent to five years of experience that typically supports the knowledge and skills for the classification.

(F) ABUSE INVESTIGATOR SPECIALIST. The abuse investigator specialist must have at least:

(i) A bachelor's degree in human, social, behavioral, or criminal science AND two years human services, law enforcement, or investigative experience; or

(ii) An associate's degree in the human, social, behavioral, or criminal science AND four years human services, law enforcement, or investigative experience.

(b) An application for employment at the CDDP must inquire whether an applicant has had any founded reports of child abuse or substantiated abuse.

(c) Any employee, volunteer, advisor of the CDDP, or any subject individual defined by OAR 407-007-0200 to 407-007-0370 including staff who are not identified in this rule but use public funds intended for the operation of the CDDP, and who has or will have contact with an eligible individual of the CDDP, must have an approved criminal records check in accordance with OAR 407-007-0200 to 407-007-0370 and under ORS 181.534.

(A) Effective July 28, 2009, the CDDP may not use public funds to support, in whole or in part, any employee, volunteer, advisor of the CDDP, or any subject individual defined by OAR 407-007-0200 to 407-007-0370, who will have contact with a recipient of CDDP services and who has been convicted of any of the disqualifying crimes listed in OAR 407-007-0275.

(B) Effective July 28, 2009, a person does not meet the qualifications as described in this rule if the person has been

convicted of any of the disqualifying crimes listed in OAR 407-007-0275.

(C) Any employee, volunteer, advisor of the CDDP, or any subject individual defined by OAR 407-007-0200 to 407-007-0370 must self-report any potentially disqualifying condition as described in OAR 407-007-0280 and OAR 407-007-0290. The person must notify the Department or its designee within 24 hours.

(d) Sections (4)(c)(A) and (B) of this rule do not apply to employees who were hired prior to July 28, 2009 and remain in the current position for which the employee was hired.

(5) VARIANCE. The CDDP must submit a written variance request to the Division prior to employment of a person not meeting the minimum qualifications in section (4)(a) of this rule. A variance request may not be requested for sections (4)(b) and (c) of this rule. The written variance request must include:

(a) An acceptable rationale for the need to employ a person who does not meet the minimum qualifications in section (4)(a) of this rule; and

(b) A proposed alternative plan for education and training to correct the deficiencies.

(A) The proposal must specify activities, timelines, and responsibility for costs incurred in completing the alternative plan.

(B) A person who fails to complete the alternative plan for education and training to correct the deficiencies may not fulfill the requirements for the qualifications.

(6) STAFF DUTIES.

(a) SERVICES COORDINATOR DUTIES. The duties of the services coordinator must be specified in the employee's job description and at a minimum include:

(A) The delivery of case management services to individuals as listed in OAR 411-320-0090(4);

(B) Assisting the CDDP manager in monitoring the quality of services delivered within the county; and

(C) Assisting the CDDP manager in the identification of existing and insufficient service delivery resources or options.

(b) ELIGIBILITY SPECIALIST DUTIES. The duties of the eligibility specialist must be specified in the employee's job description and at a minimum include:

(A) Completing intake and eligibility determination for persons applying for developmental disability services;

(B) Completing eligibility redetermination for individuals requesting continuing developmental disability services; and

(C) Assisting the CDDP manager in the identification of existing and insufficient service delivery resources or options.

(c) QUALITY ASSURANCE COORDINATOR DUTIES. The duties of the quality assurance coordinator must be specified in the employee's job description and at a minimum include:

(A) Assisting the CDDP manager in the coordination of the CDDP's quality assurance system;

(B) Developing and coordinating the CDDP's annual quality assurance plan;

(C) Assisting the CDDP manager in monitoring the performance of the CDDP;

(D) Performing quality assurance coordinator responsibilities as described in OAR 411-320-0045;

(E) Assisting the CDDP manager in monitoring the quality of services delivered within the county; and

(F) Assisting the CDDP manager in the identification of existing and insufficient service delivery resources or options.

(d) ABUSE INVESTIGATOR SPECIALIST DUTIES. The duties of the abuse investigator specialist must be specified in the employee's job description and at a minimum include:

(A) Conducting abuse investigation and protective services for adult individuals with developmental disabilities enrolled in, or previously eligible and voluntarily terminated, developmental disability services;

(B) Assisting the CDDP manager in monitoring the quality of services delivered within the county; and

(C) Assisting the CDDP manager in the identification of existing and insufficient service delivery resources or options.

(7) STAFF TRAINING. Qualified staff of the CDDP must maintain and enhance their knowledge and skills through participation in education and training. The Department provides training materials and the provision of training may be conducted by the Division or CDDP staff, depending on available resources.

(a) CDDP MANAGER TRAINING. The CDDP manager must participate in a basic training sequence and be knowledgeable of the duties of the staff they supervise and the developmental disability services they manage. The basic training sequence is not a substitute for the normal procedural orientation that must be provided by the CDDP to the new CDDP manager.

(A) The orientation provided by the CDDP to a new CDDP manager must include:

(i) An overview of developmental disability services and related human services within the county;

(ii) An overview of the Division's rules governing the CDDP;

(iii) An overview of the Division's licensing and certification rules for service providers;

(iv) An overview of the enrollment process and required documents needed for enrollment into the Division's payment and reporting systems;

(v) A review and orientation of Medicaid, Supplemental Security Income (SSI), Social Security Administration (SS), home and community-based waiver services, the Oregon Health Plan (OHP), and the individual support planning processes; and

(vi) A review (prior to having contact with individuals) of the CDDP manager's responsibility as a mandatory reporter of abuse, including abuse of individuals with developmental disabilities, mental illness, seniors, and children.

(B) The CDDP manager must attend the following trainings endorsed or sponsored by the Division within the first year of entering into the position:

(i) Case management basics; and

(ii) ISP training.

(C) The CDDP manager must continue to enhance his or her knowledge, as well as maintain a basic understanding of developmental disability services and the skills, knowledge, and responsibilities of the staff they supervise.

(i) Each CDDP manager must participate in a minimum of 20 hours per year of additional Division-sponsored or other training in the area of developmental disabilities.

(ii) Each CDDP manager must attend trainings to maintain a working knowledge of system changes in the area the CDDP manager is managing or supervising.

(b) CDDP SUPERVISOR TRAINING. The CDDP supervisor (when designated) must participate in a basic training sequence and be knowledgeable of the duties of the staff they supervise and of the developmental disability services they manage. The basic training sequence is not a substitute for the normal procedural orientation that must be provided by the CDDP to the new CDDP supervisor.

(A) The orientation provided by the CDDP to a new CDDP supervisor must include:

(i) An overview of developmental disability services and related human services within the county;

(ii) An overview of the Division's rules governing the CDDP;

(iii) An overview of the Division's licensing and certification rules for service providers;

(iv) An overview of the enrollment process and required documents needed for enrollment into the Division's payment and reporting systems;

(v) A review and orientation of Medicaid, SSI, SS, home and community-based waiver services, OHP, and the individual support planning processes; and

(vi) A review (prior to having contact with individuals) of the CDDP supervisor's responsibility as a mandatory reporter of abuse, including abuse of individuals with developmental disabilities, mental illness, seniors, and children.

(B) The CDDP supervisor must attend the following trainings endorsed or sponsored by the Division within the first year of entering into the position:

(i) Case management basics; and

(ii) ISP training.

(C) The CDDP supervisor must continue to enhance his or her knowledge, as well as maintain a basic understanding of developmental disability services and the skills, knowledge, and responsibilities of the staff they supervise.

(i) Each CDDP supervisor must participate in a minimum of 20 hours per year of additional Division-sponsored or other training in the area of developmental disabilities.

(ii) Each CDDP supervisor must attend trainings to maintain a working knowledge of system changes in the area the CDDP supervisor is managing or supervising.

(c) SERVICES COORDINATOR TRAINING. The services coordinator must participate in a basic training sequence. The basic training sequence is not a substitute for the normal procedural orientation that must be provided by the CDDP to the new services coordinator.

(A) The orientation provided by the CDDP to a new services coordinator must include:

(i) An overview of the role and responsibilities of a services coordinator;

(ii) An overview of developmental disability services and related human services within the county;

(iii) An overview of the Division's rules governing the CDDP;

(iv) An overview of the Division's licensing and certification rules for service providers;

(v) An overview of the enrollment process and required documents needed for enrollment into the Division's payment and reporting systems;

(vi) A review and orientation of Medicaid, SSI, SS, home and community-based waiver services, OHP, and the individual support planning processes for the services they coordinate; and

(vii) A review (prior to having contact with individuals) of the services coordinator's responsibility as a mandatory reporter of abuse, including abuse of individuals with developmental disabilities, mental illness, seniors, and children.

(B) The services coordinator must attend the following trainings endorsed or sponsored by the Division within the first year of entering into the position:

(i) Case management basics; and

(ii) ISP training (for services coordinators providing services to individuals in comprehensive services).

(C) The services coordinator must continue to enhance his or her knowledge, as well as maintain a basic understanding of developmental disability services and the skills, knowledge, and responsibilities necessary to perform the position. Each services coordinator must participate in a minimum of 20 hours per year of Division-sponsored or other training in the area of developmental disabilities.

(d) ELIGIBILITY SPECIALIST TRAINING. The eligibility specialist must participate in a basic training sequence. The basic training sequence is not a substitute for the normal procedural orientation that must be provided by the CDDP to the new eligibility specialist.

(A) The orientation provided by the CDDP to a new eligibility specialist must include:

(i) An overview of eligibility criteria and the intake process;

(ii) An overview of developmental disability services and related human services within the county;

(iii) An overview of the Division's rules governing the CDDP;

(iv) An overview of the Division's licensing and certification rules for service providers;

(v) An overview of the enrollment process and required documents needed for enrollment into the Division's payment and reporting systems;

(vi) A review and orientation of Medicaid, SSI, SS, home and community-based waiver services, and OHP; and

(vii) A review (prior to having contact with individuals) of the eligibility specialist's responsibility as a mandatory reporter of abuse, including abuse of individuals with developmental disabilities, mental illness, seniors, and children.

(B) The eligibility specialist must attend and complete eligibility core competency training within the first year of entering into the position and demonstrate competency after completion of core competency training. Until completion of eligibility core competency training, or if competency is not demonstrated, the eligibility specialist must consult with another trained eligibility specialist or consult with a Division diagnosis and evaluation coordinator when making eligibility determinations.

(C) The eligibility specialist must continue to enhance his or her knowledge, as well as maintain a basic understanding of the skills, knowledge, and responsibilities necessary to perform the position.

(i) Each eligibility specialist must participate in Division-sponsored trainings for eligibility on an annual basis.

(ii) Each eligibility specialist must participate in a minimum of 20 hours per year of Division-sponsored or other training in the area of developmental disabilities.

(e) QUALITY ASSURANCE COORDINATOR TRAINING. The quality assurance coordinator must participate in a basic training sequence. The basic training sequence is not a substitute for the normal procedural orientation that must be provided by the CDDP to the new quality assurance coordinator.

(A) The orientation provided by the CDDP to a new quality assurance coordinator must include:

(i) An overview of the Centers for Medicare and Medicaid Services six quality assurances and the Department's Quality Assurance Plan;

(ii) An overview of developmental disability services and related human services within the county;

(iii) An overview of the Division's rules governing the CDDP;

(iv) An overview of the Division's licensing and certification rules for service providers;

(v) An overview of the enrollment process and required documents needed for enrollment into the Division's payment and reporting systems;

(vi) A review and orientation of Medicaid, SSI, SS, home and community-based waiver services, OHP, and the individual support planning process; and

(vii) A review (prior to having contact with individuals) of the quality assurance coordinator's responsibility as a mandatory reporter of abuse, including abuse of individuals with developmental disabilities, mental illness, seniors, and children.

(B) The quality assurance coordinator must attend the following trainings endorsed or sponsored by the Division within the first year of entering into the position:

(i) Case management basics; and

(ii) ISP training.

(C) The quality assurance coordinator must continue to enhance his or her knowledge, as well as maintain a basic understanding of the skills, knowledge, and responsibilities necessary to perform the position.

(i) Each quality assurance coordinator must participate in a minimum of 20 hours per year of Division-sponsored or other training in the area of developmental disabilities.

(ii) Each quality assurance coordinator must participate in regularly scheduled Division-sponsored meetings relevant to specific job responsibilities.

(f) ABUSE INVESTIGATOR SPECIALIST TRAINING. The abuse investigator specialist must participate in core competency training. Training materials shall be provided by the OIT. The core competency training is not a substitute for the normal procedural orientation that must be provided by the CDDP to the new abuse investigator specialist.

(A) The orientation provided by the CDDP to a new abuse investigator specialist must include:

(i) An overview of developmental disability services and related human services within the county;

(ii) An overview of the Division's rules governing the CDDP;

(iii) An overview of the Division's licensing and certification rules for service providers;

(iv) A review and orientation of Medicaid, SSI, SS, home and community-based waiver services, OHP, and the individual support planning processes; and

(v) A review (prior to having contact with individuals) of the abuse investigator specialist's responsibility as a mandatory reporter of abuse, including abuse of individuals with developmental disabilities, mental illness, seniors, and children.

(B) The abuse investigator specialist must attend and pass core competency training within the first year of entering into the position and demonstrate competency after completion of core competency training. Until completion of core competency training, or if competency is not demonstrated, the abuse investigator specialist must consult with OIT prior to completing the abuse investigation and protective services report.

(C) The abuse investigator specialist must continue to enhance his or her knowledge, as well as maintain a basic understanding of the skills, knowledge, and responsibilities necessary to perform the position. Each abuse investigator specialist must participate in quarterly meetings held by OIT. At a minimum, one meeting per year must be attended in person.

(g) ATTENDANCE. The CDDP manager must assure the attendance of the CDDP supervisor, services coordinator, eligibility specialist, abuse investigator specialist, or quality assurance coordinator at Division-mandated training.

(h) DOCUMENTATION. The CDDP must keep documentation of required training in the personnel files of the individual employees including the CDDP manager, CDDP supervisor, services coordinator, eligibility specialist, abuse investigator specialist, quality assurance coordinator, and other employees providing services to individuals.

(8) ADVISORY COMMITTEE. Each CDDP must have an advisory committee.

(a) The advisory committee must meet at least quarterly.

(b) The membership of the advisory committee must be broadly representative of the community, with a balance of age, sex, ethnic, socioeconomic, geographic, professional, and consumer interests represented. Membership must include advocates for individuals as well as individuals and their families.

(c) The advisory committee must advise the LMHA, the CMHDDP director, and the CDDP manager on community needs and priorities for services, and must assist in planning and in review and evaluation of services.

(d) When the Division or a private corporation is operating the CDDP, the advisory committee must advise the CDDP director and the CDDP manager on community needs and priorities for services, and must assist in planning and in review and evaluation of services.

(e) The advisory committee may function as the disability issues advisory committee as described in ORS 430.625 if so designated by the LMHA.

(f) The advisory committee may function as the CDDP's quality assurance committee.

(9) NEEDS ASSESSMENT, PLANNING, AND COORDINATION. Upon the Division's request, the CDDP must assess local needs for services to individuals and must submit planning and assessment information to the Division.

(10) CONTRACTS.

