DEPARTMENT OF HUMAN SERVICES
DEVELOPMENTAL DISABILITIES
OREGON ADMINISTRATIVE RULES

CHAPTER 411
DIVISION 320

COMMUNITY DEVELOPMENTAL DISABILITIES PROGRAMS

411-320-0010 Statement of Purpose
(Amended 06/29/2016)

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

(1) A CDDP providing developmental disabilities 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 and adult protective services.

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

411-320-0020 Definitions and Acronyms
(Amended 06/29/2016)

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 Disabilities 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) "CDDP" means "Community Developmental Disabilities Program".

(5) "CIIS" means "Children's Intensive In-Home Services".

(6) "CMS" means "Centers for Medicare and Medicaid Services".

(7) "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).

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

(9) "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.

(10) "Current Documentation" means documentation relating to the intellectual or developmental disabilities 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 disabilities of an individual, psychological evaluations, and assessments of adaptive behavior.

(11) "Developmental Disability" 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.

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

(13) "Eligibility Determination" means a decision by the CDDP or by the Department regarding the eligibility of a person for developmental disabilities services pursuant to OAR 411-320-0080 and is either a decision that a person is eligible or ineligible for developmental disabilities services.

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

(15) "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 disabilities services.

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

(17) "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.

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

(19) "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.

(20) "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.

(21) "IQ" means intelligence quotient.

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

(23) "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).

(24) "LMHA" means "Local Mental Health Authority". (25) "Management Entity" means the CDDP or private corporation that operates the Regional Program, including acting as the fiscal agent for regional funds and resources.

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

(27) "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.

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

(29) "OCCS" means the "Oregon Health Authority, Office of Client and Community Services."

(30) "OHP" means Oregon Health Plan.

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

(32) "OSIPM" means "Oregon Supplemental Income Program-Medical".

(33) "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).

(34) "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.

(35) "Region" means a group of Oregon counties defined by the Department that have a designated management entity to coordinate

regional backup services and be the recipient and administration of funds for those services.

(36) "Regional Program" means the regional coordination that the counties comprising the region agree are delivered more effectively or automatically on a regional basis.

(37) "Resident" means an individual that meets the residency requirements in OAR 461-120-0010. "Resident" includes an individual that is absent due to military obligation, if he or she intends to return Oregon, and Oregon remains his or her principal establishment, home of record, or permanent home during the absence.

(38) "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.

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

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

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

(42) "SSI" means "Supplemental Security Income".

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

(44) "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).

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

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

411-320-0030 Organization and Program Management
(Amended 06/29/2016)

(1) ORGANIZATION AND INTERNAL MANAGEMENT. Each service provider of community developmental disabilities 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 disabilities 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) The CDDP must have and implement written policies and procedures that protect the individual rights described in OAR 411-318-0010.

(4) PROGRAM MANAGEMENT.

(a) Staff delivering developmental disabilities 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 disabilities services within a specific geographic service area.

(c) In addition to other duties as may be assigned in the area of developmental disabilities 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 disabilities 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 disabilities services.

(5) 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 disabilities 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 of experience with at least two of those years of experience in developmental disabilities 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 disabilities 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 (8) 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 disabilities 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 disabilities 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 disabilities services.

(c) SERVICES COORDINATOR. The services coordinator must meet the qualifications for a case manager described in OAR 411-415-0040.

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

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

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

(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.

(f) FOSTER CARE LICENSING AND CERTIFICATION SPECIALIST. A foster care licensing and certification specialist must have knowledge of the public service system for developmental disabilities services in Oregon and at least:

(A) A master's degree in social work;

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

(C) 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;

(D) 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

(E) 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.

(6) 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.

(7) 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) 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) 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.

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

(9) 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 chapter 411, division 415;

(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 disabilities services;

(B) Completing eligibility redetermination for individuals requesting continuing developmental disabilities 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 disabilities 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.

(d) FOSTER CARE LICENSOR AND CERTIFIER DUTIES. The duties of the foster care licensor and certifier must be specified in the employee’s job description and at a minimum include:

(A) In coordination with the Office of Licensing and Regulatory Oversight (OLRO), assist in the initial licensing and certification and renewals of licenses and certifications, of local adult foster homes as described in OAR chapter 411, division 360 and children’s foster homes as described in OAR chapter 411, division 346.

(i) Assuring completed application forms from applicants are submitted to OLRO.

(ii) Completing and submitting inspection reports.

