DEPARTMENT OF HUMAN SERVICES
DEVELOPMENTAL DISABILITIES
OREGON ADMINISTRATIVE RULES

CHAPTER 411
DIVISION 320

COMMUNITY DEVELOPMENTAL DISABILITY PROGRAMS

411-320-0010 Statement of Purpose
(Amended 12/28/2013)

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

(1) A CDDP providing developmental disability services under a contract with the Department is required to meet the basic management, programmatic, and health, safety, and human rights regulations in the management of the community service system for individuals with intellectual or developmental disabilities.

(2) These rules prescribe the standards by which the Department 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 and 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, and 430.662 to 430.695

411-320-0020 Definitions
(Temporary Effective 01/01/2016 to 06/28/2016)

Unless the context indicates otherwise, the following definitions and the definitions in OAR 411-317-0000 apply to the rules in OAR chapter 411, division 320:

(1) "ABAS" means Adaptive Behavior Assessment System.

(2) "ABES" means Adaptive Behavior Evaluation Scale.

(3) "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 normed, standardized tests administered by a licensed clinical or school psychologist, or a doctor of medicine or doctor of osteopathic medicine with specific training and experience in test interpretation of adaptive behavior scales for individuals with intellectual or developmental disabilities. Adaptive behavior assessments include:

(A) Adaptive Behavior Assessment System (ABAS);

(B) Adaptive Behavior Evaluation Scale (ABES);

(C) Vineland Adaptive Behavior Scale (VABS);

(D) Scales of Independent Behavior-Revised (SIB-R); or

(E) Other assessments that are designed to measure adaptive behavior standardized and normed to a population consistent with the population of the applicant or approved by the Department of Human Services, Office of Developmental Disability Services (ODDS).

(b) DOMAIN SCORES. Adaptive behavior domain scores are identified on the following assessments of adaptive behavior:

(A) The ABAS and ABES are:

(i) Conceptual;

(ii) Practical; and

(iii) Social.

(B) The VABS are:

(i) Socialization;

(ii) Daily living skills;

(iii) Communication; and

(iv) Motor.

(C) The SIB-R are:

(i) Personal living skills;

(ii) Social interaction and communication skills;

(iii) Community living skills; and

(iv) Motor skills.

(c) COMPOSITE SCORE. The adaptive behavior composite score is the overall score which results from summing two or more domain scores on a given adaptive behavior assessment.

(d) SKILLED AREAS. Skilled areas are a particular assessed score. The skilled areas on the ABAS or ABES are the only skilled areas used for the purposes of OAR 411-320-0080 and include scaled scores in:

(A) Communication;

(B) Functional academics;

(C) Self-direction;

(D) Leisure;

(E) Social;

(F) Community use;

(G) Home and school living;

(H) Self-care;

(I) Health and safety; and

(J) Work.

(e) "Significant impairment" in adaptive behavior means:

(A) A composite score of at least two standard deviations below the norm;

(B) Two or more domain scores as identified in subsection (b) of this section are at least two standard deviations below the norm; or

(C) Two or more skilled areas as identified in subsection (d) of this section are at least two standard deviations below the norm.

(4) “Annual Review” means the annual review of the level of care determination.

(5) "CDDP" means "Community Developmental Disability Program". A CDDP is the entity that is responsible for plan authorization, delivery, and monitoring of services for individuals who are not enrolled in a Brokerage. A CDDP operates in a specific geographic service area of the state under a contract with the Department, Local Mental Health Authority, or other entity as contracted by the Department.

(6) "Choice Advising" means the impartial sharing of information to individuals with intellectual or developmental disabilities provided by a person that meets the qualifications in OAR 411-320-0030(4)(c) about:

(a) Case management;

(b) Service options;

(c) Service setting options; and

(d) Provider types.

(7) "CIIS" means "children's intensive in-home services". CIIS include the services described in:

(a) OAR chapter 411, division 300 for the Children's Intensive In-Home Services, Behavior Program;

(b) OAR chapter 411, division 350 for Medically Fragile Children's Services; and

(c) OAR chapter 411, division 355 for the Medically Involved Children's Program.

(8) "Completed Application" means an application required by the Department that:

(a) Is filled out completely, signed, and dated. An applicant who is unable to sign may sign with a mark, witnessed by another person; and

(b) Contains documentation required to make an eligibility determination as outlined in OAR 411-320-0080(1)(a)(B).

(9) "Composite Score" means the score identified by an assessment of adaptive behavior as described in the definition for "adaptive behavior".

(10) "County of Origin" means:

(a) For an adult, the county of residence for the adult; and

(b) For a child, the county where the jurisdiction of guardianship exists.

(11) "Crisis" means:

(a) A situation as determined by a qualified services coordinator that may 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.

(12) "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 supports.

(13) "Crisis Plan" means the document generated by the CDDP or Regional Crisis Diversion Program that justifies and authorizes crisis supports and expenditures for an individual receiving crisis diversion services provided under these rules.

(14) "Current Documentation" means documentation relating to the intellectual or developmental disability of an individual in regards to the functioning of the individual within the last three years. Current documentation may include, but is not limited to, an ISP, Annual Plan, Behavior Support Plan, required assessments, educational records, medical assessments related to the intellectual or developmental disability of an individual, psychological evaluations, and assessments of adaptive behavior.

(15) "Department" means the Department of Human Services.

(16) "Developmental Disability (DD)" means a neurological condition that:

(a) Originates before an individual is 22 years of age or 18 years of age for an intellectual disability;

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

(c) Constitutes significant impairment in adaptive behavior as diagnosed and measured by a qualified professional as described in OAR 411-320-0080;

(d) Is not primarily attributed to other conditions including, but not limited to, a mental or emotional disorder, sensory impairment, motor impairment, substance abuse, personality disorder, learning disability, or Attention Deficit Hyperactivity Disorder (ADHD); and

(e) Requires training and support similar to an individual with an intellectual disability as described in OAR 411-320-0080.

(17) "Director" means the Director of the Department of Human Services, or the designee of the Director.

(18) "Domain Score" means the score identified by an assessment of adaptive behavior as described in the definition for "adaptive behavior".

(19) "Eligibility Determination" means a decision by the CDDP or by the Department regarding the eligibility of a person 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.

(20) "Eligibility Specialist" means an employee of the CDDP or other agency that contracts with the county or Department to determine eligibility for developmental disability services.

(21) "Entity" means a person, a trust or estate, a partnership, a corporation (including associations, joint stock companies, and insurance companies), a state, or a political subdivision or instrumentality, including a municipal corporation of a state.

(22) "History" means, for the purposes of an eligibility determination as defined in this rule, necessary evidence of an intellectual disability prior to 18 years of age or an other developmental disability prior to 22 years of age, including previous assessments and medical evaluations prior to the date of eligibility determination for developmental disability services.

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

(a) For a child, a home may include a foster home funded by Child Welfare.

(b) A foster home funded by Child Welfare is considered a provider owned, controlled, or operated residential setting.

(24) "IEP" means "Individualized Education Program".

(25) "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.

(26) "Incident of Ownership" means an ownership interest, an indirect ownership interest, or a combination of direct and indirect ownership interest.
(27) "Indirect Ownership Interest" means an ownership interest in an entity that has an ownership interest in another entity. Indirect ownership interest includes an ownership interest in an entity that has an indirect ownership interest in another entity.

(28) "Informal Adaptive Behavior Assessment" means:

(a) Observations of impairment in adaptive behavior recorded in the progress notes for an individual by a services coordinator or a trained eligibility specialist with at least two years of experience working with individuals with intellectual or developmental disabilities; or

(b) A standardized measurement of adaptive behavior, such as a Vineland Adaptive Behavior Scale (VABS) or Adaptive Behavior Assessment System (ABAS), that is administered and scored by a 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 intellectual or developmental disabilities.

(29) "Intake" means the activity of completing the DD Intake Form (SDS 0552) and necessary releases of information prior to the submission of a completed application to the CDDP.

(30) "Intellectual Disability (ID)" means significantly subaverage general intellectual functioning defined as full scale intelligence quotients (IQs) 70 and under as measured by a qualified professional and existing concurrently with significant impairment in adaptive behavior directly related to an intellectual disability as described in OAR 411-320-0080 that is manifested during the developmental period prior to 18 years of age. Individuals with a valid full scale IQ of 71-75 may be considered to have an intellectual disability if there is also significant impairment in adaptive behavior as diagnosed and measured by a licensed clinical or school psychologist as described in OAR 411-320-0080.

(31) "Intellectual Functioning" means functioning as assessed by one or more of the individually administered general intelligence tests developed for the purpose of measuring intelligence. For purposes of making eligibility determinations, intelligence tests do not include brief intelligence measurements.
(32) "IQ" means intelligence quotient.

(33) "ISP" means "Individual Support Plan".

(34) "Level of Care" means an individual meets the following institutional level of care for an intermediate care facility for individuals with intellectual or developmental disabilities:

(a) The individual has an intellectual disability or a developmental disability as defined in this rule and meets the eligibility criteria in OAR 411-320-0080 for developmental disability services; and

(b) The individual has a significant impairment in one or more areas of adaptive behavior as determined in OAR 411-320-0080.

(35) "Licensed Medical Practitioner" means any of the following licensed professionals:

(a) Medical Doctor (MD);

(b) Doctor of Osteopathic Medicine (DO);

(c) Licensed Clinical Psychologist (Ph.D or Psy.D);

(d) Nurse Practitioner (NP);

(e) Physician Assistant (PA); or

(f) Naturopathic Doctor (ND).

(36) "LMHA" means "Local Mental Health Authority".

(37) "Management Entity" means the CDDP or private corporation that operates the Regional Crisis Diversion Program, including acting as the fiscal agent for regional crisis diversion funds and resources.

(38) "Military Service" means service in the Armed Forces of the United States, as defined in ORS 341.496.

(39) "Motor Impairment" means impairment in the ability to move caused by trauma, disease, or any condition affecting the muscular-skeletal system, spinal cord, or sensory or motor nerves.

(40) "OAAPI" means the Department of Human Services, Office of Adult Abuse Prevention and Investigation.

(41) "OHP" means Oregon Health Plan.

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

(43) "OIS" means "Oregon Intervention System".

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

(45) "Owner" means a person with an ownership interest.

(46) "Ownership Interest" means the possession of equity in the capital, stock, or profits of an entity.

(47) "Qualified Professional" means, for the purposes of OAR 411-320-0080, any of the following licensed professionals trained to make a diagnosis of a specific intellectual or developmental disability:

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

(b) Medical doctor (MD);

(c) Doctor of Osteopathic Medicine (DO); or

(d) Nurse Practitioner (NP).

(48) "Quality Management Strategy" means the Department Quality Assurance Plan for meeting the CMS waiver quality assurances as required and defined by 42 CFR 441.301 and 441.302 and State Plan K option quality assurances as required and defined by 42 CFR 441.585.

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

(50) "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 comprising the region agree are delivered more effectively or automatically on a regional basis.

(51) "Resident" means:

(a) An individual that meets the residency requirements in OAR 461-120-0010; or

(b) A person that is absent due to military obligation, if he or she intends to return to Oregon, and Oregon remains his or her principal establishment, home of record, or permanent home during the absence.

(52) "School Aged" means the age at which an individual is old enough to attend kindergarten through high school.

(53) "Sensory Impairment" means loss or impairment of sight or hearing from any cause, including involvement of the brain.
(54) "Service Member" means a person who is in the military service or who has separated from military service in the previous 18 months through retirement, discharge, or other separation.

(55) "Service Record" means the combined information related to an individual in accordance with OAR 411-320-0070.

(56) "Services Coordinator" means an employee of a CDDP, the Department, or other agency that contracts with the county or Department who provides case management services including, but not limited to, planning, procuring, coordinating, and monitoring services. A services coordinator acts as the proponent for individuals with intellectual or developmental disabilities and is the person-centered plan coordinator for the individual as defined in the Community First Choice state plan.

(57) "SIB-R" means Scales of Independent Behavior-Revised.

(58) "Significantly Subaverage" means a score on a test of intellectual functioning that is two or more standard deviations below the mean for the test.

(59) "Skilled Areas" means a particular assessed score as described in the definition for "adaptive behavior".

(60) "SSI" means Supplemental Security Income.