(a) If the CDDP, or any of the CDDPs services as described in the Department's contract with the LMHA, is not operated by the LMHA, there must be a contract between the LMHA and the organization operating the CDDP or the services, or a contract between the Division and the operating CDDP. The contract must specify the authorities and responsibilities of each party and conform to the requirements of the Department's rules pertaining to contracts or any

contract requirement with regard to operation and delivery of services.

(b) The CDDP may purchase certain services for an individual from a qualified service provider without first providing an opportunity for competition among other service providers if the service provider is selected by the individual, the individual's family, or the individual's guardian or legal representative.

(A) The service provider selected must also meet Division certification or licensing requirements to provide the type of service to be contracted.

(B) There must be a contract between the service provider and the CDDP that specifies the authorities and responsibilities of each party and conforms to the requirements of the Department's rules pertaining to contracts or any contract requirement with regard to operation and delivery of services.

(c) When a CDDP contracts with a public agency or private corporation for delivery of developmental disability services, the CDDP must include in the contract only terms that are substantially similar to model contract terms established by the Department. The CDDP may not add contractual requirements, including qualifications for contractor selection that are nonessential to the services being provided under the contract. The CDDP must specify in contracts with service providers that disputes arising from these limitations must be resolved according to the complaint procedures contained in OAR 411-320-0170. For purposes of this rule, the following definitions apply:

(A) "Model contract terms established by the Department" means all applicable material terms and conditions of the omnibus contract, as modified to appropriately reflect a contractual relationship between the service provider and CDDP and any other requirements approved by the Division as local options under procedures established in these rules.

(B) "Substantially similar to model contract terms" means that the terms developed by the CDDP and the model contract

terms require the service provider to engage in approximately the same type activity and expend approximately the same resources to achieve compliance.

(C) "Nonessential to the services being provided" means requirements that are not substantially similar to model contract terms developed by the Department.

(d) The CDDP may, as a local option, impose on a public agency or private corporation delivering developmental disability services under a contract with the CDDP, a requirement that is in addition to or different from requirements specified in the omnibus contract if all of the following conditions are met:

(A) The CDDP has provided the affected contractors with the text of the proposed local option as it would appear in the contract. The proposed local option must include:

(i) The date upon which the local option would become effective and a complete written description of how the local option would improve individual independence, productivity, or integration; or

(ii) How the local option would improve the protection of individual health, safety, or rights;

(B) The CDDP has sought input from the affected contractors concerning ways the proposed local option impacts individual services;

(C) The CDDP, with assistance from the affected contractors, has assessed the impact on the operations and financial status of the contractors if the local option is imposed;

(D) The CDDP has sent a written request for approval of the proposed local option to the Division's Assistant Director that includes:

(i) A copy of the information provided to the affected contractors;

(ii) A copy of any written comments and a complete summary of oral comments received from the affected contractors concerning the impact of the proposed local option; and

(iii) The text of the proposed local option as it would appear in contracts with service providers, including the proposed date upon which the requirement would become effective.

(E) The Division has notified the CDDP that the new requirement is approved as a local option for that program; and

(F) The CDDP has advised the affected contractors of their right and afforded them an opportunity to request mediation as provided in these rules before the local option is imposed.

(e) The CDDP may add contract requirements that the CDDP considers necessary to ensure the siting and maintenance of residential facilities in which individual services are provided. These requirements must be consistent with all applicable state and federal laws and regulations related to housing.

(f) The CDDP must adopt a dispute resolution policy that pertains to disputes arising from contracts with service providers funded by the Division and contracted through the CDDP. Procedures implementing the dispute resolution policy must be included in the contract with any such service provider.

(11) FINANCIAL MANAGEMENT.

(a) There must be up-to-date accounting records for each developmental disability service accurately reflecting all revenue by source, all expenses by object of expense, and all assets, liabilities, and equities. The accounting records must be consistent with generally accepted accounting principles and conform to the requirements of OAR 309-013-0120 to 309-013-0220.

(b) There must be written statements of policy and procedure as are necessary and useful to assure compliance with any Department administrative rules pertaining to fraud and embezzlement and financial abuse or exploitation of individuals.

(c) Billing for Title XIX funds must in no case exceed customary charges to private pay individuals for any like item or service.

(12) POLICIES AND PROCEDURES. There must be such other written and implemented statements of policy and procedure as necessary and useful to enable the CDDP to accomplish its service objectives and to meet the requirements of the contract with the Department, these rules, and other applicable standards and rules.

Stat. Auth.: ORS 409.050, 410.070, & 430.640
Stats. Implemented: ORS 427.005, 427.007, & 430.610 – 430.695

411-320-0040 Community Developmental Disability Program Responsibilities
(Amended 7/13/2009)

The CDDP must ensure the provision of the following services and system supports.

(1) ACCESS TO SERVICES.

(a) In accordance with the Civil Rights Act of 1964 (codified as 42 USC 2000d et seq.), community developmental disability services must not be denied any person on the basis of race, color, creed, sex, national origin, or duration of residence. CDDP contractors must comply with Section 504 of the Rehabilitation Act of 1973 (codified as 29 USC 794 and as implemented by 45 CFR Section 84.4) that states in part, "No qualified person must, on the basis of handicap, be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination under any program or activity that receives or benefits from federal financial assistance".

(b) Any individual determined eligible for developmental disability services by a CDDP must also be eligible for other community developmental disability services unless admission to the service is

subject to diagnostic or developmental disability category or age restrictions based on predetermined criteria or contract limitations.

(2) COORDINATION OF COMMUNITY SERVICES. Planning and implementation of services for individuals served by the CDDP must be coordinated between components of the CDDP, other local and state human service agencies, and any other service providers as appropriate for the needs of the individual.

(3) CASE MANAGEMENT SERVICES. The CDDP must provide case management services to individuals who are eligible for and desire services.

(a) The CDDP may provide case management to individuals who are waiting for a determination of eligibility and reside in the county at the time they apply.

(b) Case management may be provided directly by the CDDP or under a contract between the CMHDDP and a service provider of case management services.

(c) If an individual is receiving services in more than one county, the county of origin must be responsible for case management services unless otherwise negotiated and documented in writing with the mutually agreed upon conditions.

(d) Case management services require an impartial point of view to fulfill the necessary functions of planning, procuring, monitoring, and investigating. Except as allowed under section (3)(e) of this rule, the case management program must be provided under an organizational structure that separates case management from other direct services for individuals. This separation may take one of the following forms:

(A) The CDDP may provide case management and subcontract for delivery of other direct services through one or more different organizations; or

(B) The CDDP may subcontract for delivery of case management through an unrelated organization and directly

provide the other services, or further subcontract these other direct services through organizations that are not already under contract to provide case management services.

(e) A CDDP or other organization that provides case management services may also provide other direct services under the following circumstances:

(A) The CDDP coordinates the delivery of family support services for children under 18 years of age living at home with their family or comprehensive in-home supports for adults.

(B) The CDDP determines that an organization providing direct services is no longer able to continue providing services, or the organization providing direct service is no longer willing or able and no other organization is able or willing to continue operations on 30 days notice.

(C) In order to develop new or expanded direct services for geographic service areas or populations because other local organizations are unwilling or unable to provide appropriate services.

(f) If a CDDP intends to perform a direct service, a variance must be prior authorized by SPD.

(A) It is assumed that the CDDP shall provide family support services or comprehensive in-home supports described in section (3)(e)(A) of this rule. If the CDDP does not provide one or both of these services, the CDDP must submit a written variance request to SPD for prior approval that describes how the services shall be provided.

(B) If the circumstance described in section (3)(e)(B) of this rule exist, the CDDP must propose a plan to SPD for review including action to assume responsibility for case management services and the mechanism for addressing potential conflict of interest.

(C) If a CDDP providing case management services delivers other services as allowed under section (3)(e)(C) of this rule, the organization must submit a written variance request to SPD for prior approval that includes the action to assume responsibility for case management services and the mechanism for addressing potential conflict of interest.

(g) If an organization providing case management services delivers other services as allowed under section (3)(e) of this rule, the organization must solicit other organizations to assume responsibility for delivery of these other services through a request for proposal (RFP) at least once every two years. When a RFP is issued, a copy must be sent to SPD. SPD must be notified of the results of the solicitation, including the month and year of the next solicitation if there are no successful applicants.

(h) If the CDDP wishes to continue providing case management and other direct services without conducting a solicitation as described in section (3)(g) of this rule, the CDDP must submit a written variance request to SPD for prior approval that describes how conflict of roles shall be managed within the CDDP.

(i) If the CDDP also operates a support services brokerage, the CDDP must submit a written variance request to SPD for prior approval that includes the mechanism for addressing potential conflict of interest.

(4) FAMILY SUPPORT. The CDDP must ensure the availability of a program for family support services in accordance with OAR chapter 411, division 305.

(5) ABUSE AND PROTECTIVE SERVICES. The CDDP must assure that abuse investigations for adults with developmental disabilities are appropriately reported and conducted by trained staff according to statute and administrative rules. When there is reason to believe a crime has been committed, there must be a report to law enforcement. Any suspected or observed abuse of children must be reported directly to DHS or local law enforcement, when appropriate.

(6) FOSTER HOMES. The CDDP must recruit foster home applicants and maintain forms and procedures necessary to license or certify foster homes. The CDDP must maintain copies of the following records:

(a) Initial and renewal applications to be a foster home;

(b) All inspection reports completed by the CDDP (including required annual renewal inspection and any other inspections);

(c) General facility information;

(d) Documentation of references, classification information, credit check (if necessary), criminal history check, and training for service providers and substitute caregivers.

(e) Documentation of foster care exams for adult foster home caregivers;

(f) Correspondence;

(g) Any meeting notes;

(h) Financial records;

(i) Annual agreement or contract;

(j) Legal notices and final orders for rule violations, conditions, denials, or revocations (if any); and

(k) Copies of the annual license or certificate.

(7) CONTRACT MONITORING. The CDDP must monitor all community developmental disability subcontractors to assure that:

(a) Services are provided as specified in the contract with DHS; and

(b) Services are in compliance with these rules and other applicable DHS administrative rules.

(8) INFORMATION AND REFERRAL. The CDDP must provide information and referral services to individuals, individuals' families, and interested others.

(9) AGENCY COORDINATION. The CDDP must assure coordination with other agencies to develop and manage resources within the county or region to meet the needs of individuals.

(10) MAINTENANCE OF CENTRALIZED WAIT LIST. The CDDP must maintain a current unduplicated central wait list in accordance with OAR 411-320-0090(4)(k) of eligible individuals 18 years and older living within the geographic service area of the CDDP who are enrolled in case management services and who are not receiving comprehensive services for adults.

(11) SERVICE DELIVERY COMPLAINTS. The CDDP must implement procedures to address individual or family complaints regarding service delivery that have not been resolved using the CDDP subcontractor's complaint procedures (informal or formal). Such procedures must be consistent with the requirements in OAR 411-320-0170.

(12) COMPREHENSIVE IN-HOME SUPPORTS. The CDDP must ensure the availability of comprehensive in-home supports for those individuals for whom SPD has funded such services. Comprehensive in-home services must be in compliance with OAR chapter 411, division 330.

(13) EMERGENCY PLANNING. The CDDP must ensure the availability of a written emergency procedure and disaster plan for meeting all civil or weather emergencies and disasters. The emergency procedure and disaster plan must be immediately available to the CDDP manager and employees. The emergency procedure and disaster plan must:

(a) Be integrated with the county emergency preparedness plan where appropriate;

(b) Include provisions on coordination with all developmental disability service provider agencies in the county and any DHS agencies, as appropriate;

(c) Include provisions for identifying individuals most vulnerable; and

(d) Include any plans for health and safety checks, emergency assistance, and any other plans that are specific to the type of emergency.

Stat. Auth.: ORS 409.050, 410.070, & 430.640
Stats. Implemented: ORS 427.005, 427.007, & 430.610 – 430.695

411-320-0045 Quality Assurance Responsibilities
(Adopted 7/13/2009)

Each CDDP must implement and maintain a local quality assurance (QA) system in accordance with these rules. The local QA system is a set of policies and procedures developed by each CDDP that includes activities designed to measure and evaluate the CDDP service delivery system, produce measurable outcomes, and improve the general quality of service delivery.

(1) QUALITY ASSURANCE SYSTEM. The local QA system must:

(a) Ensure the development and implementation of a QA system by:

(A) Providing direct support to SPD in implementation of the DHS Quality Management Strategy for developmental disability services; and

(B) Improving the general quality of services by evaluating service delivery outcomes and adjusting local planning and performance where needed.

(b) Include all SPD-funded developmental disability services provided within the county, including services that are operated or subcontracted by the CDDP, state operated community programs for developmental disabilities, and those developmental disability services operating under a direct contract with DHS. This includes participation in support services brokerages' systems improvement planning.

(c) Include at a minimum the quality indicators and all activities that are to be carried out at the local level in compliance with the DHS Quality Management Strategy.

(d) Include development of CDDP policies and procedures needed to implement the local QA plan.

(e) Include the implementation of the activities defined in the local QA plan.

(f) Include management actions, as needed, to improve service quality or to correct deficiencies.

(g) Include maintenance of records that document:

(A) The CDDP's performance of the activities described in the local QA plan or as directed by SPD; and

(B) The CDDP's findings, corrective actions, and the impact of the CDDP's corrective actions that have been reviewed at a policy level within the CDDP's department structure.

(h) Include performance requirements that meet or exceed the minimum performance requirements established for all CDDP's in the DHS Quality Management Strategy.

(A) The CDDP must collect and analyze information concerning performance and outcomes of the activities represented in the local QA plan, in compliance with the DHS Quality Management Strategy where applicable.

(B) Data concerning the CDDP's performance must be sent to SPD upon request in the format and within the timelines established by SPD. Data must include but not be limited to:

(i) Minutes from local quality assurance committee meetings;

(ii) Results of customer satisfaction surveys administered by the CDDP; and

(iii) Results of case file reviews.

(i) Include implementation of corrective actions. The CDDP must act to correct deficiencies and substandard performance through management actions.

(A) Deficiencies and substandard performance found in services that are operated or subcontracted by the county must be resolved through direct action by the CDDP, or when appropriate, through collaboration between the CDDP and SPD.

(B) Deficiencies and substandard performance found in services that are operated by the state or through direct state contracts must be resolved through collaboration with SPD.

(C) Deficiencies and substandard performance found in services provided through a region must be resolved through collaboration between the regional management entity and the affected CDDPs.

(D) Deficiencies and substandard performance found in services provided in support services brokerages must be resolved through collaboration between the support services brokerage and SPD.

(j) Include establishment of a local QA committee. The CDDP must utilize a committee of stakeholders to assist in the development and review of local QA plans and activities.

(A) Committee membership must include individuals, advocates of individuals or family members of individuals, service providers, local agencies and organizations that serve individuals, and services coordinators.

(B) The CDDP advisory committee, as described in OAR 411-320-0030(8), may function as the local QA committee.

(C) Activities of the local QA committee must include providing review and comment on:

(i) CDDP plans for local QA plan activities;

(ii) Data gathering instruments and methods;

(iii) The results of information gathered by the CDDP; and

(iv) Proposed corrective actions and the effectiveness of corrective actions.

