DEPARTMENT OF HUMAN SERVICES
DEVELOPMENTAL DISABILITIES
OREGON ADMINISTRATIVE RULES

CHAPTER 411
DIVISION 330

COMPREHENSIVE IN-HOME SUPPORT FOR ADULTS WITH INTELLECTUAL OR DEVELOPMENTAL DISABILITIES

411-330-0010 Statement of Purpose
(Amended 12/28/2013)

The rules in OAR chapter 411, division 330 prescribe standards, responsibilities, and procedures for community developmental disability programs providing comprehensive in-home support for adults with intellectual or developmental disabilities to remain at home or in their family homes.

Stat. Auth.: ORS 409.050 and 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, and 430.662 to 430.670

411-330-0020 Definitions
(Amended 12/28/2014)

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 330:

(1) "Abuse" means "abuse of an adult" as defined in OAR 407-045-0260.

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

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

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

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

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

(7) "Assistive Devices" mean the devices, aids, controls, supplies, or appliances described in OAR 411-330-0110 that are necessary to enable an individual to increase the ability of the individual to perform ADL and IADLs or to perceive, control, or communicate with the home and community environment in which the individual lives.

(8) "Assistive Technology" means the devices, aids, controls, supplies, or appliances described in OAR 411-330-0110 that are purchased to provide support for an individual and replace the need for direct interventions to enable self-direction of care and maximize independence of the individual.

(9) "Attendant Care" means assistance with ADL, IADL, and health-related tasks through cueing, monitoring, reassurance, redirection, set-up, hands-on, standby assistance, and reminding, as described in OAR 411-330-0110.

(10) "Background Check" means a criminal records check and abuse check as defined in OAR 407-007-0210.

(11) "Behavior Consultant" means a contractor with specialized skills as described in OAR 411-330-0070 who conducts functional assessments and develops a Behavior Support Plan.

(12) "Behavior Support Plan" means the written strategy based on person-centered planning and a functional assessment that outlines specific instructions for a primary caregiver or provider to follow in order to reduce the frequency and intensity of the challenging behaviors of an individual

and to modify the behavior of the primary caregiver or provider, adjust environment, and teach new skills.

(13) "Behavior Support Services" mean the services consistent with positive behavioral theory and practice that are provided to assist with behavioral challenges due to the intellectual or developmental disability of an individual that prevents the individual from accomplishing ADL, IADL, health-related tasks, and provides cognitive supports to mitigate behavior. Behavior support services are provided in the home or community.

(14) "Career Development Plan" means the part of an ISP that identifies:

(a) The employment goals and objectives for an individual;

(b) The services and supports needed to achieve those goals;

(c) The people, agencies, and providers assigned to assist the individual to attain those goals;

(d) The obstacles to the individual working in an individualized job in an integrated employment setting; and

(e) The services and supports necessary to overcome those obstacles.

(15) "CDDP" means "community developmental disability program" as defined in OAR 411-320-0020.

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

(17) "Chore Services" mean the services described in OAR 411-330-0110 that are needed to restore a hazardous or unsanitary situation in the home of an individual to a clean, sanitary, and safe environment.

(18) "Collective Bargaining Agreement" means a contract based on negotiation between organized workers and their designated employer for purposes of collective bargaining to determine wages, hours, rules, and working conditions.

(19) "Community Nursing Services" mean the nursing services described in OAR 411-330-0110 that focus on the chronic and ongoing health and safety needs of an individual living in his or her own home. Community nursing services include an assessment, monitoring, delegation, training, and coordination of services. Community nursing services are provided according to the rules in OAR chapter 411, division 048 and the Oregon State Board of Nursing rules in OAR chapter 851.

(20) "Community Transportation" means the services described in OAR 411-330-0110 that enable an individual to gain access to community-based state plan and waiver services, activities and resources that are not medical in nature. Community transportation is provided in the area surrounding the home of the individual that is commonly used by people in the same area to obtain ordinary goods and services.