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

(62) "U.S. Citizen" means an individual that meets the criteria in OAR 461-120-0110. A U.S. Citizen includes:

(a) An individual born in the United States, Puerto Rico, Guam, Northern Mariana Islands, Virgin Islands, American Samoa, or Swains Island;

(b) A foreign-born child less than 18 years of age residing in the United States with his or her birth or adoptive parents, at least one of whom is a U.S. citizen by birth or naturalization;

(c) An individual granted citizenship status by Immigration and Naturalization Services (INS);

(d) A qualified non-citizen as described in OAR 461-120-0125;

(e) A citizen of Puerto Rico, Guam, Virgin Islands, or Saipan, Tinian, Rota, or Pagan of the Northern Mariana Islands;

(f) A national from American Samoa or Swains Island; or

(g) An alien who is a victim of a severe form of trafficking in persons under section 107(b)(a)(A) of the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7101 to 7112).

(63) "VABS" means Vineland Adaptive Behavior Scale.

(64) "Variance" means the temporary exception from a regulation or provision of these rules that may be granted by the Department as described in OAR 411-320-0200.

Stat. Auth.: ORS 409.050, 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-695

411-320-0030 Organization and Program Management

(Amended 12/28/2013)

(1) ORGANIZATION AND INTERNAL MANAGEMENT. Each service provider of community developmental disability services funded by the Department must have written standards governing the operation and management of the CDDP. 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 CDDP;

(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 Department.

(2) MANAGEMENT PLAN. The CDDP must maintain a current management plan assigning responsibility for the program management functions and duties described in this rule. The management plan must:

(a) Consider the unique organizational structure, policies, and procedures of the CDDP;

(b) 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 the functions are implemented; and

(c) Reflect implementation of minimum quality assurance activities described in OAR 411-320-0045 that support the Department's Quality Management Strategy for meeting CMS' waiver quality assurances as required by 42 CFR 441.301 and 441.302.

(3) PROGRAM MANAGEMENT.

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

(b) 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.

(c) 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 legal and designated representatives, families, service providers, support services brokerages, the

Department, local government, and other state and local agencies with an interest in developmental disability services;

(C) Implementation of programs funded by the Department 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 Department, 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. Each CDDP must provide a qualified CDDP manager, services coordinator, eligibility specialist, and abuse investigator specialist for adults with intellectual or developmental disabilities, or have an agreement with another CDDP to provide a qualified eligibility specialist and abuse investigator specialist for adults with intellectual or developmental disabilities.

(a) CDDP MANAGER.

(A) 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 science, social science, 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 with staff supervision; or

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

(B) On an exceptional basis, the CDDP may hire a person who does not meet the qualifications in subsection (A) of this section if the county and the Department have mutually agreed on a training and technical assistance plan that assures that the person quickly acquires all needed skills and experience.

(C) When the position of a 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 (7) of this rule if the person appointed as interim CDDP manager does not meet the qualifications in subsection (A) of this section and the term of the appointment totals more than 180 days.

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

(A) 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

(B) Five years of experience in staff supervision or five years of experience in technical or professional level staff 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:

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

(B) A bachelor’s degree in any field and one year of human services related experience, such as work providing assistance to individuals and groups with issues such as economical disadvantages, employment, abuse and neglect, substance abuse, aging, disabilities, prevention, health, cultural competencies, or housing; or

(C) An associate’s degree in a behavioral science, social science, or a closely related field and two years of human services related experience, such as work providing assistance to individuals and groups with issues such as economical disadvantages, employment, abuse and neglect, substance abuse, aging, disabilities, prevention, health, cultural competencies, or housing; or

(D) Three years of human services related experience, such as work providing assistance to individuals and groups with issues such as economical disadvantages, employment, abuse and neglect, substance abuse, aging, disabilities, prevention, health, cultural competencies, or housing.

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

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

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

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

(D) Three years of human services related experience.

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

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

(B) An associate's degree in human science, social science, behavioral science, or criminal science and four years of human services, law enforcement, or investigative experience.

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

(6) BACKGROUND CHECKS.

(a) Any employee, volunteer, advisor of the CDDP, or any subject individual defined by OAR 407-007-0210, including staff who are not identified in this rule but use public funds intended for the operation of the CDDP, who has or shall have contact with a recipient of CDDP services, must have an approved background check in accordance with OAR 407-007-0200 to 407-007-0370 and 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 407-007-0210, who shall 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 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 407-007-0210 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 the Department's designee within 24 hours.

(b) Subsections (A) and (B) of section (a) do not apply to employees who were hired prior to July 28, 2009 that remain in the current position for which the employee was hired.

(7) VARIANCE. The CDDP must submit a written variance request to the Department prior to employing a person not meeting the minimum qualifications in section (4) of this rule. A variance request may not be requested for sections (5) and (6) 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) 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.

(8) 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 described in OAR 411-320-0090;

(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 individuals 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) 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 intellectual or developmental disabilities enrolled in, or previously eligible and voluntarily terminated from, 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.

(9) 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 Department 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 Department's rules governing the CDDP;

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

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

(v) A review and orientation of Medicaid, SSI, Social Security Administration, home and community-based waiver and state plan services, 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 intellectual or developmental disabilities, individuals with mental illness, older adults, individuals with physical disabilities, and children.

(B) The CDDP manager must attend the following trainings endorsed or sponsored by the Department 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 Department-sponsored training or other training in the areas of intellectual or 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 Department's rules governing the CDDP;

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

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

(v) A review and orientation of Medicaid, SSI, Social Security Administration, home and community-based

waiver and state plan 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 intellectual or developmental disabilities, individuals with mental illness, older adults, individuals with physical disabilities, and children.

(B) The CDDP supervisor must attend the following trainings endorsed or sponsored by the Department 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 Department-sponsored training or other training in the areas of intellectual or 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 Department's rules governing the CDDP;

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

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

(vi) A review and orientation of Medicaid, SSI, Social Security Administration, home and community-based waiver and state plan 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 intellectual or developmental disabilities, individuals with mental illness, older adults, individuals with physical disabilities, and children.

(B) The services coordinator must attend the following trainings endorsed or sponsored by the Department 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 Department-sponsored training or other training in the areas of intellectual or 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 Department's rules governing the CDDP;

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

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

(vi) A review and orientation of Medicaid, SSI, Social Security Administration, home and community-based waiver and state plan 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 intellectual or developmental disabilities, individuals with mental illness, older adults, individuals with physical disabilities, 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 Department 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 Department-sponsored trainings for eligibility on an annual basis.

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

(e) ABUSE INVESTIGATOR SPECIALIST TRAINING. The abuse investigator specialist must participate in core competency training. Training materials are provided by OAAPI. 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 Department's rules governing the CDDP;

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

(iv) A review and orientation of Medicaid, SSI, Social Security Administration, home and community-based waiver and state plan 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 intellectual or developmental disabilities, individuals with mental illness, older adults, individuals with physical disabilities, 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 OAAPI 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 OAPPI. At a minimum, one meeting per year must be attended in person.

(f) ATTENDANCE. The CDDP manager must assure the attendance of the CDDP supervisor (when designated), services coordinator, eligibility specialist, and abuse investigator specialist at Department-mandated training.

(g) DOCUMENTATION. The CDDP must keep documentation of required training in the personnel files of the individual employees including the CDDP manager, CDDP supervisor (when designated),

services coordinator, eligibility specialist, abuse investigator specialist, and other employees providing services to individuals.

(10) 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 the individuals' families.

(c) The advisory committee must advise the LMHA, CDDP director, and CDDP manager on community needs and priorities for services, and assist in planning, reviewing, and evaluating services, functions, duties, and quality assurance activities described in the CDDP's management plan.

(d) When the Department or a private corporation is operating the CDDP, the advisory committee must advise the LMHA, CDDP director, and CDDP manager on community needs and priorities for services, and assist in planning, reviewing, and evaluating services, functions, duties, and quality assurance activities described in the CDDP's management plan.

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

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

(12) 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 Department 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 or the individual's family or legal or designated representative (as applicable).

> (A) The service provider selected must also meet Department 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 Department 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) As a local option, the CDDP may impose a requirement on a public agency or private corporation delivering developmental disability services under a contract with the CDDP 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 is to appear in the contract. The proposed local option must include:

(i) The date upon which the local option is to become effective; and

(ii) A complete written description of how the local option is to improve individual independence, productivity, or integration or 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 Department's 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 is to appear in contracts with service providers, including the proposed date upon which the requirement is to become effective.

(E) The Department 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 Department and contracted through the CDDP. Procedures implementing the dispute resolution policy must be included in the contract with any such service provider.

(13) 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.

(14) 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 and 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, and 430.662 to 430.695

411-320-0040 Program Responsibilities
(Temporary Effective 01/01/2016 to 06/28/2016)

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.), any person may not be denied community developmental disability services on the basis of race, color, creed, gender, 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 the CDDP must also be eligible for other community developmental disability services unless entry to the service is subject to diagnostic or developmental disability category or age restrictions based on predetermined criteria or contract limitations.

(2) COORDINATION OF SERVICES.

(a) 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 providers as appropriate for the needs of the individual.

(b) NON-RESIDENT CHILDREN.

(A) The CDDP must compile and maintain a list of local providers who are qualified to provide home and community-based services in the service area of a child who is not a resident of Oregon and not eligible for developmental disability services. The CDDP must assist a parent in obtaining home and community-based services for the child if:

(i) The parent resides in Oregon;

(ii) The parent has a child who does not reside in Oregon but who visits the parent who resides in Oregon for at least six weeks each year; and

(iii) The child qualifies for home and community-based services in his or her state of residence.

(B) The CDDP must:

(i) Provide the parent with a list of local providers;

(ii) Contact the state Medicaid agency in the state of residence for the child to facilitate payment for the home and community-based services;

(iii) Assist the parent in providing any documentation required by the state of residence for the child; and

(iv) Notify the Department of the request for services.

(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 CDDP and a 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 protective services. Except as allowed under subsection (e) of this section, the case management program must be provided by an entity that is unaffiliated with other direct service providers for individuals. Entities are unaffiliated when neither has an incident of ownership in the other.

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

(B) The CDDP may subcontract for delivery of case management through an unaffiliated organization and directly provide the other services or further subcontract these other direct services through unaffiliated organizations that are not already under contract to provide case management services.

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

(A) The services were authorized by the CDDP prior to December 31, 2015.

(B) The CDDP coordinates the delivery of family support services for children less than 18 years of age living in the family home or comprehensive in-home supports for adults.

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

(D) 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.

(E) The direct services and case management services provided by affiliated entities do not continue beyond June 30, 2016.

(f) If the CDDP intends to perform direct services other than family support services or comprehensive in-home support, a variance must be prior authorized by the Department.

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

(B) If the circumstances described in subsection (e)(C) of this rule exist, the CDDP must propose a plan to the Department for review, including action to assume responsibility for case

management services and the mechanism for addressing potential conflict of interest.

(C) If the CDDP providing case management services delivers other services as allowed under subsection (e)(D) of this section, the CDDP must submit a written variance request to the Department 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 the CDDP providing case management services delivers other services as allowed under subsections (e)(C) and (e)(D) of this section after June 30, 2016, the CDDP must submit a written variance request to the Department for prior approval that describes how conflict of roles are to be managed within the CDDP.

(h) If the CDDP also operates a Brokerage, the CDDP must submit a written variance request to the Department for prior approval that includes the mechanism for addressing potential conflict of interest.

(4) FAMILY SUPPORT SERVICES. 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.

(a) The CDDP must assure that abuse investigations for adults with intellectual or 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, the CDDP must report to law enforcement.

(b) The CDDP must report any suspected or observed abuse of a child directly to the Department or local law enforcement.

(6) FOSTER HOMES. The CDDP must recruit applicants to operate foster homes 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 for a foster home;

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

(c) General information about the foster home;

(d) Documentation of references, classification information, credit check (if necessary), background check, and training for providers and substitute caregivers;

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

(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 for the foster home.

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

(a) Services are provided as specified in the contract between the CDDP and the Department; and

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

(8) INFORMATION AND REFERRAL. The CDDP must provide information and referral services to individuals, families of individuals, 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) SERVICE DELIVERY COMPLAINTS. The CDDP must implement procedures to address individual or family complaints regarding service delivery that have not been resolved using the complaint procedures (informal or formal) of the CDDP subcontractor. The complaint procedures must be consistent with the requirements in OAR 411-318-0015.

(11) COMPREHENSIVE IN-HOME SUPPORTS. The CDDP must ensure the availability of comprehensive in-home supports in accordance with OAR chapter 411, division 330.