(k) Utilize CDDP allocated resources to implement the local QA plan. One person within the CDDP must be identified as the QA coordinator, or the CDDP must have a written agreement with another CDDP to provide QA functions. At a minimum, the QA coordinator must:

(A) Meet the qualifications described in OAR 411-320-0030(4)(e); and

(B) Participate in training as described in OAR 411-320-0030(7)(e).

(2) QUALITY ASSURANCE COORDINATOR. The purpose of the QA coordinator is to facilitate the CDDP's quality assurance system process through activities such as the following:

(a) Participate in SPD-sponsored activities such as planning and training that are intended to assist in development and implementation of the DHS Quality Management Strategy requirements, compliance, monitoring procedures, corrective action plans, and other similar activities consistent with job responsibilities.

(b) Draft local QA plans that meet QA requirements established by DHS and consider the unique organizational structure, policies, and procedures of the CDDP.

(c) Coordinate activities within the CDDP such as preparation of materials and training of county staff as needed to implement the local QA plan.

(d) Monitor the implementation of the local QA plan to determine the level of county compliance with SPD's requirements for CDDP service delivery.

(e) Keep CDDP administrative staff informed about compliance issues and need for corrective actions.

(f) Coordinate delivery of information requested by SPD, such as the Serious Event Review Team (SERT).

(g) Coordinate compliance reviews of DHS' requirements around individual health and welfare, level of care determination, service plans, and developmental disability service delivery by collecting and evaluating data including but not limited to:

(A) Case file reviews;

(B) Customer satisfaction surveys administered at least every two years;

(C) Service provider file reviews;

(D) Analysis of SERT data which may include:

(i) Review by service provider, location, reason, status, outcome, and follow-up;

(ii) Identification of trends; and

(iii) Review of timely reporting of abuse allegations, completion of investigation, and follow-up.

(h) Analysis of collected data, identify trends and issues, and make outcome-based recommendations to CDDP management.

(i) Coordinate with the QA coordinator in support services brokerages on a regular basis to:

(A) Discuss systems and communications;

(B) Identify strategic opportunities;

(C) Enhance QA and improvement;

(D) Review and strategize individual customer situations; and

(E) Collaborate on SPD level activities.

(3) LOCAL QA PLAN. Each CDDP must develop and maintain a local QA plan that describes the significant or substantial activities to be performed by the CDDP, including the timelines for those activities. The local QA plan must:

(a) Contain goals and objectives consistent with the DHS Quality Management Strategy.

(b) Include all significant or substantial activities that are to be carried out at the local level and include:

(A) The responsible party;

(B) Timelines;

(C) A report of progress or outcomes of the previous year's local QA plan;

(D) What is to be assessed or measured; and

(E) Outcomes.

(c) Include data collection methods.

(d) Be updated annually or whenever substantive changes are made, and submitted to SPD at least annually.

Stat. Auth.: ORS 409.050, 410.070, & 430.640
Stats. Implemented: ORS 427.005, 427.007, & 430.610 – 430.695

411-320-0050 Management of Regional Services
(Amended 7/13/2009)

(1) INTERGOVERNMENTAL AGREEMENT. The management entity for a group of counties to deliver crisis diversion services, community training, quality assurance activities, or other services, must have an intergovernmental agreement with each affiliated CDDP.

(2) REGIONAL PLAN. The CDDP or private corporation, acting as the management entity for the region, must prepare in conjunction with affiliated CDDP's, a plan detailing the services that shall be administered regionally. The regional plan must be updated when needed and submitted to SPD for approval. The regional plan must include:

(a) A description of how services shall be administered;

(b) An organizational chart and staffing plan; and

(c) A detailed budget, on forms provided by SPD.

(3) IMPLEMENTATION. The CDDP or private corporation, acting as the management entity for the region, must work in conjunction with its affiliated CDDP's to implement the regional plan as approved by SPD, within available resources.

(4) MANAGEMENT STANDARDS. The region, through the management entity and its CDDP partners, must maintain compliance with management standards outlined in OAR 411-320-0030 and this rule.

Stat. Auth.: ORS 409.050, 410.070, & 430.640
Stats. Implemented: ORS 427.005, 427.007, & 430.610 – 430.695

411-320-0060 Rights of the Individual Receiving Developmental Disability Services
(Amended 7/13/2009)

(1) CIVIL RIGHTS. The rights described in this rule are in addition to and do not limit any other statutory and constitutional rights that are afforded all citizens including but not limited to the right to vote, marry, have or not have children, own and dispose of property, and enter into contracts and execute documents unless specifically prohibited by law in the case of children under 18 years of age.

(2) RIGHTS OF INDIVIDUALS RECEIVING SERVICES. Each agency providing any community developmental disability service must have written policies and procedures to provide for and assure individuals the following rights while receiving services:

(a) The right to a humane service environment that affords reasonable protection from harm, affords reasonable privacy, and ensures that individuals:

(A) Are not abused or neglected, nor is abuse or neglect tolerated by any employee, staff, or volunteer of the program;

(B) Are free to report any incident of abuse without being subject to retaliation;

(C) Have the freedom to choose whether or not to participate in religious activity and for children, according to parent or guardian preference;

(D) Have contact and visits with family members, friends, advocates (except where prohibited by court order), and legal and medical professionals;

(E) Have access to and communicate privately with any public or private rights protection program advocate, services coordinator, or CDDP representative;

(F) Be free from unauthorized mechanical restraint or physical restraint; and

(G) Are not subject to any chemical restraint and assured that medication is administered only for the individual's clinical needs as prescribed by a health care provider.

(b) The right to choose from available services those that are appropriate and consistent with the plan, developed in accordance with section (2)(c) and (2)(d) of this rule. Services must promote independence, dignity, and self-esteem and reflect the age and preferences of the individual. The services must be provided in a setting and under conditions that are least restrictive to the individual's liberty, that are least intrusive to the individual, and that provide for decision-making and control of personal affairs appropriate to the individual's age.

(c) The right to a written and individualized service plan, services delivered according to the plan, and periodic review and reassessment of service needs.

(d) The right to an ongoing opportunity to participate in planning of services in a manner appropriate to the individual's capabilities, including the right to participate in the development and periodic revision of the plan described in section (2)(c) of this rule, and the right to be provided with a reasonable explanation of all service considerations.

(e) The right to informed voluntary written consent prior to receiving services except in a medical emergency or as otherwise permitted by law.

(f) The right to informed voluntary written consent prior to participating in any experimental programs.

(g) The right to prior notice of any involuntary termination or transfer from services and notification of available sources of necessary continued services and exercise of a complaint procedure.

(h) The right to reasonable and lawful compensation for performance of labor, except personal housekeeping duties.

(i) The right to exercise all rights set forth in ORS 426.385 and 427.031 if the individual is committed to DHS.

(j) The right to be informed at the start of services and periodically thereafter of the rights guaranteed by this rule and the procedures for reporting abuse and to have these rights and procedures prominently posted in a location readily accessible to the individual and made available to the individual's guardian and any representative designated by the individual.

(k) The right to be informed of and have the opportunity to assert complaints with respect to infringement of the rights described in this rule, including the right to have such complaints considered in a fair, timely, and impartial procedure.

(l) The right to have the freedom to exercise all rights described in this rule without any form of reprisal or punishment.

(m) The right to have the individual or the individual's guardian and any representative designated by the individual be informed that a family member has contacted SPD to determine the location of the individual and to be informed of the name and contact information, if known, of the family member.

(n) The right to courteous, fair, and dignified treatment by DHS personnel and to file a complaint with DHS about staff conduct or customer service to the extent provided in OAR 407-005-0100 to 407-005-0120.

(o) The right to file a complaint with DHS about discrimination or unfair treatment as provided in OAR 407-005-0030.

(3) ASSERT RIGHTS. The rights described in this rule may be asserted and exercised by the individual, the individual's guardian, and any legal representative designated by the individual.

(4) CHILDREN. Nothing in this rule shall be construed to alter any legal rights and responsibilities between parent and child.

(5) ADULTS WITH GUARDIANS. Guardians are appointed for an adult only as is necessary to promote and protect the well being of the protected individual. A guardianship for an adult must be designed to encourage the development of maximum self-reliance and independence of the protected

individual and may be ordered only to the extent necessitated by the individual's actual mental and physical limitations. An adult protected individual for whom a guardian has been appointed is not presumed to be incompetent. A protected individual retains all legal and civil rights provided by law except those that have been expressly limited by court order or specifically granted to the guardian by the court. Rights retained by the individual include but are not limited to the right to contact and retain counsel and to have access to personal records. (ORS 125.300).

Stat. Auth.: ORS 409.050, 410.070, & 430.640
Stats. Implemented: ORS 427.005, 427.007, & 430.610 – 430.695

411-320-0070 Records of Service
(Amended 7/13/2009)

(1) CONFIDENTIALITY. Records of services to individuals must be kept confidential in accordance with ORS 179.505, ORS 192.515 to 192.518, 45 CFR 205.50, 45 CFR 164.512, Health Insurance Portability and Accountability Act (HIPAA), 42 CFR Part 2 HIPAA, and any DHS administrative rules or policies pertaining to individual service records.

(2) INFORMATION SHARING. Pertinent clinical, financial eligibility, and legal status information concerning an individual supported by the CDDP must be made available to other CDDP's responsible for the individual's services, consistent with state statutes and federal laws, and regulations concerning confidentiality and privacy.

(3) RECORD REQUIREMENT. In order to meet SPD and federal record documentation requirements, the CDDP, through its employees, must maintain a record for each individual who receives services from the CDDP.

(a) Information contained in the record for all individuals receiving services from a services coordinator must include:

(A) Documentation of any initial referral to the CDDP for services;

(B) An application for developmental disability services. The application for developmental disability services must be

completed prior to an eligibility determination and must be on the application form required by SPD or transferred onto CDDP letterhead;

(C) Sufficient documentation to conform to SPD eligibility requirements including notices of eligibility determination;

(D) Documentation of an initial intake interview or home assessment, as well as any subsequent social service summaries;

(E) Documentation of initial review and discussion of support services and options for support services brokerages within the CDDP's geographic service area, and at minimum annually thereafter if the individual declines support services;

(F) Documentation of the individual's request for support services and the individual's selection of an available support services brokerage within the CDDP's geographic service area;

(G) Referral information or documentation of referral materials sent to a service provider or another CDDP;

(H) Progress notes written by a services coordinator;

(I) Medical information, as appropriate;

(J) Admission and exit meeting documentation into any comprehensive service including any transition plans, crisis diversion plans, or other plans developed as a result of the meeting;

(K) ISP or Annual Plans including documentation that the plan is authorized by a services coordinator;

(L) Copies of any incident reports initiated by a CDDP representative for any incident that occurred at the CDDP or in the presence of the CDDP representative;

(M) Documentation of a review of unusual incidents received from service providers. Documentation of a review of unusual incidents must be made in progress notes and a copy of the incident report must be placed in the individual's file. If applicable, information must be electronically entered into the SERT system and referenced in progress notes;

(N) Initial and annual review of Title XIX waiver forms;

(i) For individuals receiving children's intensive in-home services, or children's residential services, the CDDP must maintain a current copy of the annual review of Title XIX waiver forms or reflect documentation of attempts to obtain a current copy.

(ii) Once the individual is enrolled in a support services brokerage, the CDDP must maintain a copy of the initial Title XIX waiver form completed by the CDDP and any annual reviews completed by the CDDP.

(O) Documentation of Medicaid eligibility, if applicable; and

(P) Legal records, such as guardianship papers, civil commitment records, court orders, and probation and parole information, as is appropriate to the individual in question.

(b) An information sheet or reasonable alternative must be kept current and reviewed at least annually for each individual enrolled in comprehensive services, family support services, or living with family or independently and not enrolled in a support services brokerage and receiving case management services from the program. Information must include:

(A) The individual's name, current address, date of entry into the program, date of birth, sex, marital status (for individuals 18 or older), religious preference, preferred hospital, medical prime number and private insurance number (where applicable), and guardianship status; and

(B) The names, addresses, and telephone numbers of:

(i) The individual's guardian or other legal representative, family, advocate or other significant person, and for children, the child's parent or guardian, and education surrogate, if applicable;

(ii) The individual's physician and clinic;

(iii) The individual's dentist;

(iv) The individual's school, day program, or employer, if applicable;

(v) Other agency representatives providing services to the individual; and

(vi) Any court ordered or guardian authorized contacts or limitations from contact for anyone living in a foster home, supported living program, or 24-hour residential program.

(c) A current information sheet or reasonable alternative must be maintained for each individual enrolled in a support services brokerage. The current information must include the information listed in section (3)(b) of this rule.

(4) PROGRESS NOTES. Progress notes must include documentation of the delivery of service by a services coordinator to support each case service provided. Progress notes must be recorded chronologically and documented consistent with CDDP policies and procedures. All late entries must be appropriately documented. Progress notes must at a minimum include:

(a) The month, day, and year the services were rendered and the month, day, and year the entry was made if different from the date service was rendered;

(b) The name of the person receiving service;

(c) The name of the CDDP, the person providing the service (i.e., the services coordinator's signature and title), and the date the entry was recorded and signed;

(d) The specific services provided and actions taken or planned, if any;

(e) Place of service. Place of service means the county where the CDDP or agency providing case management services is located, including the address. The place of service may be a standard heading on each page of the progress notes; and

(f) The names of other participants (including titles and agency representation, if any) in notes pertaining to meetings with or discussions about the individual.

(5) RETENTION OF RECORDS. The CDDP must have a record retention plan for all records relating to the CDDP's provision of and contracts for services that is consistent with this rule and OAR 166-150-0055. The record retention plan must be made available upon request of the public or SPD.

(a) Financial records, supporting documents, and statistical records must be retained for a minimum of three years after the close of the contract period, or until the conclusion of the financial settlement process with SPD, whichever is longer.

(b) Individual service records must be kept for seven years after date of death, if known. If the case is closed, inactive, or death date is unknown, the individual service record must be kept for 70 years.

(c) Copies of annual ISPs must be kept for 10 years.

(6) TRANSFER OF RECORDS. In the event an individual moves from one county to another county in Oregon, the complete individual record as described in section (3) of this rule must be transferred to the receiving CDDP within 30 days of transfer. The sending CDDP must ensure that the records required by this rule are maintained in permanent record and transferred to the CDDP having jurisdiction for services. The sending

CDDP shall retain information necessary to document that services were provided to the individual while enrolled in CDDP services. This includes:

(a) Documentation of eligibility for developmental disability services received while enrolled in services through the CDDP including waiver eligibility;

(b) Service enrollment and termination forms, including comprehensive services wait list enrollment date if applicable;

(c) CDDP progress notes;

(d) Documentation of services provided to the individual by the CDDP; and

(e) Any required documentation necessary to complete the financial settlement with the state.

Stat. Auth.: ORS 409.050, 410.070, & 430.640
Stats. Implemented: ORS 427.005, 427.007, & 430.610 – 430.695

411-320-0080 Diagnosis and Eligibility Determination
(Temporary Effective 7/4/2010 – 12/31/2010)

(1) ELIGIBILITY SPECIALIST. Each CDDP must identify at least one qualified eligibility specialist who has met performance qualifications and training expectations for determining developmental disability eligibility according to OAR 411-320-0030 that shall act as a designee of the Division in regards to making determinations of eligibility.

(2) QUALIFIED PROFESSIONAL DIAGNOSIS. For the purpose of this rule, diagnosis and evaluation information must be completed by professionals qualified to make a diagnosis of developmental disabilities in accordance with the American Association on Mental Deficiency, 1977.