(21) "Comprehensive Services" means developmental disability services and supports that include 24-hour residential services and attendant care provided in a licensed home, foster home, or through a supported living program. Comprehensive services are regulated by the Department alone or in combination with an associated Department-regulated program for employment. Comprehensive services are in-home services provided to an individual with an intellectual or developmental disability when the individual receives case management services from a CDDP. Comprehensive services do not include support services for adults with intellectual or developmental disabilities enrolled in Brokerages.

(22) "CPMS" means "Client Process Monitoring System". CPMS is the Department computerized system for enrolling and terminating services for individuals with intellectual or developmental disabilities.

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

(24) "Designated Representative" means any adult, such as a parent, family member, guardian, advocate, or other person, who is chosen by an individual or the legal representative of the individual, not a paid provider

for the individual, and authorized by the individual or the legal representative of the individual to serve as the representative of the individual or the representative of the individual in connection with the provision of funded supports. An individual or a legal representative of the individual is not required to appoint a designated representative.

(25) "Developmental Disability" means "developmental disability" as defined in OAR 411-320-0020 and described in OAR 411-320-0080.

(26) "Director" means the Director of the Department of Human Services, Office of Developmental Disability Services, or the designee of the Director.

(27) "Discovery and Career Exploration" means "discovery and career exploration" as defined in OAR 411-345-0020.

(28) "Employer" means, for the purposes of obtaining in-home support through a personal support worker as described in these rules, an individual or a person selected by the individual or the legal representative of the individual to act on the behalf of the individual or the legal representative of the individual to conduct the employer responsibilities described in OAR 411-330-0065. An employer may also be a designated representative.

(29) "Employer-Related Supports" mean the activities that assist an individual, and when applicable the legal or designated representative or family members of the individual, with directing and supervising provision of services described in the ISP for the individual. Employer-related supports may include, but are not limited to:

(a) Education about employer responsibilities;

(b) Orientation to basic wage and hour issues;

(c) Use of common employer-related tools, such as service agreements; and

(d) Fiscal intermediary services.

(30) "Employment Path Services" means "employment path services" as defined in OAR 411-345-0020.

(31) "Employment Services" means "employment services" as defined in OAR 411-345-0020.

(32) "Employment Specialist" means "employment specialist" as defined in OAR 411-345-0020.

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

(34) "Environmental Modifications" mean the physical adaptations described in OAR 411-330-0110 that are necessary to ensure the health, welfare, and safety of an individual in his or her own home, or that are necessary to enable the individual to function with greater independence around his or her own home or lead to a substitution for, or decrease in, direct human assistance to the extent expenditures would otherwise be made for human assistance.

(35) "Environmental Safety Modifications" mean the physical adaptations described in OAR 411-330-0110 that are made to the exterior of the home of an individual or the home of the family of the individual as identified in the ISP for the individual to ensure the health, welfare, and safety of the individual or to enable the individual to function with greater independence around the home or lead to a substitution for, or decrease in, direct human assistance to the extent expenditures would otherwise be made for human assistance.

(36) "Exit" means termination or discontinuance of in-home support.

(37) "Family":

(a) Means a unit of two or more people that includes at least one individual with an intellectual or developmental disability where the primary caregiver is:

(A) Related to the individual with an intellectual or developmental disability by blood, marriage, or legal adoption; or

(B) In a domestic relationship where partners share:

(i) A permanent residence;

(ii) Joint responsibility for the household in general, such as child-rearing, maintenance of the residence, and basic living expenses; and

(iii) Joint responsibility for supporting the individual with an intellectual or developmental disability when the individual is related to one of the partners by blood, marriage, or legal adoption.

(b) The term "family" is defined as described above for purposes of:

(A) Determining the eligibility of an individual for in-home support as a resident in the family home;

(B) Identifying people who may apply, plan, and arrange for individual services; and

(C) Determining who may receive family training.