(12) 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 Department offices, 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, 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-695

411-320-0045 Quality Assurance Responsibilities
(Amended 12/28/2013)

(1) Each CDDP must draft a local CDDP management plan as described in OAR 411-320-0030 that supports the Department's Quality Management Strategy for meeting CMS' six waiver quality assurances, as required and defined by 42 CFR 441.301 and 441.302. CMS' six waiver assurances are:

(a) Administrative authority;

(b) Level of care;

(c) Qualified service providers;

(d) Service plans;

(e) Health and welfare; and

(f) Financial accountability.

(2) Each CDDP must implement, maintain, and monitor minimum quality assurance activities, as required by the Department and set forth in section (3) of this rule. CDDPs may conduct additional quality assurance activities that consider local community needs and priorities for services and the unique organizational structure, policies, and procedures of the CDDP.

(3) The CDDP must conduct, monitor, and report the outcomes and any remediation as a result of the following Department required activities:

(a) Individual case file reviews;

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

(c) Service provider file reviews;

(d) Analysis of SERT (Serious Event Review Team) system data which may include:

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

(B) Identification of trends;

(C) Review of timely reporting of abuse allegations; and

(D) Coordination of delivery of information requested by the Department, such as the Serious Event Review Team (SERT).

Stat. Auth.: ORS 409.050 and 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, and 430.662 to 430.695

411-320-0050 Management of Regional Services
(Amended 12/28/2013)

(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 are to be administered regionally. The regional plan must be updated when needed and submitted to the Department for approval. The regional plan must include:

(a) A description of how services are to be administered;

(b) An organizational chart and staffing plan; and

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

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

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

Stat. Auth.: ORS 409.050 and 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, and 430.662 to 430.695

411-320-0060 Individual Rights
(Temporary Effective 01/01/2016 to 06/28/2016)

(1) The CDDP must have and implement written policies and procedures that protect the individual rights described in OAR 411-318-0010.

(2) Upon entry into case management and upon request and annually thereafter, the individual rights described in OAR 411-318-0010 must be provided to an individual and, as applicable, the legal or designated representative of the individual.

(3) The individual rights described in OAR 411-318-0010 apply to all individuals eligible for or receiving developmental disability services. A parent or guardian may place reasonable limitations on the rights of a child.

Stat. Auth.: ORS 409.050, 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-695

411-320-0070 Service Records
(Amended 12/28/2014)

(1) CONFIDENTIALITY. The service record for an individual must be kept confidential in accordance with ORS 179.505, 192.515, 192.517, 192.553, and any Department 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 CDDPs responsible for the services of the individual, consistent with state statutes and federal laws and regulations concerning confidentiality and privacy.

(3) RECORD REQUIREMENTS. In order to meet Department and federal record documentation requirements, the CDDP, through the employees of

the CDDP, must maintain a service record for each individual who receives services from the CDDP.

(a) Information contained in the service record must include:

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

(B) The 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 the Department or transferred onto CDDP letterhead;

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

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

(E) Documentation of the functional needs assessment defining the support needs for ADL, IADL and other health-related tasks;

(F) Documentation of initial, annual, and requested choice advising;

(G) Documentation of the request for support services and the selection of an available Brokerage within the geographic service area of the CDDP;

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

(I) Progress notes written by a services coordinator as described in section (4) of this rule;

(J) Medical information, as appropriate;

(K) Entry 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;

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

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

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

(O) Documentation of Medicaid eligibility, if applicable;

(P) The initial and annual level of care determination on a form prescribed by the Department;

(i) For individuals receiving CIIS or 24-hour residential services for children, the CDDP must maintain a current copy of the annual level of care determination or reflect documentation of attempts to obtain a current copy.

(ii) Once an individual is enrolled in a Brokerage, the CDDP must maintain a copy of the initial level of care determination form completed by the CDDP and any annual reviews completed by the CDDP; and

(Q) Legal records, such as guardianship papers, civil commitment records, court orders, and probation and parole information (as appropriate).

(b) An information sheet or reasonable alternative must be kept current and reviewed at least annually for each individual receiving

case management services from the CDDP enrolled in comprehensive services, family support services, or living with family or independently. Information must include:

(A) The name of the individual, current address, date of entry into the CDDP, date of birth, gender, 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 name, address, and telephone number of:

(i) For an adult, the legal or designated representative, family, and other significant person of the individual (as applicable), and for a child, the parent or guardian and education surrogate (if applicable);

(ii) The primary care provider and clinic preferred by the individual;

(iii) The dentist preferred by the individual;

(iv) The school, day program, or employer of the individual (if applicable);

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

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

(4) PROGRESS NOTES. Progress notes must include documentation of the delivery of case management services provided to an individual by a services coordinator. Progress notes must be recorded chronologically and documented consistent with CDDP policies and procedures. All late entries must be appropriately documented. At a minimum, progress notes must 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 services were rendered;

(b) The name of the individual receiving service;

(c) The name of the CDDP, the person providing the services (i.e., the signature and title of the services coordinator), 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) For notes pertaining to meetings with or discussions about the individual, the names of other participants, including the titles and agency representation of the participants, if any.

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

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

(b) Individual service records must be kept for seven years after the date of the death of an individual, if known. If the case is closed, inactive, or the date of death 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 service record for an individual 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 service record required by this rule is maintained in permanent record and transferred to the CDDP having jurisdiction for the services for the individual. The sending CDDP must retain the following information to document that services were provided to the individual while enrolled in CDDP services:

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

(b) Service enrollment and termination forms;

(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 Department.

Stat. Auth.: ORS 409.050, 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-695

411-320-0080 Application and Eligibility Determination
(Temporary Effective 01/01/2016 to 06/28/2016)

(1) APPLICATION.

(a) To apply for developmental disability services:

(A) An applicant or the legal representative of the applicant must submit a completed application as defined in OAR 411-320-0020 to the CDDP in the county of origin as defined in OAR 411-320-0020;

(B) The CDDP must receive all documentation required to make an eligibility determination as defined in OAR 411-320-0020. Documentation includes, but is not limited to:

(i) School psychological or comprehensive evaluations since entry into school;

(ii) Medical assessments related to a disability, mental health condition, or physical impairment;

(iii) Psychological evaluations or comprehensive evaluations through private health insurance or other programs;

(iv) Neurological evaluations completed through any entity;

(v) Records from all residential or psychiatric facilities;

(vi) Records completed through application process for other governmental benefits; and

(vii) Administrative medical examinations and reports, as defined in OAR 410-120-0000, determined necessary and authorized by the eligibility specialist.

(C) The applicant or the legal representative of the applicant must provide documentation of U.S. citizenship as defined in OAR 411-320-0020; and

(D) The applicant must reside in Oregon or if the applicant is less than 18 years of age, the applicant and the legal representative of the applicant must reside in Oregon.

(b) The CDDP may stop the intake process if the documents listed in subsection (a)(B) of this section are not submitted within 90 days of the date that the CDDP received the signed and dated Intake Form (SDS 0552). If the CDDP stops the intake process, written notice of the information needed to determine eligibility or a withdrawal letter must be sent to the person identified on the Intake Form (SDS 0552)

as the person seeking services and the legal representative of the person seeking services.

(c) The CDDP must consider an application if the criteria in subsection (a) of this section are met. If the criteria in subsection (a) of this section are not met, the CDDP shall deny the application by sending a Notification of Planned Action (SDS 0947).

(d) Upon receipt of a completed application, the CDDP must provide an applicant the Department required Notification of Rights (form SDS 0948) within 10 business days.

(e) A new application may not be required if the file for an individual has been closed for less than 12 months following a closure, denial, or termination and the individual meets all of the criteria in subsection (a) of this section.

(f) The CDDP must identify whether an applicant receives any income.

> (A) The CDDP must refer all applicants not currently receiving an OHP Plus benefit package to the local Medicaid office for OHP Plus application and benefit determination.
>
> (B) The CDDP must refer an applicant less than 18 years of age to Social Security if the CDDP identifies that the applicant may qualify for Social Security benefits.

(g) REINSTATEMENT OF ELIGIBILITY FOR CHILDREN OF SERVICE MEMBERS.

> (A) WAIVER OF APPLICATION. A previously eligible child of a service member, who temporarily left Oregon due to the military service obligation of the parent outside of Oregon, does not need to submit a new application for developmental disability services upon return. Upon return to Oregon and a request to a CDDP in the county of origin, the CDDP in the county of origin shall assign a services coordinator within 10 days of the request for services.

(B) COORDINATION OF SERVICES. The services coordinator shall assist the individual in establishing eligibility for OSIPM or OHP Plus and meet face-to-face with the child and parent or guardian, within 45 days of the request for services, to provide choice advising and to review the rights of the child to a fair hearing and the service planning steps in OAR 411-320-0120.

(C) REDETERMINATION. The CDDP must follow sections (5) and (6) of this rule regarding a redetermination of eligibility. As with all redeterminations, prior to a termination of developmental disability services, the CDDP must send a notice of redetermination, afford the parent or guardian the opportunity to provide documentation that supports eligibility, and schedule a diagnostic evaluation for the child, if appropriate. Upon the reentry of the child to services, the CDDP in the county of origin shall initiate a redetermination if:

(i) The criteria used to determine eligibility for developmental disabilities services changed during the absence of the child;

(ii) There are new records related to the eligibility criteria for developmental disability services, including medical, psychological, or educational records related to an intellectual or developmental disability; or

(iii) The documents used to establish the original eligibility of the child are more than three-years-old, and medical, psychological, or educational records created during the absence of the child do not support the eligibility of the child for developmental disabilities services.

(2) ELIGIBILITY SPECIALIST. Each CDDP must identify at least one qualified eligibility specialist to act as a designee of the Department for purposes of making an eligibility determination. The eligibility specialist must meet performance qualifications and training expectations for determining developmental disability eligibility according to OAR 411-320-0030.

(3) INTELLECTUAL DISABILITY. A history of an intellectual disability as defined in OAR 411-320-0020 and significant impairment in adaptive behavior as described in OAR 411-320-0020 must be evident prior to the 18th birthday of an individual for the individual to be eligible for developmental disability services.

(a) Diagnosing an intellectual disability is done by measuring intellectual functioning and adaptive behavior as assessed by standardized tests administered by a licensed clinical or school psychologist with specific training and experience in test interpretation of intellectual functioning and adaptive behavior scales for individuals with intellectual disabilities.

(A) For individuals who have consistent and valid Full Scale IQ results of 65 and less, no assessment of adaptive behavior may be needed if current documentation supports eligibility.

(B) For individuals who have a valid Full Scale IQ or equivalent composite score results of 66-75, verification of an intellectual disability requires an assessment of adaptive behavior.

(C) A General Ability Index result must be used in place of a Full Scale IQ score to determine eligibility if a licensed clinical or school psychologist determines that the General Ability Index is a more valid measure of overall intelligence when compared to the Full Scale IQ score.

(D) A Specific Index IQ result must be used in place of a Full Scale IQ score to determine eligibility if a licensed clinical or school psychologist determines that the Specific Index IQ is a more valid measure of overall intelligence when compared to the Full Scale IQ score.

(E) If an individual is not able to participate in an intelligence test due to intellectual disability, a statement of intellectual disability must be documented by a qualified professional and an adaptive behavior assessment demonstrating a composite score of at least two standard deviations below the mean must be completed.

(b) Impairment of adaptive behavior must be directly related to an intellectual disability and cannot be primarily attributed to other conditions, including but not limited to a mental or emotional disorder, sensory impairment, motor impairment, substance abuse, personality disorder, learning disability, or ADHD.

(c) The condition and impairment must continue, or be expected to continue, indefinitely.

(4) OTHER DEVELOPMENTAL DISABILITY. A history of an other developmental disability as defined in OAR 411-320-0020 and significant impairment in adaptive behavior as described in OAR 411-320-0020 must be evident prior to the 22nd birthday of an individual for the individual to be eligible for developmental disability services.

(a) Diagnosing an other developmental disability requires a medical or clinical diagnosis of a developmental disability by a qualified professional and significant impairment in adaptive behavior as assessed by standardized tests administered by a licensed clinical or school psychologist, or a doctor of medicine or doctor of osteopathic medicine with specific training and experience in test interpretation of adaptive behavior scales. The individual must meet the full criteria for the diagnosis of the developmental disability. Individuals with a "provisional", "partial", and "rule-out" diagnosis do not meet the full criteria.

(A) Other developmental disabilities include autism, cerebral palsy, epilepsy, or other neurological disabling conditions that originate in and directly affect the brain.