(3) ELIGIBILITY FOR MENTAL RETARDATION.

(a) A history demonstrating mental retardation must be in place by the individual's18th birth date. Diagnosing mental retardation is done by measuring intellectual functioning and adaptive behavior as

assessed by standardized tests administered by a qualified professional as described in section (2) of this rule.

(A) Mental retardation is defined as IQ's under 70 with significant impairment in adaptive behavior directly related to mental retardation. Individuals with an IQ pattern of 70 to 75 with significant impairment to adaptive behavior as defined in OAR 411-320-0020 directly related to the issues of mental retardation may be considered as having mental retardation.

(B) For individuals who have a consistent pattern of IQ results of 65 and under, no adaptive behavior assessment as, described in section (10) of this rule, may be needed if current documentation continues to support eligibility.

(C) Verification of mental retardation for individuals with IQ patterns of 66-75 require an adaptive behavior assessment as described in section (10) of this rule indicating significant impairment in adaptive behavior as defined in OAR 411-320-0020.

(b) Eligibility for mental retardation must include all historical information and requires documentation of significant impairment in adaptive behavior as defined in OAR 411-320-0020.

(A) The adaptive impairments cannot be primarily attributed to mental or emotional disorders, sensory impairments, substance abuse, personality, disorder, learning disability, or ADHD.

(B) The condition or impairment must be expected to last indefinitely.

(4) ELIGIBILITY FOR OTHER DEVELOPMENTAL DISABILITIES.

(a) A history of a developmental disability other than mental retardation must be in place prior to the individual's 22nd birth date. IQ scores are not used in verifying the presence of a non-mental retardation developmental disability. Diagnosing a developmental disability requires a medical or clinical diagnosis of a developmental

disability with significant impairment in adaptive behavior, as defined in OAR 411-320-0020, related to the diagnosis.

(A) The disability must have originated in and directly affect the brain; and

(B) The individual must require supports similar to those required by individuals with mental retardation.

(b) Eligibility for developmental disabilities must include all historical information and requires documentation of significant impairment in adaptive behavior as defined in OAR 411-320-0020.

(A) The adaptive impairments must be primarily related to the developmental disability and cannot be primarily attributed to mental or emotional disorders, sensory impairments, substance abuse, personality disorder, learning disability, or ADHD.

(B) The condition or impairment must be expected to last indefinitely.

(5) ELIGIBILITY FOR CHILDREN 5 YEARS OF AGE OR YOUNGER. Eligibility for children 5 years of age or younger is always provisional. This means eligibility may change in the future when new information is obtained. Eligibility documentation for children 5 years of age or younger must be no more than three years old and must include:

(a) Standardized testing that demonstrates at least two standard deviations below the norm in two or more of the following areas including but not limited to:

(A) Self-care;

(B) Receptive and expressive language;

(C) Learning;

(D) Mobility; and

(E) Self-direction; OR

(b) A medical statement by a licensed medical practitioner of a neurological condition or syndrome that originates in and directly affects the brain and causes or is likely to cause significant impairment in at least two or more of the following areas:

(A) Self-care;

(B) Receptive and expressive language;

(C) Learning;

(D) Mobility; and

(E) Self-direction.

(c) The condition or syndrome must not be primarily attributed to mental or emotional disorders, sensory impairments, substance abuse, personality disorder, learning disability, or ADHD.

(d) The condition or impairment must be expected to last indefinitely.

(6) ELIGIBILITY FOR CHILDREN 6 YEARS OF AGE AND OLDER. Eligibility for children 6 years of age and older is always provisional. This means eligibility may change in the future when new information is obtained. Eligibility documentation for children 6 years of age and older must be based on school age documents that are no more than three years old and must include:

(a) Documentation of mental retardation as described in section (3) of this rule; or

(b) A diagnosis and documentation of a developmental disability as described in section (4) of this rule

(7) ELIGIBILITY FOR ADULTS. Eligibility determination for individuals under 21 years of age must be based on information no more than three years old. Eligibility determination for individuals 21 years of age or older must be based on information obtained after the individual's 17th birth date.

At or after age 18, adult evaluation instruments must be used to determine eligibility for adults. Eligibility for adults must include:

(a) Documentation of mental retardation as described in section (3) of this rule; or

(b) A diagnosis and documentation of a developmental disability as described in section (4) of this rule.

(8) ABSENCE OF DATA IN DEVELOPMENTAL YEARS.

(a) In the absence of sufficient data during the developmental years, current data may be used if:

(A) There is no evidence of head trauma;

(B) There is no evidence or history of significant mental or emotional disorder; or

(C) There is no evidence or history of substance abuse.

(b) If there is evidence or a history of head trauma, significant mental or emotional disorder, or substance abuse, then a clinical impression by a qualified professional regarding how the individual's adaptive functioning may be impacted by the identified condition must be obtained in order to determine if the individual's need for support is directly related to a developmental disability and not primarily related to a head trauma, significant mental or emotional disorder, or substance abuse.

(9) REDETERMINATION OF PROVISIONAL ELIGIBILITY.

(a) The CDDP must notify the individual or the individual’s representative that a redetermination of eligibility shall occur within the next 90 calendar days. Notification must be on forms prescribed by the Division.

(b) Eligibility for school age children must be redetermined no later than age 7.

(c) Eligibility for adult services must be redetermined by age 18 for mental retardation and by age 22 for developmental disabilities other than mental retardation.

(d) Eligibility must be redetermined using the criteria established in this rule.

(10) ADAPTIVE BEHAVIOR ASSESSMENT.

(a) For individuals who have a consistent pattern of IQ results of 65 and under, no adaptive behavior assessment may be needed if current documentation continues to support eligibility. However, there may be a need for an adaptive behavior assessment to verify mental retardation if there is an inconsistent IQ pattern, mental or emotional issues, sensory impairments, or substance abuse that may have an affect on cognitive functioning.

(b) IQ patterns of 66-75 require an adaptive behavior assessment indicating significant impairment in adaptive behavior as defined in OAR 411-320-0020.

(c) An informal adaptive behavior assessment may be completed for individuals who have been diagnosed with a developmental disability, who obviously have a significant impairment in adaptive behavior, and who require an adaptive behavior assessment to redetermine eligibility.

(A) A services coordinator or a trained eligibility specialist with at least two years experience working with individuals with developmental disabilities may record their observations of the adaptive behavior impairments in the individual's progress notes.

(B) A standardized measurement of adaptive behavior such as a Vineland Adaptive Behavior Scale or Adaptive Behavior Assessment System may be administered and scored by a psychologist, social worker, or other professional with a graduate degree and specific training and experience in individual assessment, administration, and test interpretation of

adaptive behavior scales for individuals with developmental disabilities.

(11) SECURING EVALUATIONS. In the event that the services coordinator has exhausted all local resources to secure the necessary evaluations for an eligibility determination, the Division shall assist in obtaining additional testing if required to complete the eligibility determination.

(12) PROCESSING ELIGIBILITY DETERMINATION. The CDDP in the county of origin is responsible for making the eligibility determination.

(a) The CDDP must process eligibility for developmental disability services in the following time frames.

(A) The CDDP must begin the process to determine eligibility within 10 working days after receiving an application for services from an individual or the individual's representative.

(B) The CDDP must begin the process for redetermining eligibility for children within 30 calendar days after notifying the individual or the individual’s representative that a redetermination of eligibility must be completed.

(C) The CDDP must make an eligibility determination within 15 working days of receipt of information from which eligibility may be determined.

(D) The CDDP must complete an eligibility determination within 90 calendar days of either receiving the initial application for services, or of notifying the family that a redetermination shall be occurring, except in unusual circumstances, for example:

(i) The CDDP cannot make an eligibility determination because the individual or the individual's representative fails to complete an action;

(ii) There is an emergency beyond the CDDP's control; or

(iii) More time is needed to obtain additional records by the CDDP, the individual, or the individual's representative.

(b) The CDDP must make an eligibility determination unless the following applies and is documented in the individual's progress notes:

(A) The individual or the individual's representative voluntarily withdraws the individual's application;

(B) The individual dies; or

(C) The individual cannot be located.

(c) The process of making an eligibility determination may be extended 90 calendar days by mutual agreement among all parties with written notice sent to the individual or the individual's representative. The CDDP must document the reason for the delay in the individual's record.

(d) The CDDP may not use the time frames established in section (12)(a) of this rule as:

(A) A waiting period before determining eligibility; or

(B) A reason for denying eligibility.

(13) FINANCIAL STATUS. The services coordinator must verify the financial status of individuals during the eligibility or intake process. All sources of income are to be identified. Adults with no unearned income benefits must be referred to Social Security for a determination of financial eligibility. Children or their custodial parent or legal guardian (if not a state agency), must be referred to the appropriate resources if it appears that the child or the child's parent or legal guardian may be eligible for financial assistance.

(14) NOTICE OF ELIGIBILITY DETERMINATION. Within 10 working days of making an eligibility determination or re-determination, the CDDP, based upon a review of the documentation used to determine eligibility, must

issue a written notice of the eligibility determination to the individual or the individual's representative. The notice must be on forms prescribed by the Division. The notice must include:

(a) The eligibility determination;

(b) The specific date the notice is mailed or hand delivered;

(c) Notification of the effective date of the action proposed;

(d) The rationale for the eligibility determination, including what reports, documents, or other information that were relied upon in making the eligibility determination;

(e) Notice that the documents relied upon may be reviewed by the individual or the individual's representative;

(f) The specific rules that were used in making the eligibility determination;

(g) Notice that if the individual or the individual's representative disagrees with the Division's eligibility determination, the individual or the individual’s representative has the right to request a hearing on the individual’s behalf, as provided in ORS chapter 183 and OAR 411-320-0175. Notice must include:

(A) The timeline for requesting a hearing;

(B) Where and how to request a hearing; and

(C) The right to receive assistance from the CDDP in completing and submitting a request for hearing.

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(h) Notice of the individual’s right to receive continuing services at the same level during the hearing and at the request of the individual including;

(A) Notification of the time frame within which the individual must request continuing services;

(B) Notification of how and where the individual must submit a request for continuing services; and

(C) Notification that an overpayment shall be written for the benefits and the individual may be required to pay back any benefits if the eligibility determination is upheld following a review process or final order.

(15) REQUESTING A HEARING. An individual or an individual's representative may request a hearing as described in OAR 411-320-0175(2) if they disagree with the eligibility decision made by the CDDP. The request for a hearing must be requested within the timeframe identified on the notice of eligibility determination.

(16) CONTINUING SERVICES DURING A HEARING. If an individual is determined no longer eligible following a redetermination of their eligibility, the individual has the right to request continuing services and supports during the hearing process. If the hearing is not in the individual's favor, the individual may be required to pay back any benefits received during the hearing process.

(17) TRANSFERABILITY OF ELIGIBILITY DETERMINATION. An eligibility determination made by one CDDP must be honored by another CDDP when an individual moves from one county to another. If the receiving county has reason to question the eligibility determination and cannot resolve it between the two CDDPs, the receiving CDDP must promptly refer the matter to the Division for review and consultation of the eligibility determination. The receiving county must continue services for the individual while the review is occurring. The receiving CDDP must complete any eligibility determination activities as required by the Division. If the individual is not eligible for developmental disability services, the CDDP that determined the individual was eligible for developmental disability services may be responsible for the services authorized on the basis of that eligibility determination.

Stat. Auth.: ORS 409.050, 410.070, & 430.640
Stats. Implemented: ORS 427.005, 427.007, & 430.610 – 430.670

411-320-0090 Developmental Disabilities Case Management Program Responsibilities
(Amended 7/13/2009)

(1) AVAILABILITY. As required by these rules, the CDDP must assure the availability of a services coordinator to meet the service needs of an individual and any emergencies or crisis. The assignment of the services coordinator must be appropriately documented in individual service records and the CDDP must accurately report enrollment in SPD payment and reporting systems.

(2) POLICIES AND PROCEDURES. The CDDP must adopt written procedures to assure that the delivery of services meet the standards in section (4) of this rule.

(a) The CDDP must have procedures for ongoing involvement of individuals and family members in the planning and review of consumer satisfaction with the delivery of case management or direct services provided by the CDDP.

(b) Copies of the procedures for planning and review of case management services, consumer satisfaction, and complaints must be maintained on file at the CDDP offices. The procedures must be available to:

(A) CDDP employees who work with individuals;

(B) Individuals who are receiving services from the CDDP and the individuals' families;

(C) Individuals' legal representatives, advocates, and service providers; and

(D) SPD.

(3) NOTICE OF SERVICES. The CDDP must inform the individuals, family members, legal representatives, and advocates of the minimum case management services that are set out in section (4) of this rule.

(4) MINIMUM STANDARDS FOR CASE MANAGEMENT SERVICES.

(a) The CDDP must ensure that eligibility for services is determined by a trained eligibility specialist in accordance with OAR 411-320-0030.

(b) An Annual Plan for an individual must be developed and reviewed in accordance with OAR 411-320-0120(1).

(A) The services coordinator must assure that there is an Annual Plan. The services coordinator must attend the annual plan meeting and participate in the development of the plan for individuals enrolled in comprehensive services. The services coordinator is responsible for the development of the Annual Plan, on the form provided by SPD, for children receiving family support services in coordination with the child and the family.

(B) An Annual Plan must be completed for each individual that is not enrolled in any SPD-funded service other than case management.

(c) Program services must be authorized in accordance with OAR 411-320-0120(3).

(d) Services coordinators must monitor services and supports for all individuals enrolled in case management in accordance with the standards described in OAR 411-320-0130.

(e) Entry, exit, and transfers from comprehensive program services must be in accordance with OAR 411-320-0110.

(f) Crisis diversion services must be assessed, identified, planned, monitored, and evaluated by the services coordinator in accordance with OAR 411-320-0160.

(g) Abuse investigations and provision of protective services for adults must be provided as described in OAR 407-045-0250 to 407-045-0360and include investigating complaints of abuse, writing investigation reports, and monitoring for implementation of report recommendations.

(h) Civil commitment services must be provided in accordance with ORS 427.215 to 427.306.

(i) The services coordinator must provide information and timely referral for individuals and their families regarding developmental disability services available within the county and services available from other agencies or organizations within the county.

(A) For individuals 18 years and older, information and referral must specifically include information necessary to inform the individual of the comprehensive services wait list and support services. When more than one support services brokerage is available within the CDDP's geographic service area, the CDDP must also provide impartial information about the brokerages available to the individual.

(B) For individuals 18 years and older, information and referral must be provided initially and at minimum annually thereafter if the individual declines the comprehensive services wait list or support services. Documentation of the initial referral and subsequent annual discussion must be documented in the individual's CDDP file.

(C) For individuals enrolled in the support services brokerage but not enrolled in the comprehensive services wait list, the CDDP must coordinate with the support services brokerage to ensure that wait list information is provided annually.

(j) The services coordinator must assist individuals and their families in accessing services and resources.

(A) For individuals 18 years and older who decline support services, annual information and referral about support services must include informing the individual of the individual's right to access support services at any time.

(B) For individuals 18 years and older who decline support services, the services coordinator must ensure access at anytime to support services within 90 days of the individual's

request for support services and selecting a support services brokerage from those available as per OAR 411-340-0110(1)(f).