(38) "Family Training" means the training services described in OAR 411-330-0110 that are provided to the family of an individual to increase the capacity of the family to care for, support, and maintain the individual in the home of the individual.

(39) "Fiscal Intermediary" means a person or entity that receives and distributes IHS funds on behalf of an employer.

(40) "Functional Needs Assessment":

(a) Means the comprehensive assessment or re-assessment that:

(A) Documents physical, mental, and social functioning;

(B) Identifies risk factors and support needs; and

(C) Determines the service level.

(b) The functional needs assessment for an adult enrolled in comprehensive in-home supports is known as the Adult Needs Assessment (ANA). Effective December 31, 2014, the Department incorporates Version C of the ANA into these rules by this reference. The ANA is maintained by the Department at: http://www.dhs.state.or.us/spd/tools/dd/ANAadultInhome.xls. Printed copies of a blank ANA may be obtained by calling (503) 945-6398 or writing the Department of Human Services, Developmental Disabilities, ATTN: Rules Coordinator, 500 Summer Street NE, E-48, Salem, OR 97301.

(41) "General Business Provider" means an organization or entity selected by an individual and paid with IHS funds that:

(a) Is primarily in business to provide the service chosen by the individual to the general public;

(b) Provides services for the individual through employees, contractors, or volunteers; and

(c) Receives compensation to recruit, supervise, and pay the person who actually provides support for the individual.

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

(43) "Home Delivered Meals" means "Home Delivered Meals" as defined in OAR 411-040-0010.

(44) "IADL" means "instrumental activities of daily living". IADL include activities other than ADL required to continue independent living, such as:

(a) Meal planning and preparation;

(b) Managing personal finances;

(c) Shopping for food, clothing, and other essential items;

(d) Performing essential household chores;

(e) Communicating by phone or other media; and

(f) Traveling around and participating in the community.

(45) "ICF/ID" means an intermediate care facility for individuals with intellectual disabilities.

(46) "IHS" means "in-home support" as defined in this rule.

(47) "Immediate Family" means, for the purpose of determining whether IHS funds may be used to pay a family member to provide services, the spouse of an adult with an intellectual or developmental disability.

(48) "In-Home Expenditure Guidelines" mean the guidelines published by the Department that describe allowable uses for IHS funds. Effective January 1, 2015, the Department incorporates Version 2.0 of the In-home Expenditure Guidelines into these rules by this reference. The In-home Expenditure Guidelines are maintained by the Department at: http://www.oregon.gov/dhs/dd/adults/ss_exp_guide.pdf. A printed copy may be obtained by calling (503) 945-6398 or writing the Department of Human Services, Developmental Disabilities, ATTN: Rules Coordinator, 500 Summer Street NE, E-48, Salem, Oregon 97301.

(49) "In-Home Support" means services that are:

(a) Required for an individual with an intellectual or developmental disability to live in the home or the family home of the individual;

(b) Designed, selected, and managed by the individual; and

(c) Provided in accordance with the ISP for the individual.

(50) "Incident Report" means the written report of any injury, accident, act of physical aggression, use of protective physical intervention, or unusual incident involving an individual.

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

(52) "Independent Provider" means a person selected by an individual and paid with IHS funds to directly provide services to the individual.

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

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

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

(55) "Intellectual Disability" means "intellectual disability" as defined in OAR 411-320-0020 and described in OAR 411-320-0080.

(56) "ISP" means "Individual Support Plan". An ISP includes the written details of the supports, activities, and resources required for an individual to achieve and maintain personal goals and health and safety. The ISP is developed at least annually to reflect decisions and agreements made during a person-centered process of planning and information gathering that is driven by the individual. The ISP reflects services and supports that are important for the individual to meet the needs of the individual identified through a functional needs assessment as well as the preferences of the individual for providers, delivery, and frequency of services and supports.