(iii) Completing and submitting background checks, as needed.

(iv) Making test sites available, administering tests provided by the Department and sending completed tests to the Department for scoring.

(v) Maintaining a link to the Adult Foster Home Training website where the Basic Training Course, self-study manual, and associated information are maintained and distributing information upon request.

(vi) Assisting in completing any other information necessary for licensing or certifying homes.

(B) Complete foster home visits for rule compliance, issue violation citations, and monitor for correction.

(C) Coordinate the recruitment, retention, placement, and training of foster providers.

(e) Staff must appear as a witness on behalf of the Department during an informal conference and hearing when required by the Department. Staff may not act as a representative for the claimant during an informal conference and hearing.

(10) 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) The CDDP manager and CDDP supervisor (when designated) must complete Core Competencies for case management within the first year of entering into the position.

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

(A) Each CDDP manager and CDDP supervisor (when designated) 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.

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

(c) SERVICES COORDINATOR TRAINING. The services coordinator must participate in the case manager training as described in OAR 411-415-0040.

(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 disabilities 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 disabilities 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) FOSTER CARE LICENSOR AND CERTIFIER TRAINING. The foster care licensor and certifier must participate in any Department required trainings.

(A) The orientation provided by a CDDP to a new foster care licensor and certifier must include:

(i) An overview of developmental disabilities 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 of policy and procedures that address conflict of interests, including the prohibition against licensing or certifying a foster home --

(I) While also providing case management services to the individuals or children in the home.

(II) By a licensor or certifier who is related by blood, marriage, or adoption to the foster care applicant or current foster provider, or an individual or child to be served in the foster home.

(III) If after a local CDDP assessment of any conflict of interest or appearance of conflict of interest is identified.

(B) A review (prior to having contact with individuals) of the licensor and certifier’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.

(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.

(11) 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.

(12) 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.

(13) FINANCIAL MANAGEMENT.

(a) There must be up-to-date accounting records for each developmental disabilities 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.

(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 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.

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

411-320-0040 Program Responsibilities
(Amended 06/29/2016)

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 disabilities 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) The CDDP must ensure that eligibility for developmental disabilities services is determined as described in OAR 411-320-0080 by an eligibility specialist trained in accordance with OAR 411-320-0030.

(c) Any individual determined eligible for developmental disabilities services by the CDDP must also be eligible for any developmental disabilities services subject to eligibility requirements described in the OAR associated with the service.

(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) NONRESIDENT CHILDREN.

(A) The CDDP must compile and maintain a list of local providers who are qualified to provide home and community-based services in their service area. CDDPs shall assist a parent in obtaining home and community-based services for the parent's 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 in Oregon for at least six weeks each year; and

(iii) The child qualifies for home and community-based services in the child's state of residence.

(B) CDDP ASSISTANCE. CDDPs shall:

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

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

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

(iv) Notify the Department of the individual seeking services.

(3) PAYMENT AND REPORTING SYSTEM.

(a) ENROLLMENT. The CDDP must ensure all individuals determined to be eligible for developmental disabilities 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 disabilities service except in the following circumstances:

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

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

(C) When an individual is enrolled in a Brokerage and the individual 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.

(b) The CDDP must terminate an individual in the Department payment and reporting systems when an individual exits all developmental disabilities services.

(c) The CDDP retains responsibility for maintaining enrollment in the Department payment and reporting systems for individuals enrolled in support services until the individual exits support services.

(4) CASE MANAGEMENT SERVICES.

(a) The CDDP must deliver case management, as described in OAR chapter 411, division 415, to individuals who are eligible for and desire case management from the CDDP. A 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) For an individual newly determined eligible for developmental disabilities services, the CDDP must assure that the individual and legal representative are provided a description of case management and other service delivery options. This information must include:

(A) A description of processes involved in using developmental disabilities services, including person-centered planning,

evaluation, and how to raise and resolve concerns about developmental disabilities services;

(B) Clarification of CDDP employee responsibilities as mandatory abuse reporters; and

(C) Disclosure of any potential affiliation between the CDDP and providers available to the individual.

(5) ABUSE INVESTIGATIONS.

(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, including the investigation of complaints of abuse, writing investigation reports, and monitoring the implementation of report recommendations. 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. When there is need for additional foster care providers, 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) 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.

(8) 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 disabilities 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.

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

(10) The CDDP must forward a signed variance request form submitted by a developmental disabilities service provider to the Department within 30 days from the receipt of the request indicating the position of the CDDP on the proposed variance.