(C) For individuals 18 years and older who decline the comprehensive services wait list and who are not enrolled in a support services brokerage, annual information and referral about the comprehensive services wait list must include informing the individual of the individual's right to access the wait list at any time.

(D) For individuals 18 years and older who decline the comprehensive services wait list, the services coordinator must ensure access at anytime to the comprehensive services wait list upon the individual's request to be enrolled on the wait list.

(k) The services coordinator must enroll individuals in the comprehensive services wait list who meet the following criteria:

(A) The individual is age 18 or older;

(B) The individual is enrolled in case management services or a support services brokerage;

(C) The individual has requested to be enrolled in the comprehensive services wait list; and

(D) The individual is not enrolled in comprehensive services as an adult.

(l) An individual who moves between CDDP's and whose case management or support services do not lapse for more than a period of 12 months shall retain the wait list enrollment date assigned or continued by the CDDP in which case management services were previously received. If an individual did not receive case management services in any county in Oregon for a period exceeding 12 calendar months, a new wait list enrollment date shall be assigned. The new wait list enrollment date must be the date the individual first meets all the criteria described in section (4)(k) of this rule.

(m) When funding and resources are available, the CDDP must facilitate selection of individuals from the comprehensive services wait list using the date of enrollment on the comprehensive services wait list. An individual in crisis according to OAR 411-320-0160(2) and in need of service must be given first consideration for comprehensive services regardless of the date of enrollment on the comprehensive services wait list.

(n) The services coordinator may remove an individual from the comprehensive services wait list for the following reasons:

(A) The individual requests to be removed;

(B) The individual is placed in comprehensive services; or

(C) The individual has exited or been terminated from case management services or a support services brokerage.

(o) The CDDP must inform the individual of the CDDP's intent to remove the individual from the comprehensive services wait list.

(p) Services coordinators must coordinate services with the child welfare (CW) caseworker assigned to a child to ensure the provision of required supports from the CDDP, SPD, and CW.

(q) Services coordinators may attend IEP planning meetings or other transition planning meetings for children when the services coordinator is invited by the family or guardian to participate.

(A) The services coordinator may, to the extent resources are available, assist the family in accessing those critical non-educational services that the child or family may need.

(B) Upon request and to the extent possible, the services coordinator may act as a proponent for the child or family at IEP meetings.

(C) The services coordinator must participate in transition planning by attending IEP meetings or other transition planning meetings of students 16 years of age or older, or until the

student is enrolled in the support services brokerage, to discuss the individual's transition to adult living and work situations unless such attendance is refused by the child's parent or legal guardian, or the individual if the individual is 18 years or older.

(r) The CDDP must ensure that individuals eligible for and receiving developmental disability services are enrolled in SPD payment and reporting systems. The county of origin must enroll the individual into the SPD payment and reporting systems for all developmental disability service providers except in the following circumstances:

(A) SPD shall complete the enrollment or termination form for children entering or leaving a licensed 24-hour residential program that is directly contracted with SPD.

(B) SPD shall complete the SPD payment and reporting systems enrollment, termination, and billing forms for children entering or leaving the children's intensive in-home services (CIIS) program.

(C) SPD shall complete the enrollment, termination, and billing forms as part of an interagency agreement for purposes of billing for crisis diversion services by a region.

(s) Services coordinators must facilitate referrals to nursing homes when appropriate as determined by OAR 411-070-0043.

(t) The services coordinator must coordinate and monitor the specialized services provided to an eligible individual living in a nursing home in accordance with OAR 411-320-0150.

(u) If an adult is not enrolled in services other than case management and requires more than occasional services, or requires services that are available through a support services brokerage, the individual must be referred to a brokerage, unless the individual refuses. Referrals to the support services brokerage must be in accordance with OAR chapter 411, division 340.

(v) The services coordinator must ensure that all serious events related to an individual are reported to SPD using the SERT system.

The CDDP must ensure that there is monitoring and follow-up on both individual events and system trends.

(w) When the services coordinator completes the Title XIX waiver form, the services coordinator must ensure that Medicaid eligible individuals are offered the choice of home and community-based waiver services, provided a notice of hearing rights, and have a completed Title XIX waiver form that is reviewed annually or at anytime there is a significant change. For individuals who are expected to enroll in support services, the services coordinator must complete the initial Title XIX waiver form after the individual's 18th birth date and no more than 30 days prior to enrollment into the support services brokerage. The support services brokerage staff must assess the individual's level of care annually thereafter for continued Title XIX waiver eligibility or at anytime there are significant changes.

(x) The services coordinator must participate in the appointment of a health care representative per OAR chapter 411, division 365.

(y) The services coordinator must coordinate with other state, public, and private agencies regarding services to individuals.

(z) The CDDP must ensure that a services coordinator is available to provide or arrange for comprehensive in-home supports for adults, long term supports for children, or family supports, as required, to meet the support needs of eligible individuals. This includes:

> (A) Providing assistance in determining needs and planning supports;
>
> (B) Providing assistance in finding and arranging resources and supports;
>
> (C) Providing education and technical assistance to make informed decisions about support need and direct support service providers;
>
> (D) Arranging fiscal intermediary services;

(E) Arranging employer-related supports; and

(F) Providing assistance with monitoring and improving the quality of supports.

(5) SERVICE PRIORITIES. If it becomes necessary for the CDDP to prioritize the availability of case management services, the CDDP must request and have approval of a variance prior to implementation of any alternative plan. If the reason for the need for the variance could not have been reasonably anticipated by the CDDP, the CDDP has 15 working days to submit the variance request to SPD. The variance request must:

(a) Document the reason the service prioritization is necessary (including any alternatives considered);

(b) Detail the specific service priorities being proposed; and

(c) Provide assurances that the basic health and safety of individuals shall continue to be addressed and monitored.

(6) FAMILY RECONNECTION. The CDDP and the services coordinator must provide assistance to SPD when a family member is attempting to reconnect with an individual who was previously discharged from Fairview Training Center or Eastern Oregon Training Center or the individual is currently receiving developmental disability services.

(a) If a family member contacts a CDDP for assistance in locating a family member they shall be referred to SPD. A family member may contact SPD directly.

(b) SPD shall send the family member an SPD form requesting further information to be used in providing notification to the individual. The form shall include the following information:

(A) Name of requestor;

(B) Address of requestor and other contact information;

(C) Relationship to individual;

(D) Reason for wanting to reconnect; and

(E) Last time the family had contact.

(c) SPD shall determine if the individual was previously a resident of Fairview Training Center or Eastern Oregon Training Center and also determine:

(A) If the individual is deceased or living;

(B) Whether the individual is currently or previously enrolled in DHS services; and

(C) The county in which services are being provided, if applicable.

(d) Within 10 working days of receipt of the request, SPD shall notify the family member if the individual is enrolled or no longer enrolled in DHS services.

(e) If the individual is enrolled in DHS services, SPD shall send the completed family information form to the individual or the individual's guardian and the individual's services coordinator.

(f) If the individual is deceased, SPD shall follow the process for identifying the personal representative of the deceased as provided for in ORS 192.526.

(A) If the personal representative and the requesting family member are the same, the family member shall be informed that the person is deceased.

(B) If the personal representative is different from the requesting family member, the personal representative shall be contacted for permission to share the information to the requesting family member. In the event of this situation, SPD must make a good faith effort at finding the personal representative and obtaining a decision concerning the sharing of information as soon as practicable.

(g) When an individual is located, the services coordinator when the individual is enrolled in case management, or the CDDP in conjunction with the support services brokerage when the individual is enrolled in a support services brokerage, must facilitate a meeting with the individual or the individual's guardian to discuss and determine if the individual wishes to have contact with the family member.

(A) The services coordinator when the individual is enrolled in case management, or the CDDP in conjunction with the support services brokerage when the individual is enrolled in a support services brokerage, must assist the individual or the individual's guardian in evaluating the information to make a decision regarding initiating contact including providing the information from the form and any relevant history with the family member that might support contact or present a risk to the individual.

(B) If the individual does not have a guardian or is unable to express his or her wishes, the ISP team must be convened to review factors and choose the best response for the individual after evaluating the situation.

(h) If the individual or the individual's guardian wishes to have contact, the individual or ISP team designee may directly contact the family member to make arrangements for the contact.

(i) If the individual or the individual's guardian does not wish to have contact, the services coordinator must notify SPD with the information and SPD shall inform the family member in writing that no contact is requested.

(j) The notification to the family member regarding the decision of the individual or the individual's guardian must be within 60 business days of the receipt of the information form from the family member.

(k) The decision by the individual or the individual's guardian is not appealable.

Stat. Auth.: ORS 409.050, 410.070, & 430.640
Stats. Implemented: ORS 427.005, 427.007, & 430.610 – 430.695

411-320-0100 Assignment of Services Coordinator
(Amended 7/13/2009)

(1) INITIAL DESIGNATION OF SERVICES COORDINATOR. For individuals determined eligible for developmental disability services, a services coordinator must be designated within 10 working days after an eligibility determination. In the instance of an adult moving into the county with an existing eligibility determination, a services coordinator must be assigned within 10 days of application, or if the individual is already enrolled in a support services brokerage, the individual must be enrolled in SPD's payment and reporting systems. A written notice that includes the name, telephone number, and location of the services coordinator or CDDP if already enrolled in a support services brokerage, must be sent to the individual requesting services and the individual's legal representative. Notice must be sent to the individual's family or advocate if the individual does not object.

(2) CHANGE OF SERVICES COORDINATOR. The CDDP must keep changes of services coordinators to a minimum.

> (a) If the CDDP changes services coordinator assignments, the CDDP must notify the individual, the individual's legal representative, and all current service providers within 10 working days of the designation. The notification must be in writing and include the name, telephone number, and address of the new services coordinator.
>
> (b) The individual receiving services or the individual's legal guardian may request a new services coordinator within the same CDDP. The CDDP must develop standards and procedures for evaluating and acting upon requests for change of services coordinators. If another services coordinator is assigned by the CDDP, as the result of a request by the individual or the individual's legal representative, the CDDP must notify the individual, the individual's legal representative, and all current service providers within 10 working days of the change. The notification must be in writing and include the name, telephone number, and address of the new services coordinator.

(3) TERMINATION OF CASE MANAGEMENT SERVICES.

(a) A services coordinator retains responsibility for providing case management services to the individual until the responsibility is terminated in accordance with this rule, until another services coordinator is designated, or until the individual is enrolled in support services. The CDDP must terminate case management services when any of the following occur:

(A) The individual or the individual's legal representative delivers a signed written request that case management services be terminated or such a request by telephone is documented in the individual's file. An individual, an individual's legal guardian, or the parent or legal guardian of a child in SPD-funded services may refuse contact by a services coordinator, as well as the involvement of a services coordinator at the ISP meeting, except if the services are mandatory as described in section (5) of this rule.

(B) The individual dies.

(C) The individual is determined to be ineligible in accordance with OAR 411-320-0080.

(D) The individual moves out of state or to another county in Oregon. If an individual moves to another county, case management services must be referred and transferred to the new county, unless an individual requests otherwise and both the referring CDDP and the CDDP in the new county mutually agree. In the case of a child moving into a foster home or 24-hour residential home, the county of parental residency or court jurisdiction must retain case management responsibility.

(E) An individual cannot be located after repeated attempts by letter and telephone.

(b) If an individual is determined ineligible or cannot be located, then the CDDP must issue a written notification of intent to terminate services in 30 days as well as notification of the individual's right to a hearing.

(4) TERMINATION FROM SPD PAYMENT AND REPORTING SYSTEMS. A CDDP retains responsibility for maintaining enrollment in SPD payment and reporting systems for individuals enrolled in support services until the responsibility is terminated in accordance with section (3) of this rule. The CDDP must terminate individuals in SPD payment and reporting systems when:

(a) The individual or the individual's legal representative delivers a signed written request to the support services brokerage requesting brokerage services be terminated. Individuals who decline support services but wish to continue receiving developmental disability services through the CDDP shall be terminated from the support services brokerage but shall not be terminated from developmental disability services;

(b) The individual dies;

(c) The individual is determined to be ineligible in accordance with OAR 411-320-0080;

(d) The individual moves out of state or to another county in Oregon. If an individual moves to another county, developmental disability services must be referred and transferred to the new county, unless an individual requests otherwise and both the referring CDDP and the CDDP in the new county mutually agree; or

(e) Notification from the support services brokerage that an individual cannot be located after repeated attempts by letter and telephone.

(5) MANDATORY SERVICES. An individual in developmental disability services must accept the following services:

(a) Case management or support services;

(b) Abuse investigations;

(c) Services coordinator presence, when applicable, at SPD-funded program entry, exit, or transfer meetings, or transition planning meetings required for entry or exit to adult services, including support services and in-home comprehensive services for adults;

(d) Monitoring of service provider programs, when applicable; and

(e) Services coordinator access to individual files.

Stat. Auth.: ORS 409.050, 410.070, & 430.640
Stats. Implemented: ORS 427.005, 427.007, & 430.610 – 430.695

411-320-0110 Entry and Exit Requirements
(Amended 7/13/2009)

(1) ADMISSION TO A SPD-FUNDED DEVELOPMENTAL DISABILITY PROGRAM.

(a) SPD staff must authorize entry into children's residential services, children's proctor care, children's intensive in-home supports, state operated community programs, and state training centers. The services coordinator must make referrals for admission and participate in all entry meetings for these programs.

(b) The services coordinator must ensure that individuals are appropriately referred to a support services brokerage and enrolled within 90 days of requesting support services and selecting a support services brokerage from those available as per OAR 411-340-0110(1)(f).

(c) Admissions to all other SPD-funded programs for individuals must be coordinated and authorized by the services coordinator in accordance with these rules.

(2) WRITTEN INFORMATION REQUIRED. The services coordinator, or the services coordinator’s designee, must provide available and sufficient written information to service providers including information that is current and necessary to meet the individual's support needs in comprehensive services prior to admission.

(a) This written information must be provided in a timely manner and include:

(A) A copy of the individual's eligibility determination decision;

(B) A statement indicating the individual's safety skills including ability to evacuate from a building when warned by a signal device, and the ability to adjust water temperature for bathing and washing;

(C) A brief written history of any behavioral challenges including supervision and support needs;

(D) A medical history and information on health care supports that includes, where available:

(i) The results of a physical exam (if any) made within 90 days prior to the entry;

(ii) Results of any dental evaluation;

(iii) A record of immunizations;

(iv) A record of known communicable diseases and allergies; and

(v) A record of major illnesses and hospitalizations.

(E) A written record of any current or recommended medications, treatments, diets, and aids to physical functioning;

(F) If applicable, copies of protocols, the risk tracking record, and any support documentation;

(G) Copies of documents relating to guardianship, conservatorship, health care representative, power of attorney, court orders, probation and parole information, or any other legal restrictions on the rights of the individual, when applicable;

(H) Written documentation why preferences or choices of the individual cannot be honored at that time;

(I) Written documentation that the individual is participating in out-of-residence activities including school enrollment for individuals under the age of 21; and

(J) A copy of the most recent functional assessment, Behavior Support Plan, ISP, and IEP, if applicable.