(B) The individual must require training and support similar to that required by an individual with an intellectual disability, which means the individual has a composite or domain score that is at least two standard deviations below the mean, as measured on a standardized assessment of adaptive behavior administered by a licensed clinical or school psychologist, or a doctor of medicine or doctor of osteopathic medicine with specific training and experience in test interpretation of adaptive behavior scales.

(b) Significant impairment of adaptive behavior must be directly related to an other developmental disability and cannot be primarily attributed to other conditions including, but not limited to, a mental or emotional disorder, sensory impairment, motor impairment, substance abuse, personality disorder, learning disability, or ADHD.

(c) The condition and impairment must continue, or be expected to continue, indefinitely.

(5) ELIGIBILITY FOR CHILDREN LESS THAN SEVEN YEARS OF AGE.

(a) Eligibility determinations for children less than seven years of age must be based on documentation that is no more than one year old.

(A) The documentation must include:

(i) A valid standardized-and-normed early-childhood assessment, completed by a professional with at least a master's degree and training to administer early childhood assessments, which demonstrates the functioning of the child is at least two standard deviations below the mean in two or more areas of the adaptive behavior described in paragraph (B) of this subsection; or

(ii) When a standardized-and-normed early-childhood assessment is not available or not completed within one year of the date the CDDP receives the intake form, a medical statement by a licensed medical practitioner that confirms the presence of an other developmental disability that: is a neurological condition or syndrome; originates in and directly affects the brain; and causes or is likely to cause impairment in at least two or more areas of the adaptive behavior described in paragraph (B) of this subsection.

(B) Areas of adaptive behavior include:

(i) Adaptive, self-care, or self-direction;

(ii) Receptive and expressive language or communication;

(iii) Learning or cognition;

(iv) Gross and fine motor; or

(v) Social.

(C) The impairment, condition, or syndrome cannot be primarily attributed to other conditions including, but not limited to, a mental or emotional disorder, sensory impairment, motor impairment, substance abuse, personality disorder, learning disability, or ADHD.

(D) The condition and impairment must continue, or be expected to continue, indefinitely.

(b) REDETERMINATION OF ELIGIBILITY.

(A) Eligibility for children less than seven years of age is always provisional.

(i) Redetermination for school aged eligibility for a child who was originally determined eligible as a child less than seven years of age using a standardized and normed early childhood assessment as described in subsection (b)(A)(i) of this section must be completed no later than the child's ninth year birthdate.

(ii) Redetermination for school aged eligibility for a child who was originally determined eligible as a child less than seven years of age using a medical statement by a licensed medical practitioner as described in subsection (b)(A)(ii) of this section must be completed no later than the child's seventh year birthdate.

(B) Any time there is evidence that contradicts an eligibility determination, the Department or the designee of the Department may redetermine eligibility or obtain additional information, including securing an additional evaluation for clarification purposes.

(C) The CDDP must notify a child and the legal representative of the child any time that a redetermination of eligibility is needed. Notification of the redetermination and the reason for the review of eligibility must be in writing and sent prior to the eligibility redetermination.

(6) ELIGIBILITY FOR SCHOOL AGED CHILDREN. Eligibility for school aged children as defined in OAR 411-320-0020 is always provisional.

(a) Eligibility determinations for school aged children must be completed on children who are at least five years of age and who have had school aged testing completed.

(b) Eligibility determinations for school aged children may be completed:

(A) Up to age 18 for school aged children who are provisionally eligible based on a condition of an intellectual disability; and

(B) Up to age 22 for school aged children who are provisionally eligible based on a condition of an other developmental disability.

(c) Eligibility determinations for school aged children must include:

(A) Documentation of an intellectual disability and significant impairment in adaptive behavior as described in section (3) of this rule; or

(B) A diagnosis and documentation of an other developmental disability and significant impairment in adaptive behavior as described in section (4) of this rule.

(d) Eligibility determinations for school aged children must be based on documentation that is no more than three years old.

(e) REDETERMINATION OF ELIGIBILITY.

(A) Any time there is evidence that contradicts an eligibility determination, the Department or the designee of the Department may redetermine eligibility or obtain additional information, including securing an additional evaluation for clarification purposes.

(B) The CDDP must notify a school aged child and the legal representative of the child any time that a redetermination of eligibility is needed. Notification of the redetermination and the reason for the review of eligibility must be in writing and sent prior to the eligibility redetermination.

(f) REDETERMINATION OF SCHOOL AGED CHILDREN FOR ADULT ELIGIBLITY.

(A) Redetermination of school aged children for adult eligibility must be completed:

(i) Between the ages of 16 and 18 if school aged eligibility was determined based on an intellectual disability as described in section (3) of this rule; or

(ii) Between the ages of 20 and 22 if school aged eligibility was determined based on an other developmental disability as described in section (4) of this rule.

(B) The documentation of an intellectual disability or an other developmental disability must include for individuals less than 22 years of age, information no more than three years old.

(C) If school aged eligibility was determined based on an intellectual disability as described in section (3) of this rule, an intellectual functioning assessment may be used to determine adult eligibility. An adult intellectual functioning assessment completed within the last three years is not needed if the school aged child has:

(i) More than one completed intellectual functioning assessment and all full scale IQ scores are 65 or less as described in section (3)(a)(A) of this rule;

(ii) Impairment in adaptive behavior as identified in section (3) of this rule; and

(iii) Current documentation that supports eligibility.

(D) If school aged eligibility was determined based on an other developmental disability as described in section (4) of this rule, the following criteria must be met:

(i) A current medical or clinical diagnosis of an other developmental disability is required unless all of the following are met:

(I) Documentation of an other developmental disability by a qualified professional as described in section (4) of this rule;

(II) Impairment in adaptive behavior that continues to be directly related to the other developmental disability;

(III) Current documentation that continues to support eligibility; and

(IV) No other medical or mental or emotional disorder.

(ii) If an individual has additional medical or mental or emotional disorders a new assessment may be required.

(iii) An informal adaptive behavior assessment as defined in OAR 411-320-0020 may be completed if all of the following apply:

(I) An assessment of adaptive behavior is required in order to redetermine eligibility;

(II) An assessment of adaptive behavior has already been completed by a licensed school or clinical psychologist; and

(III) The school aged child has obvious significant impairment in adaptive behavior.

(7) ELIGIBILITY FOR ADULTS.

(a) Eligibility for adults must include:

(A) Documentation of an intellectual disability and significant impairment in adaptive behavior as described in section (3) of this rule; or

(B) Documentation of an other developmental disability and significant impairment in adaptive behavior as described in section (4) of this rule.

(b) Documentation for an adult eligibility determination must include:

(A) Information no more than three years old for individuals less than 22 years of age; or

(B) Information obtained after the 17th birthday of an individual for individuals 22 years of age and older.

(c) INTELLECTUAL FUNCTIONING ASSESSMENT.

(A) An intellectual functioning assessment completed on or after the age of 16 may be used to determine adult eligibility.

(B) An adult Intellectual Functioning Assessment may not be needed if an individual has:

(i) More than one completed intellectual functioning assessment and all full scale IQ scores are 65 or less as described in section (3)(a)(A) of this rule; and

(ii) Significant impairment in adaptive behavior as identified in section (3) of this rule.

(C) An adult intellectual functioning assessment may not be needed if an individual has a diagnosis and documentation of an other developmental disability as described in section (4) of this rule.

(d) REDETERMINATION OF ELIGIBILITY.

(A) Any time there is evidence that contradicts an eligibility determination, the Department or the designee of the Department may redetermine eligibility or obtain additional information, including securing an additional evaluation for clarification purposes.

(B) The CDDP must notify an individual and if applicable the legal representative of the individual any time that a redetermination of eligibility is needed. Notification of the redetermination and the reason for the review of eligibility must be in writing and sent prior to the eligibility redetermination.

(C) In the event the eligibility of an adult requires a redetermination, the redetermination must be completed as described in subsections (a), (b), and (c) of this section.

(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 functioning of the individual may be impacted by the identified condition must be obtained in order to determine if the significant impairment in adaptive behavior is directly related to a developmental disability and not primarily related to a head trauma, significant mental or emotional disorder, or substance abuse.

(9) SECURING EVALUATIONS. In the event that an eligibility specialist has exhausted all local resources to secure the necessary evaluations for an eligibility determination, the Department or the designee of the Department shall assist in obtaining additional testing if required to complete the eligibility determination.

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

(a) The CDDP must work in collaboration with the individual or the legal representative of the individual to gather historical records related to the intellectual or developmental disability of an individual during intake in order to complete an application for services.

(b) During intake, the CDDP must gather enough information and documentation in order to accept a completed application for developmental disability services within 90 days of the date of intake, except in the following circumstances:

(A) The CDDP is unable to obtain a complete application because the individual or the legal representative of the individual does not collaborate with the Eligibility Specialist or fails to execute an action necessary to obtain a completed application;

(B) There is an emergency beyond the control of the CDDP; or

(C) More time is needed to obtain additional records by the CDDP, the individual, or the legal representative of the individual.

(c) Upon receipt of the completed application, as defined in OAR 411-320-0020, the CDDP must make an eligibility determination unless

the following applies and is documented in the progress notes for an individual:

(A) The individual or the legal representative of the individual voluntarily withdraws the application for the individual;

(B) The individual dies; or

(C) The individual cannot be located.

(d) The CDDP may not use the time frames established in subsection (b) of this section as:

(A) A waiting period before determining eligibility; or

(B) A reason for denying eligibility.

(11) NOTICE OF ELIGIBILITY DETERMINATION. The CDDP, within 10 days from the receipt of a completed application, must send or hand deliver a written notification (notice) of the eligibility determination. The notice must be on the following forms prescribed by the Department:

(a) The Notice of Eligibility Determination (form SDS 5103); or

(b) The Notification of Planned Action (form SDS 0947).

(12) REQUESTING A HEARING. An individual or the legal representative of an individual may request a hearing as described in OAR 411-318-0025 if the individual or the legal representative of the individual disagrees with the eligibility determination or redetermination made by the CDDP.

(13) 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.

(a) The receiving CDDP must notify the individual and if applicable the legal representative of the individual on forms prescribed by the Department that a transfer of services to a new CDDP has taken place within 10 days of the enrollment date identified on the Developmental Disability Enrollment Form (SDS 0337).

(b) The receiving CDDP must continue services for the individual as soon as it is determined that the individual is residing in the county of the receiving CDDP.

(c) The receiving CDDP must ensure verification of the eligibility of the individual for developmental disability services in the form of the following:

(A) Statement of an eligibility determination;

(B) Notification of eligibility determination; and

(C) Evaluations and assessments supporting eligibility.

(d) In the event that the items in subsection (c) of this section cannot be located, written documentation from the sending CDDP verifying eligibility and enrollment in developmental disability services may be used. Written verification may include documentation from the electronic payment system of the Department.

(e) If the receiving CDDP receives information that suggests the individual is not eligible for developmental disability services, the receiving CDDP may complete a redetermination. 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.

(f) If an individual submits an application for developmental disability services and discloses that he or she has previously received developmental disability services in another CDDP and the termination of case management services as described in OAR 411-320-0100(3) occurred within the past 12 months, the eligibility determination from the other CDDP shall transfer as outlined in this section of the rule.

Stat. Auth.: ORS 409.050, 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-695

411-320-0090 Case Management Program Responsibilities
(Temporary Effective 01/01/2016 to 06/28/2016)

(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 the service record for an individual and the CDDP must accurately report enrollment in the Department 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 the ongoing involvement of individuals and their requested family member or other representative 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 families of individuals;

(C) Legal or designated representatives (as applicable) and providers of individuals; and

(D) The Department.

(3) NOTICE OF SERVICES. The CDDP must inform the individuals, and as applicable the family members and legal or designated representatives of the individuals, 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 as described in OAR 411-320-0080 by an eligibility specialist trained in accordance with OAR 411-320-0030.

(b) A services coordinator must maintain documentation of the referral process of an individual to a provider and if applicable, include the reason the provider preferred by the individual declined to deliver services to the individual.

(c) The CDDP must apply the principles of self-determination to provision of case management services.

(d) An Annual Plan for an individual receiving case management services through the CDDP must be developed and reviewed in accordance with OAR 411-320-0120.

(e) After September 1, 2018, the CDDP must only authorize services delivered in a home and community-based setting that meets the qualities described in OAR 411-004-0020 and non-residential employment service and day service settings that are consistent with OAR 411-004-0020(1), as implemented in OAR chapter 411, division 345. The services and settings must be authorized as described in OAR 411-320-0120.