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

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 06/29/2016)

(1) INTERGOVERNMENTAL AGREEMENT. The management entity for a group of counties to deliver 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, 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662 - 430.695

411-320-0060
(Repealed 06/29/0216)

411-320-0070 Service Records
(Amended 06/29/2016)

(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. Information contained in the service record must include:

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

(b) The application for developmental disabilities services. The application for developmental disabilities 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 request for support services and the selection of an available Brokerage within the geographic service area of the CDDP;

(f) For individuals receiving case management services from the CDDP, the service record must contain the records requirements identified in OAR 411-415-0110.

(4) 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.

(5) 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 disabilities 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 - 430.695

411-320-0080 Application and Eligibility Determination
(Amended 06/29/2016)

(1) APPLICATION.

(a) To apply for developmental disabilities 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 (APD 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 (APD 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 (APD 0947).

(d) Upon receipt of a completed application, the CDDP must provide an applicant the Department required Notification of Rights (form APD 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 OCCS medical package to the local Medicaid office for 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 a parent's military service obligation outside of Oregon, does not need to submit a new application for developmental disabilities 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 must assist the child in establishing eligibility for OSIPM or OCCS medical coverage and meet face-to-face with the child and guardian, within 45 days of the request for services, to provide choice advising and to review the child's rights to a fair hearing and the service planning steps in OAR 411-415-0070.

(C) REDETERMINATION. The CDDP must follow section (5) and (6) of this rule regarding a redetermination of eligibility. As with all redeterminations, prior to a termination of developmental disabilities services, the CDDP must send a notice of redetermination, afford the child's parent or guardian the opportunity to provide documentation that supports eligibility, and schedule a diagnostic evaluation for the child, if appropriate. Upon the child's reentry 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 child's absence;

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

(iii) The documents used to establish the child's original eligibility are more than three-years-old and medical, educational, or psychological records created during the child's absence do not support the child's eligibility 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 eligibility for developmental disabilities services 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 disabilities 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 disabilities 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", or "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 7 YEARS OF AGE.

(a) Eligibility determinations for children less than 7 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 that 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 7 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 7 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 9th year birthdate.

(ii) Redetermination for school aged eligibility for a child who was originally determined eligible as a child less than 7 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 7th 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 5 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 disabilities 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. Within 10 days from the receipt of a completed application, the CDDP 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 APD 5103); or

(b) The Notification of Planned Action (form APD 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 Disabilities Enrollment Form (DHS 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 disabilities 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 disabilities 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 disabilities services, the receiving CDDP may complete a redetermination. The CDDP that determined the individual was eligible for developmental disabilities services may be responsible for the services authorized on the basis of that eligibility determination.

(f) If an individual submits an application for developmental disabilities services and discloses that he or she has previously received developmental disabilities services in another CDDP and the termination of case management services as described in OAR 411-415-0030 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 - 430.695

411-320-0090 Case Management Program Responsibilities
(Repealed 06/29/2016)

411-320-0100 Coordination of Services
(Repealed 06/29/2016)

411-320-0110 Entry and Exit Requirements
(Repealed 06/29/2016)

411-320-0120 Service Planning
(Repealed 06/29/2016)

411-320-0130 Case Management Contact, Site Visits, and Monitoring of Services
(Repealed 06/29/2016)

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
(Repealed 06/29/2016)

411-320-0160 Crisis Diversion Services
(Repealed 06/29/2016)

411-320-0170 Contracts and Contractor Disputes
(Amended 06/29/2016)

(1) CONTRACTS.

(a) If the CDDP, or any of the CDDPs services as described in the Department's contract with the county, is not operated by the county, there must be a contract between the county 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 rules of the Department pertaining to contracts or any contract requirement with regard to operation and delivery of services.

(b) The CDDP may purchase certain services that are necessary for the CDDP to carry out its operations from a contractor without first providing an opportunity for competition among other contractors.

(A) The contractor 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 rules of the Department 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 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 that disputes arising from these limitations must be resolved according to the complaint procedures contained in section (3) of this rule. 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 contractor 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 disabilities 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 Director of the Department 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.

(2) CONTRACT MONITORING. The CDDP must monitor all community developmental disabilities 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.

(3) 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.

(4) 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 (3)(a) and (3)(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 - 430.695

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 06/29/2016)

(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 or the designee of the Department, the Oregon Health Authority, 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, 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662 - 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