(b) If the individual is being admitted from the individual's family home and entry information is not available due to a crisis, the services coordinator must ensure that the service provider assesses the individual upon entry for issues of immediate health or safety and the services coordinator must document a plan to secure the information listed in section (2)(a) this rule no later than 30 days after admission. The documentation must include a written description as to why the information is not available. A copy of the information and plan must be given to the service provider at the time of entry.

(c) If the individual is being admitted from comprehensive service, the information must be made available prior to the admission.

(3) ENTRY MEETING. Prior to an individual's date of entry into a SPD-funded comprehensive service, the ISP team must meet to review referral material in order to determine appropriateness of placement. The ISP team participants shall be determined according to OAR 411-320-0120(1)(b). The findings of the entry meeting must be recorded in the individual's file and distributed to the ISP team members. The documentation of the entry meeting must include at a minimum:

(a) The name of the individual proposed for services;

(b) The date of the entry meeting and the date determined to be the date of entry;

(c) The names and role of the participants at the entry meeting;

(d) Documentation of the pre-entry information required by section (2)(a) of this rule;

(e) Documentation of the decision to serve or not serve the individual requesting service, with reasons;

(f) If the decision was made to enter the individual, a written transition plan to include all medical, behavior, and safety supports needed by the individual, to be provided to the individual for no longer than 60 days after admission; and

(g) Documentation of the participants included in the entry meeting.

(4) CRISIS DIVERSION SERVICES. For a period not to exceed 30 days, section (3)(d) of this rule does not apply if an individual is temporarily admitted to a program for crisis diversion services.

(5) EXIT FROM SPD-FUNDED PROGRAMS. All exits from SPD-funded developmental disability services must be authorized by the CDDP. All exits from SPD direct-contracted service for children's 24-hour residential and from state-operated community programs, must be authorized by SPD staff. Prior to an individual's exit date, the ISP team must meet to review the appropriateness of the move and to coordinate any services necessary during or following the transition. The ISP team participants must be determined according to OAR 411-320-0120(1)(b).

(6) EXIT STAFFING. The exit plan must be distributed to all ISP team members. The exit plan must include:

(a) The name of the individual considered for exit;

(b) The date of the exit meeting;

(c) Documentation of the participants included in the exit meeting;

(d) Documentation of the circumstances leading to the proposed exit;

(e) Documentation of the discussion of the strategies to prevent an exit from service, unless the individual, the individual’s legal guardian or, for a child, the child's parent or guardian, is requesting the exit;

(f) Documentation of the decision regarding exit including verification of majority agreement of the exit meeting participants regarding the decision; and

(g) The written plan for services for the individual after exit.

(7) TRANSFER MEETING. All transfers within a county between service site by a comprehensive service provider agency must be authorized by the CDDP, except for transfers between SPD direct contracted services for children in 24-hour residential programs and in state operated community programs. Transfers between SPD direct contracted services for children in 24-hour residential programs and state operated community programs must be coordinated by SPD staff. A transfer meeting of the ISP team must precede any decision to transfer an individual. Findings of such a transfer meeting must be recorded in the individual's file and include, at a minimum:

(a) The name of the individual considered for transfer;

(b) The date of the transfer meeting;

(c) Documentation of the participants included in the transfer meeting;

(d) Documentation of the circumstances leading to the proposed transfer;

(e) Documentation of the alternatives considered instead of transfer;

(f) Documentation of the reasons any preferences of the individual, the individual's legal representative, or family members may not be honored;

(g) Documentation of the decision regarding transfer including verification of majority agreement of the transfer meeting participants regarding the decision; and

(h) The written plan for services for the individual after transfer.

(8) ENTRY TO SUPPORT SERVICES.

(a) Referrals of eligible individuals to a support services brokerage must be made in accordance with OAR 411-340-0110(3). Referrals must be made using the SPD mandated application and referral form in accordance with SPD guidelines.

(b) The CDDP of an individual's county of origin must find the individual eligible for services from a support services brokerage when:

(A) The individual is an Oregon resident who has been determined eligible for developmental disability services by the CDDP;

(B) The individual is an adult living in his or her own home or family home and not receiving other SPD-paid in-home or community living support other than state Medicaid plan services;

(C) The individual is not enrolled in comprehensive services;

(D) At the time of initial enrollment in the support services brokerage, the individual is not receiving crisis diversion services from SPD because the individual does not meet one or more of the crisis risk factors listed in OAR 411-320-0160(2); and

(E) The individual, or the individual's legal representative, has chosen to use a support service brokerage for assistance with design and management of personal supports.

(c) The individual must be referred for enrollment within 90 days of:

(A) Being determined eligible for developmental disability services;

(B) The individual's 18th birth date:

(C) Requesting support services; and

(D) Selecting an available support services brokerage within the CDDP's geographic service area.

(d) The services coordinator must communicate with the support services brokerage staff and provide all relevant information upon request and as needed to assist support services brokerage staff in

developing an ISP that best meets the individual's support needs including:

(A) A current application or referral on the SPD mandated application or referral form;

(B) A completed Title XIX waiver form;

(C) A copy of the eligibility statement for developmental disability services;

(D) Copies of financial eligibility information;

(E) Copies of any legal documents such as guardianship papers, conservatorship, civil commitment status, probation and parole, etc.;

(F) Copies of relevant progress notes; and

(G) A copy of any current plans.

Stat. Auth.: ORS 409.050, 410.070, & 430.640
Stats. Implemented: ORS 427.005, 427.007, & 430.610 – 430.695

411-320-0120 Service Planning
(Amended 7/13/2009)

(1) PRINCIPLES FOR PLANNING. These rules prescribe standards for the development and implementation of plans for individuals. As such, plans for individuals must be developed in a manner that address issues of independence, integration and productivity, enhance the quality of life of the individual with developmental disabilities, and consistent with the following principles:

(a) Personal Control and Family Participation. While the service system reflects the value of family member participation in the planning process, adult individuals have the right to make informed choices about the level of participation by family members. It is the intent of this rule to fully support the provision of education about

personal control and decision-making to individuals who are receiving services.

(b) Choice and Preferences. The planning process is critical in determining the individual's and the family's preferences for services and supports. The preferences of the individual and family must serve to guide the ISP team. The individual's active participation and input must be facilitated throughout the planning process.

(c) Barriers. The planning process is designed to identify the types of services and supports necessary to achieve the individual's and family's preferences, identify the barriers to providing those preferred services, and develop strategies for reducing the barriers.

(d) Health and Safety. The planning process must also identify strategies to assist the individual in the exercise of the individual's rights. This may create tensions between the freedom of choice and interventions necessary to protect the individual from harm. The ISP team must carefully nurture the individual's exercise of rights while being equally sensitive to protecting the individual's health and safety.

(e) Children in Alternate Living Situations. When planning for children in 24-hour residential or foster care services, maintaining family connections is an important consideration. The following must apply:

(A) Unless contraindicated there must be a goal for family reunification;

(B) The number of moves or transfers must be kept to a minimum; and

(C) If the placement is distant from the family, the services coordinator must continue to seek a placement that would bring the child closer to the family.

(2) RESPONSIBILITY FOR ANNUAL ISP OR ANNUAL PLAN. Individuals enrolled in SPD-funded services must have an annual ISP or Annual Plan. Plans must be developed, implemented, and authorized as follows:

(a) Persons in Foster Care, 24-Hour Residential Services, and Related Employment or Alternatives to Employment Services. A services coordinator, or the services coordinator’s qualified designee, must attend and assure that an annual ISP meeting is held. The services coordinator, or the services coordinator’s qualified designee, must participate in the development of the ISP for individuals enrolled in comprehensive services. ISP's for children in SPD direct contracted children's 24 hour residential services must be coordinated by SPD staff.

(A) The services coordinator must ensure that the plan for individuals in foster care or 24-hour residential services is developed and updated in accordance with state guidelines. The services coordinator must track the plan timelines and coordinate the resolution of complaints and conflicts arising from ISP discussions.

(B) At a minimum, the ISP team for an individual in services described in section (2)(a)(A) of this rule must include the individual, the individual's guardian, representatives from the 24-hour residential program, a representative from the employment or alternatives to employment program (if any), the services coordinator, any person requested by the individual, and any treatment professional requested by the individual or the ISP team on behalf of the individual.

(b) Supported Living Services. The services coordinator for an adult in supported living services and any associated employment or alternative to employment program must ensure the development of an annual ISP. The services coordinator must attend such ISP meetings and participate in the development of an ISP in conformance with the ISP content described in section (3) of this rule.

(c) Family Support. The services coordinator must coordinate with the individual’s family or the individual’s legal guardian in the development of the Annual Plan for a child receiving family support services. The Annual Plan must be in accordance with OAR 411-305-0080.

(d) Comprehensive In-Home Supports. The services coordinator must coordinate with the individual, the individual’s family, or the individual’s legal guardian, in the development of the annual In-Home Support Plan for the individual enrolled in comprehensive in-home supports in accordance with OAR 411-330-0050(3).

(e) Long-Term Supports for Children. The services coordinator must coordinate with the individual, the individual's family, or the individual's legal guardian, in the development of the child's Annual Support Plan in accordance with OAR chapter 411, division 308.

(f) Annual Plan. For individuals not enrolled or not yet enrolled in any other SPD-funded developmental disability service, the services coordinator must ensure the completion of an Annual Plan. The Annual Plan must be completed within 60 days of enrollment into case management services, and annually thereafter if not enrolled in any other SPD-funded developmental disability service.

(A) For an adult, a written Annual Plan must be documented in the individual's record as an Annual Plan or as a comprehensive progress note and consist of:

(i) A review of the individual's current living situation;

(ii) A review of any personal health, safety, or behavioral concerns;

(iii) A summary of support needs of the individual; and

(iv) Actions to be taken by the services coordinator and others.

(B) For a child, the services coordinator must ensure the completion of a child's Annual Plan in accordance with OAR 411-305-0080.

(3) PLAN CONTENT. The services coordinator must ensure that individual plans conform to the requirements of this rule.

(a) The services coordinator must ensure that a plan for an individual in SPD-funded comprehensive services is developed and documents a person centered process that identifies what is important to and for an individual, and also identifies the supports necessary to address issues of health, behavior, safety, and financial supports. There must be documentation of an action plan or discussion record resulting from the ISP team's discussion addressing issues of conflict between personal preferences and issues of health and safety.

(b) The services coordinator must ensure that a plan developed for a child receiving SPD-funded family support services conforms to requirements of OAR chapter 411, division 305.

(c) The services coordinator must ensure that an In-Home Support Plan for adults conforms to the requirements described in OAR 411-330-0050(3).

(d) The services coordinator must ensure that a child's Annual Support Plan for long-term support conforms to the requirements in OAR 411-308-0080.

(4) PLAN FORMATS. The ISP, Annual Plan, or In-Home Support Plan developed at the annual or update meeting must be conducted in a manner specified by and on forms required by SPD. In the absence of a SPD-mandated form, the CDDP with the affected service providers may develop an ISP format that conforms to the licensing or certification service provider rule and provides for an integrated plan across the funded developmental disability service settings.

(5) PLAN UPDATES. Plans for individuals must be kept current. The services coordinator or the SPD Residential Services Coordinator for children in SPD directed contracted 24-hour residential services must ensure that a current plan for individuals enrolled in comprehensive services, long-term supports for children, or in family support services is authorized and maintained.

(a) The plan must be kept in the individual's record.

(b) Plan updates must occur as required by this rule and any rules governing the operation of the service.

(c) When there is a significant change the plan must be updated.

(6) TEAM PROCESS IN COMPREHENSIVE SERVICES. Except in comprehensive in-home supports or long-term supports for children, the following applies to ISPs developed for individuals in comprehensive services:

(a) ISPs must be developed by an ISP team. The ISP team assigns responsibility for obtaining or providing services to meet the identified needs.

(A) Membership on ISP teams must at a minimum conform to this rule and any relevant service provider rules.

(B) Unless refused by the adult individual, family participation must be encouraged.

(C) The individual may also suggest additional participants, friends, or significant others.

(D) The individual may raise an objection to a particular person. When an individual raises objections to a person, the ISP team must attempt to accommodate the objection while allowing participation by agency representatives.

(b) Plans developed by an ISP team must utilize a team approach and work toward consensus for a meaningful plan for the individual.

(A) No one member of the ISP team has the authority to make decisions for the team except as agreed to on the ISP.

(B) When consensus cannot be achieved, majority agreement shall prevail. For purposes of the ISP team process and for the reaching majority agreement, representatives from each service provider agency, the individual's family, the CDDP, or advocacy agencies shall be considered as one member.

(C) The individual or the individual's legal representative retains the right to consent to treatment and training or to note any

specific areas of the plan that they object to and wish to file a complaint.

(D) The ISP team members must keep the team informed whenever there are significant needs or changes, or there is a crisis or potential for a crisis. The services coordinator must be notified in all such instances.

Stat. Auth.: ORS 409.050, 410.070, & 430.640
Stats. Implemented: ORS 427.005, 427.007, & 430.610 – 430.695

411-320-0130 Site Visits and Monitoring of Services
(Amended 7/13/2009)

(1) VISITS TO SPD LICENSED OR CERTIFIED RESIDENTIAL SERVICE PROVIDER SITES. The CDDP must ensure that regular visits responding to SPD questions are conducted at each child or adult foster home and each 24-hour residential program site licensed or certified by SPD to serve individuals. Visits must focus on areas addressing health and safety, behavior support, and financial services to individuals.

(a) The CDDP must establish a review schedule based on the number of individuals served in each home. Visits must be scheduled to occur as follows:

(A) Homes or sites actively serving one or two individuals must be visited at least quarterly.

(B) Homes or sites actively serving three or more individuals must be visited at least ten months each year.

(C) The CDDP must develop a procedure for the conduct of the visits to these homes.

(D) For homes or sites visited at least ten months each year, there must never be two consecutive months when a residential site is not visited.

(E) In the months the home is not visited, the CDDP may conduct a visit to an employment site or attend a school IEP

meeting as a substitute for an employment visit for children who are still in school.

(F) If there are no SPD-funded individuals residing in the home, a visit by the CDDP is not required.

(b) When the service provider is a SPD-contracted and licensed 24-hour residential program for children or is a child foster proctor agency and a SPD Children's Residential Services Coordinator is assigned to monitor services, the SPD Children's Residential Services Coordinator and CDDP staff shall coordinate who shall visit the home. If the visit is made by SPD staff, SPD staff shall provide the results of the monitoring to the local services coordinator.

(c) The CDDP must document visits to the residential service and provide information concerning such visits to SPD upon request.

(2) SERVICE DELIVERY. The services coordinator must monitor the delivery of services for individuals enrolled in case management services at least annually.

(a) Every individual enrolled in case management services and not enrolled in any other funded developmental disability service must have at least an annual contact with a services coordinator.

(A) Whenever possible, annual contact must be made in person. If annual contact is not made in person, the progress note must document how contact was achieved.

(B) The services coordinator must document annual contact in an Annual Plan in accordance with OAR 411-320-0120(2)(f).

(C) If the individual has any identified high-risk medical issue including but not limited to risk of death due to aspiration, seizures, constipation, dehydration, diabetes, or significant behavioral issues, the services coordinator must maintain contact in accordance with planned actions described in the Annual Plan.

(D) Any follow-up must be documented in progress notes.

(E) The services coordinator may, to the extent resources are available, monitor the Annual Plan of other individuals.