The ISP is the plan of care for Medicaid purposes and reflects whether services are provided through a waiver, Community First Choice state plan, natural supports, or alternative resources. The ISP includes the Career Development Plan.

(57) "Job Coaching" means "Job Coaching" as defined in OAR 411-345-0020.

(58) "Job Development" means "Job Development" as defined in OAR 411-345-0020.
(59) "Legal Representative" means an attorney at law who has been retained by or for an individual, a person acting under the authority granted in a power of attorney, or a person or agency authorized by a court to make decisions about services for an individual.

(60) "Natural Supports" means the voluntary resources available to an individual from the relatives, friends, significant others, neighbors, roommates, and the community of the individual that are not paid for by the Department.

(61) "Nursing Service Plan" means the plan that is developed by a registered nurse based on an initial nursing assessment, reassessment, or an update made to a nursing assessment as the result of a monitoring visit.

(a) The Nursing Service Plan is specific to an individual and identifies the diagnoses and health needs of the individual and any service coordination, teaching, or delegation activities.

(b) The Nursing Service Plan is separate from the ISP as well as any service plans developed by other health professionals.

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

(63) "Oregon Intervention System (OIS)" means the system of providing training of elements of positive behavior support and non-aversive behavior intervention. OIS uses principles of pro-active support and describes approved protective physical intervention techniques that are used to maintain health and safety.

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

(65) "Person-Centered Planning":

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

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

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

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

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

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

(66) "Personal Support Worker" means "personal support worker" as defined in OAR 411-375-0010.

(67) "Positive Behavioral Theory and Practice" means a proactive approach to behavior and behavior interventions that:

(a) Emphasizes the development of functional alternative behavior and positive behavior intervention;

(b) Uses the least intrusive intervention possible;

(c) Ensures that abusive or demeaning interventions are never used; and

(d) Evaluates the effectiveness of behavior interventions based on objective data.

(68) "Primary Caregiver" means the person identified in an ISP as providing the majority of service and support for an individual in the home of the individual.

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

(70) "Progress Note" means a written record of an action taken by a services coordinator in the provision of case management, administrative tasks, or direct services to support an individual. A progress note may also be a recording of information related to the services, support needs, or circumstances of the individual which is necessary for the effective delivery of services.

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

(72) "Provider Organization" means an entity, licensed or certified by the Department, selected by an individual, and paid with IHS funds that:

(a) Is primarily in business to provide supports for individuals with intellectual or developmental disabilities;

(b) Provides supports for the individual through employees, contractors, or volunteers; and

(c) Receives compensation to recruit, supervise, and pay the person who actually provides support for the individual.

(73) "Relief Care" means the intermittent services described in OAR 411-330-0110 that are provided on a periodic basis for the relief of, or due to the temporary absence of, a person normally providing supports to an individual.

(74) "Scope of Work" means the written statement of all proposed work requirements for an environmental modification which may include dimensions, measurements, materials, labor, and outcomes necessary for a contractor to submit a proposal to complete such work. The scope of work is specific to the identified tasks and requirements necessary to address the needs outlined in the supplemental assessment referenced in the ISP and relating to the ADL, IADL, and health-related tasks of the individual as discussed by the individual, homeowner, service coordinator, and ISP team.

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

(76) "Service Agreement":

(a) Is the written agreement consistent with an ISP that describes, at a minimum:

(A) Type of service to be provided;

(B) Hours, rates, location of services, and expected outcomes of services; and

(C) Any specific individual health, safety, and emergency procedures that may be required, including action to be taken if an individual is unable to provide for their own safety and the

individual is missing while in the community under the service of a contractor or provider organization.

(b) For employed personal support workers, the service agreement serves as the written job description.

(77) "Service Level" means the amount of attendant care, hourly relief care, or skills training services determined necessary by a functional needs assessment and made available to meet the identified support needs of an individual.