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

(g) If an individual loses OSIPM or OHP Plus eligibility and the individual is receiving case management services through the CDDP, a services coordinator must assist the individual in identifying why OSIPM or OHP Plus eligibility was lost and whenever possible, assist the individual in reestablishing eligibility for OSIPM or OHP Plus. The services coordinator must document efforts taken to assist the individual in reestablishing OSIPM or OHP Plus eligibility in the service record for the individual.

(h) Entry, exit, reductions in benefits or services, and transfers from comprehensive services must be in accordance with OAR 411-320-0110.

(i) Crisis diversion services for an individual receiving case management services through a CDDP must be assessed, identified, planned, monitored, and evaluated by a services coordinator in accordance with OAR 411-320-0160.

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

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

(l) CHOICE ADVISING.

(A) Through choice advising, the CDDP must describe case management and other service delivery options within the geographic service area provided to all individuals receiving case management from the CDDP.

(B) Beginning no later than July 1, 2016, in accordance with the rules for home and community-based services and settings in OAR chapter 411, division 004, an individual, or as applicable the legal or designated representative of the individual, must be advised regarding the available residential and non-residential settings, including non-disability specific settings and an option for a private unit in a residential setting. The settings options must be:

(i) Identified and documented in the ISP as described in OAR 411-320-0120;

(ii) Based on the needs and preferences of the individual;

(iii) For residential settings, the available resources of the individual for room and board; and

(iv) For employment and non-residential day services, a non-disability specific setting option must be presented and documented in the ISP.

(C) Choice advising must occur at least six months before the18th birthday of a child.

(D) An individual newly determined eligible for developmental disability services must receive choice advising prior to or concurrent with the initial level of care determination.

(E) An individual moving into a county with an existing eligibility determination who is not enrolled in support services must receive choice advising within 10 days of the move or of the CDDP learning of the move.

(F) Choice advising must be provided initially and at least annually thereafter. Annual choice advising must include informing the individual of the right to request access to other available services. Documentation of the discussion must be included in the service record for the individual.

(G) If an individual is not eligible for Community First Choice state plan or waiver services, initial choice advising must inform the individual of the right to access case management from the CDDP or a Brokerage.

(m) A services coordinator must coordinate services with the child welfare (CW) caseworker assigned to a child to ensure the provision of required supports from the Department, CDDP, and CW.

(n) A services coordinator may attend IEP planning meetings or other transition planning meetings for a child when the services coordinator is invited to participate by the family or guardian of the child.

(A) The services coordinator may, to the extent resources are available, assist the family of the child in accessing critical non-

educational services that the child or the family of the child may need.

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

(C) The services coordinator must participate in transition planning by attending IEP meetings or other transition planning meetings for students 16 years of age or older, or until the student is no longer enrolled in CDDP case management, to discuss the transition of the individual to adult living and work situations unless the attendance of the services coordinator is refused by the parent or guardian of the child or the individual if the individual is 18 years or older.

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

(A) The Department completes the enrollment or termination form for children entering or leaving a licensed 24-hour residential setting that is directly contracted with the Department.

(B) The Department completes the Department payment and reporting systems enrollment, termination, and billing forms for children entering or leaving CIIS.

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

(p) When appropriate, a services coordinator must facilitate referrals to nursing facilities as described in OAR 411-070-0043.

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

(r) A services coordinator must ensure that all serious events related to an individual are reported to the Department using the SERT system. The CDDP must ensure that there is monitoring and follow-up on both individual events and system trends.

(s) When a services coordinator completes a level of care determination, the services coordinator must ensure that OHP Plus and OSIPM eligible individuals are:

(A) Offered and advised of all services available for which they are eligible including, but not limited to, the choice of institutional or community based care, home and community-based waiver and Community First Choice state plan services;

(B) Provided a Notification of Rights (form SDS 0948); and

(C) Have a completed level of care determination that is reviewed annually or at any time there is a significant change in factors that contribute to the level of care assessment.

(t) A services coordinator must participate in the appointment of the health care representative of an individual as described in OAR chapter 411, division 365.

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

(v) The CDDP must ensure that a services coordinator is available to provide or arrange for comprehensive in-home supports for adults as described in OAR chapter 411, division 330, in-home supports for children as described in OAR chapter 411, division 308, or family supports as described in OAR chapter 411, division 305 as required to meet the support needs of eligible individuals. This includes:

(A) Providing assistance in planning supports;

(B) Providing assistance in finding and arranging resources and supports;

(C) Providing education and technical assistance to make informed decisions about support needs and 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 CDDP is not able to reasonably anticipate the need for the variance, the CDDP has 15 business days to submit the variance request to the Department. 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 continues to be addressed and monitored.

(6) FAMILY RECONNECTION. The CDDP and a services coordinator must provide assistance to the Department 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 an individual who is currently receiving developmental disability services.

(a) If a family member contacts the CDDP for assistance in locating an individual, the CDDP must refer the family member to the Department. A family member may contact the Department directly.

(b) The Department shall send the family member a Department 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) The Department shall determine:

(A) If the individual was previously a resident of Fairview Training Center or Eastern Oregon Training Center;

(B) If the individual is deceased or living;

(C) Whether the individual is currently or previously enrolled in Department services; and

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

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

(e) If the individual is enrolled in Department services, the Department shall send the completed family information form to the individual and the services coordinator.

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

(A) If the personal representative and the requesting family member are the same, the Department shall inform the personal representative that the individual is deceased.

(B) If the personal representative is different from the requesting family member, the Department shall contact the personal representative for permission before sharing information about the individual with the requesting family member. The Department must make a good faith effort to find the personal representative and obtain 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 personal agent when the individual is enrolled in a Brokerage, must facilitate a meeting with the individual to discuss and determine if the individual wishes to have contact with the family member.

(A) The services coordinator or the CDDP in conjunction with the personal agent, as applicable, must assist the individual 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 may support contact or present a risk to the individual.

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

(h) If the individual 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 does not wish to have contact, the services coordinator or the CDDP in conjunction with the personal agent (as applicable) must notify the Department. The Department 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 must be within 60 business days from the receipt of the information form from the family member.

(k) The decision by the individual is not appealable.

Stat. Auth.: ORS 409.050, 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-695

411-320-0100 Coordination of Services
(Amended 12/28/2014)

(1) DESIGNATION OF A SERVICES COORDINATOR OR PERSONAL AGENT.

(a) When an individual chooses case management services through a personal agent, the CDDP must send referral information to the appropriate Brokerage within 10 days following the decision of the individual unless a later date is mutually agreed upon by the individual, the Brokerage, and the CDDP. If there is no available Brokerage capacity, the individual may receive case management through the CDDP and receive other available chosen supports until Brokerage capacity becomes available.

(b) When an individual chooses case management services through a services coordinator, the CDDP must designate a services coordinator within five days following the decision of the individual.

(c) When an individual is enrolled in a Brokerage and moves from one CDDP geographic service area to another CDDP geographic service area, the new CDDP must enroll the individual in the Department payment and reporting systems.

(2) CHANGE OF CASE MANAGEMENT PROVIDER.

(a) The CDDP must keep the change of services coordinators to a minimum unless the individual requests the change of services coordinators. If the CDDP changes the assignment of a services

coordinator, the CDDP must notify the individual, the legal or designated representative of the individual (as applicable), and all current providers within 10 business days of the change. The notification must be in writing and include the name, telephone number, and address of the new services coordinator.

(b) The individual receiving services may request a new services coordinator within the same CDDP or request case management services from a Brokerage.

(A) The CDDP must develop standards and procedures that support timely response to requests for a change of a services coordinator or when referring case management services to a Brokerage.

(B) If another services coordinator is assigned by the CDDP as the result of a request by the individual, the CDDP must notify the individual, the legal or designated representative of the individual (as applicable), and all current providers within 10 business 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 an 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. A CDDP must terminate case management services when any of the following occur:

(A) An individual or the legal representative of an individual delivers a signed written request that case management services be terminated or such a request is made by telephone and documented in the service record for the individual. An individual may refuse contact by a services coordinator as well as the involvement of the services coordinator at an ISP meeting, unless the services are mandatory as described in section (5) of this rule.

(B) The individual dies.

(C) The individual is determined to be ineligible for developmental disability services 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 setting, 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 or other means as appropriate to the individual.

(F) An individual is unavailable to participate in planning for a return to community living due to incarceration.

(b) If an individual is being terminated from services for any reason listed in subsection (a) of this section, except in the case of the death of the individual, the CDDP must issue a Notification of Planned Action consistent with OAR 411-318-0020 to notify the individual of the intent of the CDDP to terminate services.

(4) TERMINATION FROM DEPARTMENT PAYMENT AND REPORTING SYSTEMS.

(a) The CDDP must terminate an individual in the Department payment and reporting systems when:

(A) The individual or the legal representative of the individual delivers a signed written request to the Brokerage requesting support services be terminated. An individual who declines support services but wishes to continue receiving developmental disability services through the CDDP is

terminated from the Brokerage but is not terminated from developmental disability services;

(B) The individual dies;

(C) The individual is determined to be ineligible for developmental disability services 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 Brokerage that an individual cannot be located after repeated attempts by letter and telephone.

(b) The CDDP retains responsibility for maintaining enrollment in the Department payment and reporting systems for individuals enrolled in support services until the responsibility is terminated as described in this section of this rule.

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

(a) Case management provided by a services coordinator or personal agent;

(b) Abuse investigations;

(c) The presence of a services coordinator (when applicable) at Department-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 supports;

(d) Monitoring of provider programs (when applicable) in accordance with OAR 411-320-0130; and

(e) Services coordinator access to the service record.

Stat. Auth.: ORS 409.050, 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-695

411-320-0110 Entry and Exit Requirements
(Temporary Effective 01/01/2016 to 06/28/2016)

(1) ENTRY TO A DEPARTMENT-FUNDED DEVELOPMENTAL DISABILITY PROGRAM.

(a) The Department authorizes entry for children into residential programs, CIIS, and the Stabilization and Crisis Unit. A services coordinator must make referrals for entry and participate in all entry meetings for children in residential programs, CIIS, and the Stabilization and Crisis Unit.

(b) Entry to all other Department-funded programs for individuals must be coordinated and authorized by a services coordinator in accordance with these rules.

(2) HOME AND COMMUNITY-BASED SETTING OPTIONS.

(a) In accordance with ORS 427.121, a services coordinator must present at least three appropriate licensed or certified residential placement setting options, including at least two different types of licensed or certified residential settings, to an adult individual eligible to receive services in a licensed or certified residential setting prior to the initial placement of the adult individual into a licensed or certified residential setting. The services coordinator is not required to present the licensed or certified residential placement setting options if:

(A) The services coordinator demonstrates that three appropriate licensed or certified residential placement settings or two different types of licensed or certified residential placement settings are not available within the geographic area where the adult individual wishes to reside;

(B) The adult individual selects a licensed or certified residential placement setting option and waives the right to be presented with other licensed or certified residential placement setting options; or

(C) The adult individual is at imminent risk to health or safety in the current licensed or certified residential placement setting.

(b) Beginning no later than July 1, 2016, in accordance with the rules for home and community-based services and settings in OAR chapter 411, division 004, the residential or non-residential setting must be selected by an individual, or as applicable the legal or designated representative of the individual, from among available residential and non-residential setting options, including non-disability specific settings and an option for a private unit in a residential setting. The settings options must be:

(A) Identified and documented in the ISP as described in OAR 411-320-0120;

(B) Based on the needs and preferences of the individual;

(C) For residential settings, the available resources of the individual for room and board; and

(D) For employment and non-residential day services, a non-disability specific setting option must be presented and documented in the ISP.

(c) Documentation of the options made available to the individual must become part of the service record.

(3) WRITTEN INFORMATION REQUIRED. Prior to the entry of an individual into comprehensive services, a services coordinator, or the designee of the services coordinator, must provide available and sufficient written information necessary to meet the support needs of an individual to the provider for the individual.

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

(A) A copy of the eligibility determination document;

(B) A statement indicating safety skills, including the ability of the individual to evacuate from a building when warned by a signal device and 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 (when available):

(i) The results of the most recent physical exam;

(ii) The 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) A copy of the most recent needs assessment. If the needs of an individual have changed over time, the previous needs assessments must also be provided;

(G) Copies of protocols, the risk tracking record, and any support documentation (if applicable);

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

(I) Written documentation of any individually-based limitations described in OAR 411-004-0040. Individually-based limitations must be documented no later than July 1, 2017;

(J) Written documentation that the individual is participating in out-of-residence activities, including public school enrollment for individuals less than 21 years of age; and

(K) A copy of the most recent Behavior Support Plan and assessment, ISP, Nursing Service Plan, IEP, and mental health treatment plan (if applicable).