(b) The services coordinator must monitor services for individuals enrolled in SPD-funded comprehensive services or for children enrolled in long-term supports for children. For individuals residing in 24-hour residential programs or foster care, this service monitoring may be combined with the monthly site visits as described in section (1) of this rule. For individuals receiving supported living services, service monitoring shall whenever possible occur at least once annually in the individual's home. The services coordinator must determine if services are in accordance with the ISP, In-Home Support Plan, or the child's Annual Plan and take appropriate actions to ensure services.

(A) The review of plans for individuals must include the following:

(i) Consideration of any serious events and unusual incident reports and the results of any monthly monitoring visits conducted in residential programs;

(ii) A semi-annual review of the process by which an individual accesses and utilizes funds according to standards specified in OAR 411-325-0380 for 24-hour residential services or OAR 411-360-0170 for adult foster care. The services coordinator must report any misuse of funds to the CDDP and SPD. SPD shall determine whether a referral to the Medicaid Fraud Control Unit is warranted; and

(iii) Review of the ISP document to determine if the goals and objectives or actions to be taken by the service provider, the services coordinator, or others are implemented. The review must include a discussion of the following:

(I) Are services being provided as described in the plan document and do they result in the achievement of the identified action plans;

(II) Are the personal, civil, and legal rights of the individual protected in accordance with this rule;

(III) Are the personal desires of the individual, the individual's legal representative, or family addressed; and

(IV) Do the services provided for in the plan continue to meet what is important to and for the individual.

(B) The frequency of the monitoring must be determined by the needs of the individual. At a minimum, the results of the ISP for individuals enrolled in comprehensive services must be reviewed at least once within the first six months of the plan year and again in preparation for the annual ISP process. The frequency with which individuals presenting with serious health, safety, or behavioral risks are monitored must be based on ISP team decisions and CDDP policy. For individuals receiving supported living services, monitoring of services shall whenever possible occur at least once annually in the individual's home. Scheduled visits must be negotiated between the services coordinator, the individual, and the service provider.

(C) In monitoring the plan, the services coordinator must document his or her findings and any resulting actions in the individual's CDDP record.

(3) MONITORING FOLLOW-UP. The services coordinator and the CDDP are responsible for ensuring the appropriate follow-up to monitoring of services, except in the instance of children in a SPD direct contract 24-hour residential service when SPD may conduct the follow-up.

(a) If the services coordinator determines that comprehensive services are not being delivered as agreed in the plan, or that an

individual's service needs have changed since the last review, the services coordinator must initiate action to update the plan.

(b) If there are concerns regarding the service provider's ability to provide services, the CDDP, in consultation with the services coordinator, must determine the need for technical assistance or other follow-up activities. This may include coordination or provision of technical assistance, referral to the CDDP manager for consultation or corrective action, requesting assistance from SPD for licensing or other administrative support, or meeting with the service provider executive director or board of directors. In addition to conducting abuse or other investigations as necessary, the CDDP must notify SPD when:

(A) A service provider demonstrates substantial failure to comply with any applicable licensing or certification rules for SPD-funded programs;

(B) The CDDP finds a serious and current threat endangering the health, safety, or welfare of individuals in a program for which an immediate action by SPD is required; or

(C) Any individual receiving SPD-funded developmental disability services dies. Notification must be made to SPD's Medical Director or his or her designee within one working day of the death.

Stat. Auth.: ORS 409.050, 410.070, & 430.640
Stats. Implemented: ORS 427.005, 427.007, & 430.610 – 430.695

411-320-0140 Abuse Investigations and Protective Services
(Amended 7/1/2010)

(1) GENERAL DUTIES OF THE CDDP. For the purpose of conducting abuse investigations and provision of protective services for adults, the CDDP is the designee of the Department. Each CDDP must conduct abuse investigations and provide protective services or arrange for the conduct of abuse investigations and the provision of protective services through cooperation and coordination with other CDDPs and when applicable, support services brokerages. Investigations must be done in accordance

with OAR 407-045-0290. If determined necessary or appropriate, the Department may conduct an investigation itself rather than allow the CDDP to investigate the alleged abuse or the Department may conduct an investigation in addition to the investigation by the CDDP. Under such circumstances, the CDDP must receive authorization from the Department before conducting any separate investigation.

(2) ELIGIBILITY FOR PROTECTIVE SERVICES. Unless otherwise directed by the Department, the CDDP must investigate allegations of abuse of individuals who are developmentally disabled and are:

(a) Eighteen years of age or older; and

(b) Receiving case management services; or

(c) Receiving any Division-funded services for individuals; or

(d) Adults previously determined eligible for developmental disability services and voluntarily terminated from services in accordance with OAR 411-320-0100(3) and (4).

(3) ABUSE INVESTIGATIONS. The CDDP must have and implement written protocols that describe the conduct of an investigation, a risk assessment, implementation of any actions, and the report writing process. Investigations must be conducted in accordance with OAR 407-045-0250 to 407-045-0360.

(4) COORDINATION WITH OTHER AGENCIES. The CDDP must cooperate and coordinate investigations and protective services with other agencies that have authority to investigate allegations of abuse for adults or children.

(5) INITIAL COMPLAINTS. Initial complaints must immediately be submitted electronically, using the Division's system for reporting serious events.

(6) CONFLICT OF INTEREST. The CDDP shall not investigate allegations of abuse made against employees of the CDDP. Investigations of CDDP staff shall be conducted by the Department or other CDDP not subject to an actual or potential conflict of interest.

(7) NOTIFICATION. Upon the initiation and completion of an investigation of an alleged abuse, the CDDP must comply with the notification requirements as described in OAR 407-045-0290 and OAR 407-045-0320.

(8) REPORTS. The CDDP must complete an abuse investigation and protective service report according to OAR 407-045-0320. A copy of the final abuse investigation and protective services report must be provided to the Department within five working days of the report's completion and approval by OIT. Abuse investigation and protective service reports must be maintained by the CDDP in accordance with OAR 407-045-0320.

(9) DISCLOSURE. The CDDP shall disclose an abuse investigation and protective services report and related documents as described in OAR 407-045-0330.

Stat. Auth.: ORS 409.050, 410.070, & 430.640
Stats. Implemented: ORS 427.005, 427.007, & 430.610 – 430.695

411-320-0150 Specialized Services in a Nursing Home
(Amended 7/13/2009)

Individuals residing in nursing homes and determined to require specialized services as described in OAR 411-070-0043 must have an annual plan for specialized services incorporated with the plan of care by the nursing home.

(1) PLAN FOR SPECIALIZED SERVICES IN A NURSING HOME. The services coordinator must coordinate with the individual, the individual's legal guardian, the staff of the nursing facility, and other service providers, as appropriate, to provide or arrange the specialized services. The plan for specialized services must include:

(a) The name of the service provider;

(b) A description of the specialized services to be provided;

(c) The number of hours of service per month;

(d) A description of how the services shall be tracked; and

(e) A description of the process of communication between the specialized service provider and the nursing facility in the event of unusual incidents, illness, absence, and emergencies.

(2) REVIEW OF PLAN. The services coordinator must complete an annual review of the plan for specialized services or when there has been a significant change in the individual's level of functioning. The review must conform to OAR 411-320-0130(2)(b).

Stat. Auth.: ORS 409.050, 410.070, & 430.640
Stats. Implemented: ORS 427.005, 427.007, & 430.610 – 430.695

411-320-0160 Crisis Diversion Services
(Amended 7/13/2009)

(1) CRISIS DIVERSION SERVICES. The CDDP must, in conjunction with its regional partners, provide crisis diversion services for adults and children with developmental disabilities who are enrolled in developmental disability services and are eligible for crisis diversion services as described in section (3) of this rule and experiencing a crisis risk factor.

(2) CRISIS RISK FACTORS. An individual is in crisis when one or more of the following risk factors are present:

(a) An individual is not receiving necessary supports to address life-threatening safety skill deficits;

(b) An individual is not receiving necessary supports to address life-threatening issues resulting from behavioral or medical conditions;

(c) An individual currently engages in self-injurious behavior serious enough to cause injury that requires professional medical attention;

(d) An individual undergoes, or is at imminent risk of undergoing, loss of caregiver due to caregiver inability to provide supports;

(e) An individual experiences a loss of home due to a protective service action; or

(f) An individual is not receiving the necessary supports to address significant safety risks to others, including but not limited to:

(A) A pattern of physical aggression serious enough to cause injury;

(B) Fire-setting behaviors; or

(C) Sexually aggressive behaviors or a pattern of sexually inappropriate behaviors.

(3) ELIGIBILITY FOR CRISIS DIVERSION SERVICES. The CDDP must ensure the determination of the eligibility of individuals to receive crisis diversion services, and must ensure eligibility information is made available to support team members upon request, and to regional crisis diversion programs upon each referral. An individual is eligible for crisis diversion services when:

(a) A crisis exists as described in section (2) of this rule;

(b) There are no appropriate alternative resources available;

(c) The crisis is not primarily related to a significant mental or emotional disorder or substance abuse; and

(d) An individual meets at least one of the following criteria:

(A) The individual is enrolled in developmental disability services.

(B) The adult is court committed to DHS under ORS 427.215 through 427.306.

(C) The adult meets one of the crisis risk factors as described in section (2) of this rule.

(D) The child with developmental disabilities is at imminent risk of out of home placement.

(E) The child with developmental disabilities is in need of out of home placement.

(F) The child with developmental disabilities requires supports to return home from out of home placement.

(4) FUNDS FOR CRISIS DIVERSION SERVICES.

(a) Funds for crisis diversion services must not supplant existing funding.

(b) Purchased goods or services must only be those necessary to resolve the crisis.

(c) Crisis diversion services must only be used when no appropriate alternative resources are available to resolve the crisis situation. The CDDP or the regional crisis diversion program administering the crisis diversion service, in consultation with the individual ISP team, must determine the appropriateness of alternative resources based on consideration of individual support needs, proximity to the individual's actively involved family members, access to other necessary resources, and cost effectiveness.

(5) ALLOWABLE SHORT-TERM EXPENDITURES. Allowable crisis diversion services include but are not limited to:

(a) Professional consultation, assessment, or evaluation;

(b) Adaptive equipment;

(c) Respite;

(d) Adaptations to the eligible individual's residence to increase accessibility or security;

(e) Short-term residential or vocational services;

(f) Added staff supervision; or

(g) Crisis diversion rates for direct care staff, respite providers, and professional consultants. Crisis diversion rates must be paid within SPD's wage and rate guidelines.

(6) SERVICE LIMITATIONS. The following must not be purchased with crisis diversion services funds:

(a) Household appliances;

(b) Services covered under existing service provider contracts with the CDDP or SPD;

(c) Health care services covered by Medicaid, Medicare, or private medical insurance; and

(d) Services provided by the parent of a child or the spouse of an adult.

(7) SERVICE AUTHORIZATION. The CDDP or regional crisis diversion program must authorize the utilization of crisis diversion services.

(a) To assure that crisis diversion services are utilized only when no appropriate alternative resources are available, the CDDP or the regional crisis diversion program must document the individual's eligibility for crisis diversion services, the alternative resources considered, and why those resources were not appropriate or available, prior to initiating any crisis diversion services.

(b) For services that exceed 90 days duration, authorization must be made by the CDDP or the regional crisis diversion program, and must be documented in writing within the individual's case file.

(c) For services that exceed $5,000 for adaptation or alteration of fixed property, authorization must be made by SPD based upon the recommendation of the CDDP or the regional crisis diversion program.

(d) SPD may, at its discretion, exercise authority under ORS 427.300 to direct any individual who is court committed to DHS under ORS 427.290 to the facility best able to treat and train the individual. SPD

shall consult with any CDDP, the regional crisis diversion program, or service provider affected by this decision, prior to placement of the individual.

(8) ADMINISTRATION OF CRISIS DIVERSION SERVICES. The CDDP and the regional crisis diversion program must operate under policies and procedures that assure internal management control of expenditures. Policies and procedures must be written and include at least the following:

(a) Identification of persons or positions within the organization authorized to approve expenditures;

(b) Description of limits on those authorities and procedures for management reviews; and

(c) Description of procedures to disburse and account for funds.

(9) MONITORING OF CRISIS DIVERSION SERVICES.

(a) The CDDP must monitor the delivery of crisis diversion services as specified in the crisis plan and the individual's plan of care. Monitoring must be done through contact with the individual, any service providers, and the individual's family. The monitoring contact must include the collection of information regarding supports provided and progress toward outcomes that are identified in the crisis plan. Monitoring must be documented in the individual's case file.

(b) The CDDP must coordinate with service providers or other support team members to evaluate the impact of crisis diversion services upon the individual and must ensure needed changes are recommended to the individual's support team.

(c) SPD may monitor crisis diversion services through reports received pursuant to section (10) and (11) of this rule and OAR 411-320-0180.

(10) RECORD KEEPING AND REPORTING PROCEDURES.

(a) The CDDP or the regional crisis diversion program must ensure the crisis plan is developed in partnership with the individual's support

team, and the following written information is maintained within the crisis plan:

(A) Identifying information about the individual including name, address, age, and name of parent or guardian;

(B) Description of the circumstances for which crisis diversion services were requested, to clearly specify how the individual is eligible to receive crisis diversion services;

(C) Description of resources used or alternatives considered prior to the request for crisis funds, and why the resources or alternatives were not appropriate or were not available in meeting the individual's needs in addressing the crisis;

(D) Description of the goods and services requested to be purchased or provided specific to addressing the crisis, to include:

(i) The frequency of the provision or purchase of goods or services;

(ii) The duration of the provision or purchase of goods or services; and

(iii) The costs of the goods or services to be provided or purchased.

(E) Description of the outcome to be achieved including identification of benchmarks that may be used to determine whether the outcome has been achieved and maintained.

(b) The CDDP must ensure the documentation of the support team approved modifications to the individual's plan of care that outline how the crisis is to be addressed through the use of crisis diversion services.

(c) The CDDP must ensure the documentation of monitoring contacts described in section (9)(a) of this rule.

(d) The CDDP must maintain a current copy of the Title XIX waiver form, when the individual eligible for crisis diversion services is receiving home and community-based waiver services, or as otherwise instructed by SPD.

(11) REPORTING REQUIREMENTS. The CDDP or regional crisis diversion program must report, using the accepted SPD payment and reporting systems, the following information to SPD by the tenth working day the month following each month in which crisis diversion services were provided and paid:

(a) Individuals for whom crisis diversion services were provided;

(b) Individual services provided and paid; and

(c) Total cost by type of service.

Stat. Auth.: ORS 409.050, 410.070, & 430.640
Stats. Implemented: ORS 427.005, 427.007, & 430.610 – 430.695

411-320-0170 Complaints
(Amended 7/13/2009)

(1) COMPLAINT LOG. The CDDP must maintain a log of all complaints received regarding the CDDP or any subcontract agency providing services to individuals.

(a) The complaint log, at a minimum, must include:

(A) The date the complaint was received;

(B) The name of the person taking the complaint;

(C) The nature of the complaint;

(D) The name of the person making the complaint, if known; and

(E) The disposition of the complaint.

(b) CDDP personnel issues and allegations of abuse may be maintained separately from a central complaint log. If a complaint resulted in disciplinary action against a staff member, the documentation must include a statement that personnel action was taken.