(78) "Services Coordinator" means "services coordinator" as defined in OAR 411-320-0020.

(79) "Skills Training" means the activities described in OAR 411-330-0110 that are intended to maximize the independence of an individual through training, coaching, and prompting the individual to accomplish ADL, IADL, and health-related skills.

(80) "Social Benefit" means the service or financial assistance solely intended to assist an individual with an intellectual or developmental disability to function in society on a level comparable to that of a person who does not have an intellectual or developmental disability. Social benefits are pre-authorized by a services coordinator and provided according to the description and limits written in an ISP.

(a) Social benefits may not:

(A) Duplicate benefits and services otherwise available to a person regardless of intellectual or developmental disability;

(B) Provide financial assistance with food, clothing, shelter, and laundry needs common to a person with or without an intellectual or developmental disability; or

(C) Replace other governmental or community services available to an individual.

(b) Assistance provided as a social benefit is reimbursement for an expense previously authorized in an ISP or prior payment in anticipation of an expense authorized in a previously authorized ISP.

(c) Assistance provided as a social benefit may not exceed the actual cost of the support required by an individual to be supported in the home of the individual.

(81) "Specialized Medical Supplies" mean the medical and ancillary supplies described in OAR 411-330-0110, such as:

(a) Necessary medical supplies specified in an ISP that are not available through state plan or alternative resources;

(b) Ancillary supplies necessary to the proper functioning of items necessary for life support or to address physical conditions; and

(c) Supplies necessary for the continued operation of augmentative communication devices or systems.

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

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

(84) "Supported Employment - Individual Employment Support" means "supported employment - individual employment support" as defined in OAR 411-345-0020.

(85) "Supported Employment - Small Group Employment" means "supported employment - small group employment" as defined in OAR 411-345-0020.

(86) "These Rules" mean the rules in OAR chapter 411, division 330.

(87) "Transition Costs" mean the expenses described in OAR 411-330-0110, such as rent and utility deposits, first month's rent and utilities, bedding, basic kitchen supplies, and other necessities required for an individual to make the transition from a nursing facility or ICF/ID to a community-based home setting where the individual resides.

(88) "Unusual Incident" means any incident involving an individual that includes serious illness or an accident, death, injury or illness requiring inpatient or emergency hospitalization, a suicide attempt, a fire requiring the services of a fire department, an act of physical aggression, or any incident requiring an abuse investigation.

(89) "Variance" means the temporary exception from a regulation or provision of these rules that may be granted by the Department as described in OAR 411-330-0170.

(90) "Vehicle Modifications" means the adaptations or alterations described in OAR 411-330-0110 that are made to the vehicle that is the primary means of transportation for an individual in order to accommodate the service needs of the individual.

Stat. Auth.: ORS 409.050, 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-670

411-330-0030 Eligibility for In-Home Support
(Amended 12/28/2014)

(1) An eligible individual may not be denied in-home support or otherwise discriminated against on the basis of age, diagnostic or disability category, race, color, creed, national origin, citizenship, income, or duration of Oregon residence.

(2) An individual who enters in-home support is subject to eligibility as described in this section. To be eligible for in-home support, an individual must:

(a) Be an Oregon resident;

(b) Be determined eligible for developmental disability services by the CDDP of the county of origin as described in OAR 411-320-0080;

(c) Be an adult who is living in his or her own home or the family home who is not receiving other Department-funded in-home or community living support;

(d) Choose to use a CDDP for assistance with design and management of in-home support;

(e) Be eligible for Community First Choice state plan services;

(f) Be determined to meet the level of care defined in OAR 411-320-0020; and

(g) For individuals with excess income, contribute to the cost of service pursuant to OAR 461-160-0610 and OAR 461-160-0620.

(3) Individuals are not eligible for services by more than one CDDP unless the concurrent eligibility:

(a) Is necessary to effect transition from one county to another with a change of residence; and

(b) Is part of a collaborative plan developed by both CDDPs in which services and expenditures authorized by one CDDP are not duplicated by the other CDDP.