(b) If the individual is being admitted from the family home and the information required in subsection (a) of this section is not available, the services coordinator must ensure that the provider assesses the individual upon entry for issues of immediate health or safety.

(A) The services coordinator must document a plan to secure the information listed in subsection (a) of this section no later than 30 days after entry.

(B) The plan must include a written justification as to why the information is not available and a copy must be given to the provider at the time of entry.

(c) If the individual is being admitted from comprehensive services, the information listed in subsection (a) of this section must be made available prior to entry.

(d) If an individual is admitted to a program for crisis diversion services for a period not to exceed 30 days, subsection (a) of this section does not apply.

(4) ENTRY MEETING. Prior to entry of an individual into a Department-funded comprehensive service, the ISP team must meet to review referral material in order to determine appropriateness of placement. The members of the ISP team are determined according to OAR 411-320-0120. Findings of the entry meeting must be recorded in the service record for the individual and distributed to the ISP team members. The findings 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;

(c) The date determined to be the date of entry;

(d) Documentation of the participants included in the entry meeting;

(e) Documentation of the pre-entry information required by section (3)(a) of this rule;

(f) Documentation of the decision to serve the individual requesting services; and

(g) A written Transition Plan completed by the services coordinator that is in effect for no longer than 60 days that includes all medical, behavior, and safety supports needed by the individual.

(5) TRANSFER OR EXIT FROM DEPARTMENT-FUNDED PROGRAMS.

(a) The CDDP must authorize all transfers or exits from Department-funded developmental disability services.

(b) The Department authorizes all transfers or exits from services directly contracted with the Department for 24-hour residential settings for children, CIIS, and the Stabilization and Crisis Unit.

(c) An individual considering a transfer any time after July 1, 2016, must be advised regarding the available residential and non-residential setting options described in section (2) of this rule.

(d) Prior to the transfer or exit date of an individual, the ISP team must meet to review the transfer or exit and to plan and coordinate any services necessary during or following the transfer or exit. The members of the ISP team are determined according to OAR 411-320-0120.

(6) EXIT MEETING. A meeting of the ISP team must precede any decision to exit an individual. Findings of the exit meeting must be recorded in the service record for the individual and include, at a minimum:

(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 the exit of the individual from services, unless the individual is requesting the exit;

(f) Documentation of the decision regarding the exit of the individual, including verification of the voluntary decision to exit or a copy of the Notice of Involuntary, Reduction, Transfer, or Exit; and

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

(7) TRANSFER MEETING. A meeting of the ISP team must precede any decision to transfer an individual. Findings of the transfer meeting must be recorded in the service record for the individual 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, or as applicable the legal or designated representative or family members of the individual, may not be honored;

(g) Documentation of the decision regarding the transfer, including verification of the voluntary decision to transfer or a copy of the Notice of Involuntary Reduction, Transfer, or Exit; and

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

(8) ENTRY TO SUPPORT SERVICES.

(a) Referrals of eligible individuals to a Brokerage must be made in accordance with OAR 411-340-0110. Referrals must be made in accordance with Department guidelines and the Department-mandated application and referral form must be used.

(b) The CDDP of the county of origin may find an individual eligible for services from a 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;

(C) At the time of initial entry to the Brokerage, the individual is not enrolled in comprehensive services;

(D) At the time of initial entry to the Brokerage, the individual is not receiving crisis diversion services from the Department because the individual does not meet one or more of the crisis risk factors listed in OAR 411-320-0160; and

(E) The individual or the legal representative of the individual has chosen to use a Brokerage for assistance with design and management of personal supports.

(c) An eligible individual must be entered into a Brokerage within 10 days of requesting support services and selecting an available Brokerage within the geographic service area of the CDDP, unless a

later date is mutually agreed upon by the individual, the Brokerage, and the CDDP.

(d) The services coordinator must communicate with the Brokerage staff and provide all relevant information upon request and as needed to assist Brokerage staff in developing an ISP that best meets the support needs of the individual including:

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

(B) A completed level of care determination, if present;

(C) A copy of a current functional needs assessment, if present;

(D) A copy of the eligibility determination;

(E) Copies of financial eligibility information;

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

(G) Copies of relevant progress notes; and

(H) A copy of any current plans.

Stat. Auth.: ORS 409.050, 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-695

411-320-0120 Service Planning
(Temporary Effective 01/01/2016 to 06/28/2016)

(1) PRINCIPLES FOR SERVICE PLANNING. This rule prescribes standards for the development and implementation of an ISP or Annual Plan. An ISP or Annual Plan must:

(a) Be developed in a manner consistent with the principles of self-determination;

(b) Be developed using a person-centered planning process as defined in OAR 411-317-0000. The person-centered planning process:

(A) Is driven by the individual;

(B) Includes people chosen by the individual;

(C) Provides necessary information and supports to ensure the individual directs the process to the maximum extent possible and is enabled to make informed choices and decisions;

(D) Is timely, responsive to changing needs, occurs at times and locations convenient to the individual, and is reviewed at least annually;

(E) Reflects the cultural considerations of the individual;

(F) Uses language, format, and presentation methods appropriate for effective communication according to the needs and abilities of the individual and, as applicable, the legal or designated representative of the individual;

(G) Includes strategies for resolving disagreement within the process, including clear conflict of interest guidelines for all planning participants, such as;

(i) Discussing the concerns of the individual and determining acceptable solutions;

(ii) Supporting the individual in arranging and conducting a person-centered service planning meeting;

(iii) Utilizing any available community conflict resolution resources; or

(iv) Referring concerns to the Office of the Long-Term Care Ombudsman.

(H) Offers choices to the individual regarding the services and supports the individual receives, and from whom, and records the alternative home and community-based settings that were considered by the individual;

(I) Provides a method for the individual, or as applicable the legal or designated representative, to request updates to the ISP, as needed;

(J) Is conducted to reflect what is important to the individual to ensure delivery of services in a manner reflecting personal preferences and ensuring health and welfare;

(K) Identifies the strengths and preferences, service and support needs, goals, and desired outcomes of the individual;

(L) May include, whether and what services are self-directed;

(M) Includes, but is not limited to, individually identified goals and preferences related to relationships, community participation, employment, income and savings, healthcare and wellness, and education;

(N) Includes risk factors and plans to minimize any identified risk factors; and

(O) Results in an ISP.

(c) Enhance the quality of life of the individual with intellectual or developmental disabilities; and

(d) Be 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 family member participation. 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 preferences of an individual and the family of the individual for services and supports. The preferences of the individual and the family of the individual must serve to guide the ISP team. The active participation of the individual 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 preferences of an individual and the family of the individual, 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 an individual in the exercise of the rights of the individual. 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 exercise of the rights of the individual while being equally sensitive to protecting the health and safety of the individual.

(E) Children in alternate living situations. When planning for children in 24-hour residential settings or foster care, maintaining family connections is an important consideration. The following must apply:

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

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

(iii) If the placement of a child is distant from the family of the child, the services coordinator must continue to seek a placement that brings the child closer to the family.

(2) LEVEL OF CARE DETERMINATION

(a) A services coordinator must assure that an individual has a level of care determination prior to accessing Community First Choice state plan or waiver services. The level of care determination must be made using a Department prescribed form. An initial ISP authorizing Community First Choice state plan or waiver services must be completed no later than the end of the month following the month in which the level of care determination was made or no later than 45 days from the level of care determination.

(b) A services coordinator must assure that a level of care determination is reviewed for every individual enrolled in a comprehensive service:

(A) Within 12 months from the previous Annual Review.

(i) This review must be completed no later than 12 months from the Diagnosis and Evaluation Coordinator (D & E Coordinator) approval date.

(ii) The annual review date may be reset for a date earlier than 12 months from the D & E Coordinator approval date, but not later than 12 months from the D & E Coordinator review date.

(B) No earlier than 60 days prior to the renewal of the ISP.

(C) Any time there is a significant change in a condition that qualified the individual for the level of care.

(c) The level of care assessment must be documented in a progress note in the service record for the individual.

(d) A level of care determination may be made by a services coordinator or a personal agent.

(3) FUNCTIONAL NEEDS ASSESSMENT. A services coordinator or personal agent must complete a functional needs assessment initially and at least annually for each individual who has or is expected to have an ISP.

(a) The functional needs assessment must be completed:

(A) Not more than 45 days from the date that the individual submitted a completed application or the date the CDDP learns of the eligibility of the individual for OHP Plus or OSIPM;

(B) Prior to the development of an initial ISP;

(C) Within 60 days prior to the annual renewal of an ISP; and

(D) Within 45 days from the date an individual requests a new functional needs assessment.

(b) An adult who is enrolled in comprehensive in-home supports as described in OAR chapter 411, division 330 or a child who is enrolled in in-home supports as described in OAR chapter 411, division 308 must participate in a functional needs assessment and provide information necessary to complete the functional needs assessments and reassessments within the time frame required by the Department.

(A) Failure to participate in the functional needs assessment or provide information necessary to complete the functional needs assessment or reassessment within the applicable time frame results in the denial of service eligibility. In the event service eligibility is denied, a written Notification of Planned Action must be provided as described in OAR 411-320-0175 and OAR chapter 411, division 318.

(B) The Department may allow additional time if circumstances beyond the control of the individual prevent timely participation in the functional needs assessment or timely submission of information necessary to complete the functional needs assessment or reassessment.

(c) No fewer than 14 days prior to conducting a functional needs assessment, the CDDP must mail a notice of the assessment process to the individual to be assessed. The notice must include a description and explanation of the assessment process and an explanation of the process for appealing the results of the assessment.

(4) INDIVIDUAL SUPPORT PLANS (ISP). Individuals enrolled in waiver or Community First Choice state plan services must have an authorized ISP.

(a) A services coordinator must facilitate and develop an ISP through a person-centered service planning process. The ISP must be authorized by the services coordinator no more than 90 days from the date a completed application is submitted to the CDDP according to OAR 411-320-0080, and at least annually thereafter.

(b) Upon the request for a new functional needs assessment by an individual, a services coordinator must revise the ISP for the individual as needed if a revision of the ISP is requested by the individual. The revision of the ISP must be completed within 30 days from the new functional needs assessment. The revised ISP must be developed with the individual, the legal or designated representative of the individual (as applicable), and other invited ISP team members.

(c) Not more than two weeks after authorization, the CDDP must provide a copy of the most current ISP to the individual, the legal or designated representative of the individual (as applicable), and others as identified by the individual.

(5) PERSON-CENTERED ISP REQUIREMENTS. The person-centered ISP must reflect the services and supports that are important for the individual to meet the needs of the individual identified through a Department approved assessment, as well as what is important to the individual with regard to preferences for the delivery of such services and supports.

(a) The written ISP must include, but not be limited to, the following:

(A) The name of the individual and the name of the legal or designated representative of the individual (as applicable);

(B) The projected dates of when specific supports are to begin and end;

(C) Home and community-based service and setting options --

(i) Based on the needs and preferences of the individual, and for residential settings, the available resources of the individual for room and board;

(ii) Chosen by the individual; and

(iii) Integrated in and support full access to the greater community;

(D) Opportunities to seek employment and work in competitive integrated employment settings for those individuals who desire to work:

(i) If the individual wishes to pursue employment, a non-disability specific setting option must be presented and documented in the ISP.

(ii) Individuals working in sheltered workshops shall be encouraged to use services in integrated settings.

(E) Opportunities to engage in greater community life, control personal resources, and receive services in the greater community to the same degree of access as people not receiving home and community-based services;

(F) The strengths and preferences of the individual;

(G) The service and support needs of the individual;

(H) The goals and desired outcomes of the individual;

(I) The providers of services and supports, including unpaid supports provided voluntarily;

(J) Risk factors and measures in place to minimize risk;

(K) Individualized backup plans and strategies, when needed;

(L) People important in supporting the individual;

(M) The person responsible for monitoring the ISP;

(N) Language, format, and presentation methods appropriate for effective communication according to the needs and abilities of the individual receiving services and the people important in supporting the individual;

(O) The written informed consent of the individual or, if applicable, the legal or designated representative of the individual;

(P) Signatures of the individual, or if applicable the legal or designated representative of the individual, participants in the ISP planning process, and all people and providers with whom the ISP was shared in its entirety, or as described below in subsection (b) of this section;

(Q) Self-directed supports; and

(R) Provisions to prevent unnecessary or inappropriate services and supports.