(2) COMPLAINTS. The CDDP must address all complaints by individuals or subcontractors in accordance with CDDP policies, procedures, and these rules. Copies of the procedures for resolving complaints must be maintained on file at the CDDP offices. The complaint procedures must be available to county employees who work with individuals, individuals who are receiving services from the county and the individual's families, the individual's legal representatives, advocates, service providers, and SPD.

(a) Subcontractor Complaints. When a dispute exists between a CDDP and a subcontracted service provider regarding the terms of their contract or the interpretation of a SPD administrative rule and local dispute resolution efforts have been unsuccessful, either party may request assistance from SPD in mediating the dispute.

(A) The parties must demonstrate a spirit of cooperation, mutual respect, and good faith in all aspects of the mediation process. Mediation must be conducted as follows:

(i) The party requesting mediation must send a written request to the SPD Assistant Director, the CDDP director, and the service provider agency director, unless other persons are named as official contact persons in the specific rule or contract under dispute. The request must describe the nature of the dispute and identify the specific rule or contract provisions that are central to the dispute.

(ii) SPD staff shall arrange the first meeting of the parties at the earliest possible date. The agenda for the first meeting shall include:

(I) Consideration of the need for services of an outside mediator. If the services of an unbiased mediator are desired, agreement shall be made on arrangements for obtaining these services;

(II) Development of rules and procedures that shall be followed by all parties during the mediation; and

(III) Agreement on a date by which mediation shall be completed, unless extended by mutual agreement.

(iii) Unless otherwise agreed to by all parties:

(I) Each party shall be responsible for the compensation and expenses of their own employees and representatives; and

(II) Costs that benefit the group, such as services of a mediator, rental of meeting space, purchase of snack food and beverage, etc. shall be shared equally by all parties.

(B) A written statement documenting the outcome of the mediation must be prepared. This statement must consist of a brief written statement signed by all parties or separate statements from each party declaring their position on the dispute at the conclusion of the mediation process. In the absence of written statements from other parties, SPD shall prepare the final report. A final report on each mediation must be retained on file at SPD.

(b) Contract Not Substantially Similar. A service provider may appeal the imposition of a disputed term or condition in the contract if the service provider believes that the contract offered by the CDDP contains terms or conditions that are not substantially similar to those established by DHS in its model contract. The service provider's appeal of the imposition of the disputed terms or conditions must be in writing and sent to the SPD Assistant Director within 30 calendar days after the effective date of the contract requirement.

(A) A copy of notice of appeal must be sent to the CDDP. The notice of appeal must include:

(i) A copy of the contract and any pertinent contract amendments;

(ii) Identification of the specific terms that are in dispute; and

(iii) A complete written explanation of the dissimilarity between terms.

(B) Upon receipt of the notice of appeal, the CDDP must suspend enforcement of compliance with any contract requirement under appeal by the contractor until the appeal process is concluded.

(C) The SPD Assistant Director must offer to mediate a solution in accordance with the procedure outlined in sections (2)(a)(A) and (2)(a)(B) of this rule.

(i) If a solution cannot be mediated, the SPD Assistant Director shall declare an impasse through written notification to all parties and immediately appoint a panel to consider arguments from both parties. The panel must include at a minimum:

(I) A representative from SPD;

(II) A representative from another CDDP; and

(III) A representative from another service provider organization.

(ii) The panel must meet with the parties, consider their respective arguments, and send written recommendations to the SPD Assistant Director within 45 business days after an impasse is declared, unless the SPD Assistant Director grants an extension.

(iii) If an appeal requiring panel consideration has been received from more than one contractor, SPD may organize materials and discussion in any manner it

deems necessary, including combining appeals from multiple contractors, to assist the panel in understanding the issues and operating efficiently.

(iv) The SPD Assistant Director must notify all parties of his or her decision within 15 business days after receipt of the panel's recommendations. The decision of SPD is final. The CDDP must take immediate action to amend contracts as needed to comply with the decision.

(v) Notwithstanding section (2)(b)(C) of this rule, the SPD Assistant Director has the right to deny the appeal or a portion of the appeal if, upon receipt and review of the notice of appeal, the SPD Assistant Director finds that the contract language being contested is identical to the current language in the county financial assistance agreement with SPD.

(D) The CDDP or the contractor may request an expedited appeal process that provides a temporary resolution if it can be shown that the time needed to follow procedures to reach a final resolution would cause imminent risk of serious harm to individuals or organizations.

(i) The request must be made in writing to the SPD Assistant Director. The request must describe the potential harm and level of risk that shall be incurred by following the appeal process.

(ii) SPD must notify all parties of its decision to approve an expedited appeal process within two business days.

(iii) If an expedited process is approved, SPD shall notify all parties of SPD’s decision concerning the dispute within three additional business days. The decision resulting from an expedited appeal process shall be binding, but temporary, pending completion of the appeal process. All parties must act according to the temporary decision until notified of a final decision.

(c) Complaints By or On Behalf of Individuals. An individual, the individual's guardian or other legal representative, a family member, or advocate may file a complaint with the CDDP under the following conditions:

(A) An individual or someone acting on behalf of the individual must have an opportunity to informally discuss and resolve any allegation that is contrary to law, rule, policy, or that is otherwise contrary to the interest of the individual and that does not meet the criteria for an abuse investigation. Choosing an informal resolution does not preclude an individual or someone acting on behalf of the individual to pursue resolution through formal complaint processes. Any agreement to resolve the complaint must be reduced to writing and must be specifically approved by the complainant. The complainant must be provided with a copy of such agreement.

(B) A complaint may be filed regarding an inability to resolve a dispute concerning the appropriateness of services described in the service plan provided by a CDDP subcontractor or regarding dissatisfaction with services provided by the CDDP.

(i) The CDDP must follow its policies and procedures regarding receipt and resolution of a complaint.

(ii) The CMHDDP or CDDP director must provide to the complainant a written decision regarding the complaint within 30 days following receipt of the complaint.

(I) The written decision regarding the complaint must contain the rationale for the decision, and must list the reports, documents, or other information relied upon in making the decision.

(II) Along with the written decision, the complainant must also be provided a notice that the documents relied upon in making the decision may be reviewed by the individual or the person who filed the complaint.

(III) Along with the written decision, the complainant must also be provided a notice that the complainant has the right to request a review of the decision by SPD. Such notice, must be written in clear, simple language and at a minimum explain how and when to request such a review and when a final decision must be rendered by the SPD Assistant Director.

(iii) Following a decision by the CMHDDP director regarding a complaint, the complainant may request an administrative review by the SPD Assistant Director.

(I) The complainant must submit to SPD a request for an administrative review within 15 days from the date of the decision by the CMHDDP director.

(II) Upon receipt of a request for an administrative review, the SPD Assistant Director shall appoint an administrative review committee and name the chairperson. The administrative review committee shall be comprised of a representative of SPD, a CDDP representative, and a service provider who provides a similar service as the service being reviewed, i.e., residential, employment, foster care, etc. Committee representatives must not have any direct involvement in the provision of services to the complainant or have a conflict of interest in the specific case being reviewed.

(III) The administrative review committee must review the complaint and the decision by the CMHDDP director and make a recommendation to the SPD Assistant Director within 45 days of receipt of the complaint unless the complainant and the administrative review committee mutually agree to an extension.

(IV) The SPD Assistant Director shall consider the report and recommendations of the administrative review committee and make a final decision. The

decision must be in writing and issued within 10 days of receipt of the recommendation by the administrative review committee. The written decision must contain the rationale for the decision.

(V) The decision of the SPD Assistant Director is final. Any further review is pursuant to the provisions of ORS 183.484.

(d) Specific Complaints. Individuals, or the individual's guardian or legal representative may request a review of specific decisions by the CDDP, a service provider, or a state training center as follows:

(A) Complaints of entry, exit, or transfer decisions within residential services may only be initiated according to OAR 411-325-0400 for 24-hour residential services and OAR 309-041-0800 for supported living services.

(B) Complaints of entry, exit, or transfer decisions within employment services or community inclusion services may only be initiated according to OAR 411-345-0150.

(C) Appeals of Medicaid eligibility decisions may be initiated according to OAR 411-330-0130(2).

(D) Disagreements with Eastern Oregon Training Center decisions for admission and discharge may only be initiated according to OAR chapter 309, division 118.

Stat. Auth.: ORS 409.050, 410.070, & 430.640
Stats. Implemented: ORS 427.005, 427.007, & 430.610 – 430.695

411-320-0175 Hearings for Developmental Disability Services Eligibility Determination
(Temporary Effective 7/4/2010 – 12/31/2010)

The Department follows the Attorney General's Model Rules OAR 137-003-0501 to 137-003-0700 and ORS 183 for the conduct of hearings in developmental disability eligibility determination.

(1) DEFINITIONS. As used in this rule:

(a) "Administrative Law Judge" means a professional hearing officer, employed by the Employment Division, Office of Administrative Hearings, who presides over hearings and issues a final order.

(b) "Claimant" means a person who has requested a hearing or who is scheduled for a hearing.

(c) "Department Hearing Representative" means a person authorized to represent the Department in the hearing.

(d) "Good Cause" means a circumstance beyond the control of the claimant and claimant's representative.

(e) A "Request for Hearing" is a written request by an individual or an individual’s representative that the individual wishes to appeal an eligibility determination.

(2) HEARING REQUESTS. A claimant has the right to a hearing, as provided in ORS chapter 183, if the claimant disagrees with the Department’s eligibility determination.

(a) The request for a hearing must be in writing on form DHS 443 and signed by the claimant or the claimant's representative. The signed form (DHS 443) must be received by the Department within 45 days from the date of the Department’s notice of eligibility determination.

(b) The CDDP must assist individuals requiring assistance in completing the hearing request form.

(c) A late hearing request may be granted when the claimant has good cause.

(3) REPRESENTATION.

(a) Division employees are authorized to appear as a witness on behalf of the Department for hearings.

(b) Hearings are not open to the public and are closed to non-participants, except non-participants may attend subject to the claimant's consent.

(4) FINAL ORDER.

(a) In a hearing, the administrative law judge is authorized to enter a final order on behalf of the Department without first issuing a proposed order unless the Department has specifically revoked authority.

(b) A final order shall be issued in compliance with OAR 137-003-0665 or the case otherwise resolved no later than 90 days following the request for hearing.

(c) The final order is effective immediately upon being signed or as otherwise provided in the order.

(d) A petition by a claimant for reconsideration or rehearing must be filed with the entity who issued the final order.

(5) INFORMAL CONFERENCE.

(a) The Department representative and the claimant may have an informal conference, without the presence of the administrative law judge, to discuss any of the matters listed in OAR 137-003-0575. The informal conference may also be used to:

(A) Provide an opportunity for the Department and the claimant to settle the matter;

(B) Ensure the claimant understands the reason for the action that is the subject of the hearing request;

(C) Give the claimant an opportunity to review the information that is the basis for the action;

(D) Inform the claimant of the rules that serve as the basis for the contested action;

(E) Give the claimant and the Department the chance to correct any misunderstanding of the facts; and

(F) Give the Department an opportunity to review its action.

(b) The claimant may, at any time prior to the hearing date, request an additional conference with the Department representative. At the Department representative's discretion, the Department representative may grant an additional conference if it facilitates the hearing process.

(c) The Department may provide the claimant the relief sought at any time before the final order is issued.

(6) WITHDRAWAL OF HEARING. A claimant may withdraw a hearing request at any time prior to the issuance of a final order. The withdrawal shall be effective on the date the Department or the Office of Administrative Hearings receives it. The Department shall issue a final order confirming the withdrawal to the last known address of the claimant. The claimant may cancel the withdrawal up to 10 working days following the date the final order is issued.

(7) DISMISSAL FOR FAILURE TO APPEAR. A hearing request is dismissed by order when neither the claimant nor the claimant's representative appears at the time and place specified for the hearing. The order is effective on the date scheduled for the hearing. The Department may cancel the dismissal order on request of the claimant upon a showing that the claimant or the claimant's representative was unable to attend the hearing or unable to request a postponement for reasons beyond the claimant's control.

Stat. Auth.: ORS 409.050, 410.070, & 430.640
Stats. Implemented: ORS 427.005, 427.007, & 430.610 – 430.670

411-320-0180 Inspections and Investigations
(Amended 7/13/2009)

(1) REQUIRED INSPECTIONS AND INVESTIGATIONS. All services covered by these rules must allow the following types of investigations and inspections:

(a) Quality assurance, certification, and on-site inspections;

(b) Complaint investigations; and

(c) Abuse investigations.

(2) CONDUCT OF INSPECTIONS OR INVESTIGATIONS. SPD, SPD's designee, or proper authority must perform all inspections and investigations.

(3) UNANNOUNCED. Any inspection or investigation may be unannounced.

(4) PLAN OF CORRECTION. A plan of correction must be submitted to SPD for any non-compliance found during an inspection under this rule.

Stat. Auth.: ORS 409.050, 410.070, & 430.640
Stats. Implemented: ORS 427.005, 427.007, & 430.610 – 430.695

411-320-0190 Program Review and Certification
(Amended 7/13/2009)

(1) SPD REVIEW OF CDDP. SPD may review the CDDP implementation of these rules as provided for in OAR 411-320-0180.

(2) CERTIFICATE OF COMPLIANCE. If, following a SPD review, the CDDP is in substantial compliance with these rules SPD shall issue a certificate of compliance to the CDDP.

(3) SPD FOLLOW-UP. If, following a review, the CDDP or case management provider is not in substantial compliance with these rules, SPD may offer technical assistance or request corrective action. The CDDP must perform the necessary corrective measures required by and in the time specified by SPD. SPD may conduct such reviews as necessary to insure corrective action has been achieved.

Stat. Auth.: ORS 409.050, 410.070, & 430.640
Stats. Implemented: ORS 427.005, 427.007, & 430.610 – 430.695

411-320-0200 Variances
(Amended 7/13/2009)

(1) CRITERIA FOR A VARIANCE. Variances that do not jeopardize individuals' health or safety may be granted to a CDDP if there is a lack of resources to meet the standards required in these rules and the alternative services, methods, concepts, or procedures proposed would result in services or systems that meet or exceed the standards. All variances must be submitted to and approved by SPD prior to implementation.

(2) VARIANCE APPLICATION. The CDDP requesting a variance must submit, in writing, an application to SPD that contains the following:

(a) The section of the rule from which the variance is sought;

(b) The reason for the proposed variance;

(c) A description of the alternative practice, service, method, concept, or procedure proposed, including how the health and safety of individuals receiving services shall be protected to the extent required by these rules;

(d) A plan and timetable for compliance with the section of the rule from which the variance is sought; and

(e) Signed documentation from the CDDP reflecting the justification for the proposed variance.

(3) SPD REVIEW. The SPD Assistant Director must approve or deny the request for a variance.

(4) NOTIFICATION. SPD shall notify the CDDP of the decision within 45 days of the receipt of the request by the CPPD.

(5) APPEAL OF VARIANCE DENIAL. Appeal of the denial of a variance request must be made in writing to the SPD Assistant Director whose decision is final.

(6) WRITTEN APPROVAL. The CDDP may implement a variance only after written approval from SPD. The intergovernmental agreement is amended to the extent that the variance changes a term in that agreement.

Stat. Auth.: ORS 409.050, 410.070, & 430.640
Stats. Implemented: ORS 427.005, 427.007, & 430.610 – 430.695