(b) The individual, or if applicable the legal or designated representative of the individual, decides on the level of information in the ISP that is shared with providers. To effectively provide services, providers must have access to the necessary information from the ISP that the provider is responsible for implementing. A provider identified to deliver a service or support included in an ISP must acknowledge through a signature on a written agreement receipt of the necessary information.

(c) After September 1, 2018, the CDDP must only authorize services delivered in a home and community-based setting that meets the qualities described in OAR 411-004-0020 and non-residential employment service and day service settings that are consistent with OAR 411-004-0020(1), as implemented in OAR chapter 411, division 345.

(d) A CDDP cannot authorize services for an individual from an affiliated entity. If an individual served by the CDDP was receiving

services from an affiliated entity on December 31, 2015, the individual may continue to have those services provided by the affiliated entity until June 30, 2016, at which time the individual must either receive services from another service provider or receive case management from a brokerage or another CDDP. An entity is affiliated with the CDDP when the entity or the CDDP has an incident of ownership in the other.

(e) For a new or renewed ISP with an effective date of July 1, 2016 or later, the ISP must justify and document any individually-based limitations as described in OAR 411-004-0040.

(f) A services coordinator must track the ISP timelines and coordinate the resolution of complaints and conflicts arising from ISP discussions.

(g) An ISP must be developed, implemented, and authorized as follows:

(A) FOSTER CARE AND 24-HOUR RESIDENTIAL SETTINGS.

(i) A services coordinator must attend and assure that an annual ISP meeting is held for individuals receiving services in foster care or 24-hour residential settings and any associated settings for employment.

(ii) A services coordinator must facilitate the ISP with an individual receiving services through foster care or a 24-hour residential setting and any associated setting for employment.

(iii) If a child is in a 24-hour residential setting directly contracted with the Department, the ISP for the child is coordinated by Department staff.

(iv) A services coordinator must ensure that the ISP for an individual receiving services through foster care or a 24-hour residential setting is developed and updated in accordance with Department guidelines.

(B) SUPPORTED LIVING. A services coordinator must ensure the development of an annual ISP for an adult receiving services in a supported living setting and any associated setting for employment.

(i) The services coordinator must coordinate with the individual, and as applicable the family or legal or designated representative of the individual, in the development of an annual ISP.

(ii) The ISP for an adult receiving services in a supported living setting and any associated setting for employment must include the information described in subsection (d) of this section.

(C) COMPREHENSIVE IN-HOME SUPPORTS FOR ADULTS. A services coordinator must ensure the development of an annual ISP for an individual receiving comprehensive in-home supports.

(i) The services coordinator must coordinate with the individual, and as applicable the family or legal or designated representative of the individual, in the development of an annual ISP.

(ii) The ISP for an individual receiving comprehensive in-home supports must include the information described in subsection (d) of this section and be in accordance with OAR 411-330-0050.

(iii) An ISP must not authorize any single personal support worker to be paid for more than 50 hours in a work week per individual unless:

(I) The personal support worker is delivering daily relief care; or

(II) An exception has been granted by the CDDP or Department.

(h) As of July 1, 2014, a Career Development Plan must be attached to the ISP of an adult in accordance with OAR 411-345-0160.

(6) ANNUAL PLANS. Individuals enrolled in developmental disability services not accessing waiver or Community First Choice state plan services must have an Annual Plan.

(a) A services coordinator must complete an Annual Plan within 60 days of the enrollment of an individual into case management services, and annually thereafter if the individual is not enrolled in any waiver or Community First Choice state plan services.

(b) An Annual Plan must be developed as follows:

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

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

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

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

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

(B) For a child receiving family support services, a services coordinator must coordinate with the child and the family or guardian of the child in the development of an Annual Plan. The Annual Plan for a child receiving family support services must be in accordance with OAR 411-305-0080.

(7) PLANS FOR IN-HOME SUPPORTS FOR CHILDREN. For a child receiving in-home supports, a services coordinator must coordinate with the child and the family or guardian of the child in the development of the ISP or Annual Plan. The ISP or Annual Plan for a child receiving in-home supports must be in accordance with OAR chapter 411, division 308 and sections (3) and (4) of this rule, as applicable.

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

(9) PLAN UPDATES. An ISP or Annual Plan must be kept current. A services coordinator, the residential services coordinator for the Department for children in 24-hour residential settings directly contracted with the Department, and CIIS services coordinators for children served through the CIIS waiver must ensure that a current ISP or Annual Plan is authorized and maintained for each individual receiving services.

(a) The ISP or Annual Plan must be kept in the service record for an individual.

(b) ISP or Annual 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 ISP or Annual Plan must be updated.

(10) ISP REVIEWS. An ISP must be reviewed and revised:

(a) No more than 30 days following a new functional needs assessment;

(b) At least every 12 months;

(c) When the circumstances or needs of an individual change significantly; and

(d) At the request of an individual or, as applicable, the legal representative of the individual.

(11) TRANSITION PLAN REVIEWS. A Transition Plan must be reviewed and updated as necessary to make it consistent with section (4) of this rule no more than 60 days from the date of entry to a service setting.

(12) TEAM PROCESS IN SERVICE AND SUPPORT PLANNING. This section applies to an ISP developed for an individual in comprehensive services:

(a) An ISP for an individual in comprehensive services is developed at least by the individual, the legal or designated representative of the individual (as applicable), and the services coordinator. Others may be included as a part of the ISP team at the invitation of the individual. The ISP team assigns responsibility for obtaining or providing services to meet the identified needs of the individual.

(A) Membership on the ISP team must at least conform to this rule and any relevant provider rules. An individual may include additional participants, friends, or significant others on the ISP team.

(B) The individual may raise an objection to the inclusion of a particular person or provider on the ISP team. When the individual raises objections to a person, the ISP team must respect the request of the individual. In order to assure adequate planning, provider representatives are necessary informants to the ISP team.

(b) An ISP developed by an ISP team must respect and honor individual choice in the development of a meaningful plan.

(c) In circumstances where an individual is unable to express his or her opinion or choice using words, behaviors, or other means of communication and the individual does not have a legal or designated representative, the ISP team is empowered to make a decision on behalf of the individual.

(d) No one member of an ISP team has the authority to make decisions for the ISP team.

(e) Consensus amongst ISP team members is prioritized. When consensus may not be reached, majority agreement is used. For purposes of reaching a majority agreement, a provider, family member, CDDP, or designated representative are considered as one member of the ISP team.

(f) Any objections to decisions of the ISP team by a member of the ISP team must be documented in the ISP.

(g) The legal or designated representative of an individual directing services for the individual (as applicable) may not also be a paid provider for the individual.

(h) An ISP is authorized by a services coordinator using a person-centered planning process and with agreement by the individual and the legal or designated representative of the individual (as applicable).

(i) An individual or the legal representative of the individual retains the right to consent to treatment and training and to note any specific areas of the ISP that they object to and wish to file a complaint.

(j) ISP team members must inform the services coordinator whenever there are significant needs or changes or there is a crisis or potential for a crisis. The services coordinator must reconvene the ISP team if ISP adjustments are required due to a significant change in the support needs or desired goals of an individual.

Stat. Auth.: ORS 409.050, 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-695

411-320-0130 Case Management Contact, Site Visits, and Monitoring of Services
(Amended 12/28/2014)

(1) CASE MANAGEMENT CONTACT. Every individual who has an ISP must have a case management contact no less than once every three months. Individuals with significant health and safety risks as identified in the ISP must have more frequent case management contact. At least one

case management contact per year must be face to face. If an individual agrees, other case management contact may be made by telephone or by other interactive methods. The outcome of the case management contact must be recorded in the progress notes. The purpose of the case management contact is:

(a) To assure known health and safety risks are adequately addressed;

(b) To assure that the support needs of an individual have not significantly changed; and

(c) To assure that an individual is satisfied with the current supports.

(2) SITE VISITS.

(a) The CDDP must ensure that site visits are conducted at each child or adult foster home, each 24-hour residential setting, and each employment site licensed or certified and endorsed (as applicable) by the Department to serve individuals with intellectual or developmental disabilities.

(A) The CDDP must establish a quarterly schedule for site visits to each child or adult foster home and each 24-hour residential setting.

(B) The CDDP must establish an annual schedule for site visits to each employment site. If a visit to an integrated employment site disrupts the work occurring, a mutually agreed upon location for the site visit must be arranged.

(b) The CDDP must establish an annual schedule for visits with individuals receiving services in a supported living setting. If an individual opposes a visit to his or her home, a mutually agreed upon location for the visit must be arranged.

(c) Site visits may be increased for any of the following reasons including, but not limited to:

(A) Increased certified and licensed capacity;

(B) New individuals receiving services;

(C) Newly licensed or certified and endorsed provider;

(D) An abuse investigation;

(E) A serious event;

(F) A change in the management or staff of the licensed or certified and endorsed site;

(G) An ISP team request;

(H) Individuals receiving services are also receiving crisis diversion services; or

(I) Significant change in the functioning of an individual who receives services at the site.

(d) The CDDP must develop a procedure for the conduct of the site visits.

(e) The CDDP must document site visits and provide information concerning the site visits to the Department upon request.

(f) If there are no Department-funded individuals at the site, a visit by the CDDP is not required.

(g) When a provider is a Department-contracted and licensed, certified, and endorsed 24-hour residential setting for children and the children's residential services coordinator for the Department is assigned to monitor services, the children's residential services coordinator and the CDDP shall coordinate the site visit. If the site visit is made by Department staff, Department staff shall provide the results of the site visit to the local services coordinator.

(h) The Department may conduct site visits on a more frequent basis than described in this section based on program needs.

(3) MONITORING OF SERVICES: A services coordinator must conduct monitoring activities using the framework described in this section.

(a) For all individuals receiving case management at a CDDP with an ISP that authorizes waiver or Community First Choice state plan services, an ongoing review of the ISP must determine whether the actions identified by the ISP team are being implemented by the provider and others. The review of an ISP must include an assessment of the following:

(A) Are services being provided as described in the ISP and do the services result in the achievement of the identified action plans?

(B) Are the personal, civil, and legal rights of the individual protected in accordance with these rules?

(C) Are the personal desires of the individual, and as applicable the legal or designated representative or family of the individual, addressed?

(D) Do the services provided for in the ISP continue to meet what is important to, and for, the individual?

(E) Do identified goals remain relevant and are the goals supported and being met?

(b) For an individual who is not enrolled in a Brokerage and who resides in a 24-hour residential setting, supported living setting, foster care, or is receiving employment services, the monitoring of services may be combined with the site visits described in section (2) of this rule. In addition:

(A) During a one year period, the services coordinator must review, at least once, services specific to health, safety, and behavior, using questions established by the Department.

(B) A semi-annual review of the process by which an individual accesses and utilizes funds must occur, using questions established by the Department. The services coordinator must

determine whether financial records, bank statements, and personal spending funds are correctly reconciled and accounted for.

(i) The financial review standards for 24-hour residential settings are described in OAR 411-325-0380.

(ii) The financial review standards for adult foster homes are described in OAR 411-360-0170.

(iii) Any misuse of funds must be reported to the CDDP and the Department. The Department determines whether a referral to the Medicaid Fraud Control Unit is warranted.

(C) The services coordinator must monitor reports of serious and unusual incidents.

(c) For an individual receiving employment services, the services coordinator must also assess the progress of the individual toward a path to employment.

(d) The frequency of service monitoring must be determined by the needs of an individual. Events identified in section (2)(c) of this rule provide indicators that may potentially increase the need for service monitoring.

(e) For an individual receiving only case management services and not enrolled in any other funded developmental disability services, the services coordinator must make contact with the individual at least once annually.

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

(B) The services coordinator must document annual contact in the Annual Plan as described in OAR 411-320-0120.

(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 as described in the Annual Plan.

(D) Any follow-up activities must be documented in a progress note.

(E) If state plan personal care services as described in OAR 411-034-0070 are authorized in an Annual Plan, the services must be monitored as described in OAR 411-034-0070.

(4) MONITORING FOLLOW-UP. A services coordinator and the CDDP are responsible for ensuring the appropriate follow-up to monitoring of services, except in the instance of children in 24-hour residential settings directly contracted with the Department when the Department conducts the follow-up.

(a) If the services coordinator determines that comprehensive services are not being delivered as agreed in the ISP or Annual Plan for an individual or that the service needs of an individual have changed since the last review, the services coordinator must initiate action to update the ISP or Annual Plan of the individual.

(b) If there are concerns regarding the ability of a provider to provide services, the CDDP, in consultation with the services coordinator, must determine the need for technical assistance or other follow-up activities, such as coordination or provision of technical assistance, referral to the CDDP manager for consultation or corrective action, requesting assistance from the Department for licensing or other administrative support, or meeting with the executive director or board of directors of the provider.

(5) DEPARTMENT NOTIFICATION. In addition to conducting abuse or other investigations as necessary, the CDDP must notify the Department when:

(a) A provider demonstrates substantial failure to comply with any applicable licensing, certification, or endorsement rules for Department-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 the Department is required; or

(c) Any individual receiving Department-funded developmental disability services dies. Notification must be made to the Director of the Department within one business day of the death. Entry must be made into the Serious Event Review System according to Department guidelines.

Stat. Auth.: ORS 409.050, 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-695

411-320-0140 Abuse Investigations and Protective Services
(Amended 12/28/2013)

(1) GENERAL DUTIES. 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.

(a) Investigations must be done in accordance with OAR 407-045-0290.

(b) 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. Unless otherwise directed by the Department, the CDDP must investigate allegations of abuse of individuals with intellectual or developmental disabilities who are:

(a) Eighteen years of age or older; and

(b) Receiving case management services; or

(c) Receiving any Department-funded services for individuals; or

(d) Previously determined eligible for developmental disability services and voluntarily terminated from services in accordance with OAR 411-320-0100.

(3) ABUSE INVESTIGATIONS. The CDDP must have and implement written protocols that describe the conduct of an abuse investigation, a risk assessment, implementation of any actions, and the report writing process. Abuse 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 Department's system for reporting serious events.

(6) CONFLICT OF INTEREST. The CDDP may not investigate allegations of abuse made against employees of the CDDP. Abuse investigations of CDDP staff are conducted by the Department or a CDDP not subject to an actual or potential conflict of interest.

(7) NOTIFICATION. Upon the initiation and completion of an abuse investigation, 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 OAAPI. Abuse investigation and protective service reports must be maintained by the CDDP in accordance with OAR 407-045-0320.

(9) DISCLOSURE. The CDDP must disclose an abuse investigation and protective services report and related documents as described in OAR 407-045-0330.

Stat. Auth.: ORS 409.050 and 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, and 430.662 to 430.695

411-320-0150 Specialized Services in a Nursing Facility
(Amended 12/28/2013)

An individual residing in a nursing facility determined to require specialized services, as described in OAR 411-070-0043, must have an annual plan for specialized services incorporated with a plan of care by the nursing facility.

(1) A services coordinator must coordinate with the individual, the individual's legal representative, 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 must 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) A 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 and 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, and 430.662 to 430.695

411-320-0160 Crisis Diversion Services
(Amended 12/28/2014)

(1) CRISIS DIVERSION SERVICES. The CDDP must, in conjunction with the regional partners of the CDDP, provide crisis diversion services for adults and children with intellectual or 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 ISP team members upon request and to Regional Crisis Diversion Programs upon each referral. An individual is eligible for crisis diversion services when:

(a) The individual is enrolled in developmental disability services;

(b) A crisis exists as described in section (2) of this rule;

(c) There are no appropriate alternative resources available;

(d) The crisis is not primarily related to a significant mental or emotional disorder or substance abuse; and

(e) The individual meets at least one of the following criteria:

(A) The adult is court committed to the Department under ORS 427.215 through 427.306.

(B) The adult meets one of the crisis risk factors as described in section (2) of this rule.

(C) The child is at imminent risk of out of home placement.

(D) The child is in need of out of home placement.

(E) The child 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 ISP team, must determine the appropriateness of alternative resources based on consideration of individual support needs, proximity to actively involved family members, access to other necessary resources, and cost effectiveness.

(5) ALLOWABLE SHORT-TERM EXPENDITURES. Crisis diversion expenditures are allowed when the following criteria are met:

(a) The services and expenditures are minimally necessary to address the imminent health and safety risks associated with the support need of the individual;

(b) The expenditures are limited to those services and items the individual would otherwise have access to via the Community First Choice state plan, except that funding is not immediately accessible to fund such services;

(c) The region or case management entity has conducted a needs assessment of the individual; and

(d) Expenditures are in alignment with the expenditure guidelines or in accordance with the associated needs assessment tool for residential service settings.

(6) SERVICE LIMITATIONS. The following expenditures must not be made with crisis diversion services funds:

(a) Household appliances;

(b) Services covered under existing provider contracts with the CDDP or Department;

(c) Health care services covered by Medicaid, Medicare, or private medical insurance;

(d) Services provided by the parent of a child or the spouse of an adult;

(e) Funding for items or services when the individual has resources available to meet the identified needs;

(f) Services or purchases prohibited in program rules; and

(g) Services or purchases that exceed the expenditure guidelines or rate determined by the individual needs assessment.

(7) SERVICE AUTHORIZATION. The CDDP or Regional Crisis Diversion Program must authorize the utilization of crisis diversion services.

(a) Prior to initiating crisis diversion services, the CDDP or the Regional Crisis Diversion Program must document the eligibility of an individual for crisis diversion services, the alternative resources considered, and why those resources were not appropriate or available. This assures that crisis diversion services are utilized only when no appropriate alternative resources are available.

(b) The CDDP or the Regional Crisis Diversion Program must authorize services that exceed 90 days duration and document the authorization in writing within the service record for the individual.

(c) The Department must authorize adaptations or alterations of fixed property that exceed $5,000. Authorization by the Department is based upon the recommendation of the CDDP or the Regional Crisis Diversion Program.

(d) The Department may, at the discretion of the Department, exercise authority under ORS 427.300 to direct any individual who is court committed to the Department under ORS 427.290 to the facility best able to provide services and supports to the individual. The

Department shall consult with any CDDP, the Regional Crisis Diversion Program, or 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 people 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 plan of care for the individual. Monitoring must be done through contact with the individual, any providers, and the family of the individual. 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 service record for the individual.

(b) The CDDP must coordinate with providers or other ISP team members to evaluate the impact of crisis diversion services upon the individual and must ensure needed changes are recommended to the ISP team.

(c) The Department may monitor crisis diversion services through reports received pursuant to sections (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 ISP 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 legal representative (as applicable);

(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 needs of the individual in addressing the crisis;

(D) Description of the goods and services requested to be purchased or provided specific to addressing the crisis, including:

(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 ISP team approved modifications to the ISP for the individual 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 level of care determination when an individual eligible for crisis diversion services is receiving home and community-based waiver or Community First Choice state plan services, or as otherwise instructed by the Department.

(11) REPORTING REQUIREMENTS. The CDDP or Regional Crisis Diversion Program must report, using the accepted Department payment and reporting systems, the following information to the Department by the tenth business day of 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, 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-695

411-320-0170 Contractor Disputes
(Amended 12/28/2014)

(1) When a dispute exists between a CDDP and a subcontracted provider regarding the terms of the contract or the interpretation of administrative rule and local dispute resolution efforts have been unsuccessful, either party may request assistance from the Department 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:

(A) The party requesting mediation must send a written request to the Director of the Department, the CDDP Director, and the

Executive Director of the provider, unless other people are named as official contact people 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.

(B) Department 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.

(C) 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, the Department shall prepare the final report. A final report on each mediation must be retained on file at the Department.

(2) A provider may appeal the imposition of a disputed term or condition in the contract if the provider believes that the contract offered by the CDDP contains terms or conditions that are not substantially similar to those established by the Department in the model contract. The appeal of the imposition of the disputed terms or conditions must be in writing and sent to the Director of the Department within 30 days after the effective date of the contract requirement.

(a) A copy of the notice of appeal must be sent to the CDDP. The notice of appeal must include:

(A) A copy of the contract and any pertinent contract amendments;

(B) Identification of the specific terms that are in dispute; and

(C) 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 provider until the appeal process is concluded.

(c) The Director of the Department must offer to mediate a solution in accordance with the procedure outlined in sections (1)(a) and (1)(b) of this rule.

(A) If a solution cannot be mediated, the Director of the Department 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 the Department;

(ii) A representative from another CDDP; and

(iii) A representative from another provider organization.

(B) The panel must meet with the parties, consider the respective arguments, and send written recommendations to the Director of the Department within 45 business days after an impasse is declared, unless the Director of the Department grants an extension.

(C) If an appeal requiring panel consideration has been received from more than one contractor, the Department may organize materials and discussion in any manner deemed necessary, including combining appeals from multiple contractors, to assist the panel in understanding the issues and operating efficiently.

(D) The Director of the Department must notify all parties of his or her decision within 15 business days from the receipt of the recommendations of the panel. The decision of the Department is final. The CDDP must take immediate action to amend contracts as needed to comply with the decision.

(d) Notwithstanding subsection (c) of this section, the Director of the Department has the right to deny the appeal or a portion of the appeal if, upon receipt and review of the notice of appeal, the Director of the Department finds that the contract language being contested is identical to the current language in the county financial assistance agreement with the Department.

(e) 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.

(A) The request must be made in writing to the Director of the Department. The request must describe the potential harm and level of risk that shall be incurred by following the appeal process.

(B) The Department must notify all parties of the decision to approve an expedited appeal process within two business days.

(C) If an expedited process is approved, the Department shall notify all parties of the 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.

Stat. Auth.: ORS 409.050, 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-695

411-320-0175 Individual Complaints, Notification of Planned Action, and Hearings
(Amended 12/28/2014)

(1) INDIVIDUAL COMPLAINTS.

(a) The CDDP must have and implement written policies and procedures for individual complaints in accordance with OAR 411-318-0015.

(b) Complaints by or on behalf of individuals must be addressed in accordance with OAR 411-318-0015.

(c) Upon entry into case management and request and annually thereafter, the policy and procedures for complaints must be explained and provided to an individual and the legal or designated representative of the individual (as applicable).

(2) NOTIFICATION OF PLANNED ACTION. In the event that a developmental disability service is denied, reduced, suspended, or terminated, a written advance Notification of Planned Action (form SDS 0947) must be provided as described in OAR 411-318-0020.

(3) HEARINGS.

(a) Hearings must be addressed in accordance with ORS chapter 183 and OAR 411-318-0025.

(b) An individual may request a hearing as provided in ORS chapter 183 and OAR 411-318-0025 for a denial, reduction, suspension, or termination of a developmental disability service or OAR 411-318-0030 for an involuntary reduction, transfer, or exit.

(c) Upon entry into case management and request and annually thereafter, a notice of hearing rights and the policy and procedures for hearings must be explained and provided to an individual and the legal or designated representative of the individual (as applicable).

Stat. Auth.: ORS 409.050, 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-695

411-320-0180 Inspections and Investigations
(Amended 12/28/2013)

(1) 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) The Department, the Department's designee, or proper authority must perform all inspections and investigations.

(3) Any inspection or investigation may be unannounced.

(4) A plan of correction must be submitted to the Department for any non-compliance found during an inspection under this rule.

Stat. Auth.: ORS 409.050 and 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, and 430.662 to 430.695

411-320-0190 Program Review
(Amended 12/28/2014)

(1) The Department may review the CDDP implementation of these rules as provided in OAR 411-320-0180 at least every two years or more frequently as needed to ensure compliance.

(2) Following a Department review, the Department shall issue a report to the CDDP identifying areas of compliance and areas in need of improvement.

(3) If, following a review, the CDDP is not in substantial compliance with these rules, the CDDP must respond to a plan of improvement within 45 days from the receipt of the plan of improvement or in the time specified by the Department. The Department may conduct additional reviews as necessary to ensure improvement measures have been achieved. The Department may offer, or the CDDP may request, technical assistance or training.

Stat. Auth.: ORS 409.050, 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-695

411-320-0200 Variances
(Amended 12/28/2014)

(1) A variance that does not adversely impact the welfare, health, safety, or rights of individuals or violate state or federal laws may be granted to the 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 shall result in services or systems that meet or exceed the standards in these rules. All variances must be submitted to the Department and approved by the Department prior to implementation.

(2) The CDDP requesting a variance must submit a written application to the Department 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) The request for a variance is approved or denied by the Department. The decision of the Department is sent to the CDDP within 45 days from the receipt of the variance request by the Department.

(4) The CDDP may request an administrator review of the denial of a variance request by sending a written request for review to the Director. The decision of the Director is the final response from the Department.

(5) The Department determines the duration of the variance.

(6) The CDDP may implement a variance only after written approval from the Department. The intergovernmental agreement is amended to the extent that the variance changes a term in that agreement.

Stat. Auth.: ORS 409.050, 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-695