Stat. Auth.: ORS 409.050, 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-670

411-330-0040 In-Home Support Entry and Exit
(Amended 12/28/2014)

(1) The CDDP must make accurate, up-to-date, written information about in-home support available to eligible individuals and the legal or designated representatives of the individuals. These materials must include:

(a) Criteria for entry, conditions for exit, and how the limits of assistance with purchasing supports are determined;

(b) A description of processes involved in using in-home support, including person-centered planning, evaluation, and how to raise and resolve concerns about in-home support;

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

(d) A brief description of the responsibility of an individual and the legal or designated representative of the individual for use of public funds; and

(e) An explanation of the right of an individual to select and direct providers of services authorized through the ISP and purchased with IHS funds from among those qualified according to OAR 411-330-0070, 411-330-0080, and 411-330-0090, as applicable.

(2) The CDDP must make the information required in section (1) of this rule available using language, format, and presentation methods appropriate for effective communication according to the needs and abilities of the individuals.

(3) An individual may enter in-home support when funds are authorized by the CDDP specifically to support the individual.

(4) An eligible individual who has entered in-home support may continue to receive in-home support as long as the Department continues to provide funds specifically for that individual through a contract with the CDDP and the individual continues to require the services to remain at home or in the family home.

(5) An individual must exit in-home support:

(a) At the end of a service period agreed upon by all parties and specified in the ISP;

(b) At the oral or written request of the individual to end the service relationship;

(c) No fewer than 30 days after the CDDP has served the individual, and as applicable the legal or designated representative of the individual, written notice of intent to exit the individual from in-home support when the individual has been determined to no longer meet eligibility for in-home support as described in OAR 411-330-0030, except when the individual appeals the notice and requests continuing services in accordance with ORS chapter 183;

(d) When the individual moves from the service area of a CDDP, unless services are part of a time-limited plan for transition to a new county of residence;

(e) Upon entry into support services case management services;

(f) Upon entry into another comprehensive service;

(g) When funds to support the individual are no longer authorized by the CDDP of the county of origin;

(h) When the CDDP has sufficient evidence to believe that an individual has engaged in fraud or misrepresentation, failed to use resources as agreed upon in the ISP, refused to cooperate with documenting expenses, or otherwise knowingly misused public funds associated with these services; or

(i) After the individual either cannot be located or has not responded after 30 days of repeated attempts by CDDP staff to complete ISP development or monitoring activities, including participation in a functional needs assessment.

(6) Any individual being exited from in-home support must be given written notice of the intent to terminate service consistent with OAR chapter 411, division 318.

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Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-670

411-330-0050 Required In-Home Support

(Amended 12/28/2014)

(1) Each CDDP must provide or arrange for the following services as required to meet the support needs of eligible individuals:

(a) Assistance to determine needs and plan supports;

(b) Assistance to find and arrange resources and supports;

(c) Education and technical assistance to make informed decisions about support needs and direct support providers;

(d) Fiscal intermediary services;

(e) Employer-related supports; and

(f) Assistance to monitor and improve the quality of personal supports.

(2) A CDDP must complete a functional needs assessment and use a person-centered planning approach to assist an individual, and as applicable the legal or designated representative of the individual, to establish outcomes, determine needs, plan for supports, and review and redesign support strategies. The planning process must address the basic health and safety needs and supports, including informed decisions by the individual regarding any identified risks.

(3) A services coordinator must authorize an initial ISP that addresses the needs of the individual. The needs identified in the functional needs assessment must be addressed in the ISP for the individual. Prior to services beginning, the ISP must be signed by the individual or the legal or designated representative of the individual (as applicable). The ISP and attached documents must include the information described in OAR 411-320-0120, including:

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

(b) The purpose of ISP activities, addressing one or more of the following:

(A) Independence, such as the degree of choice and control an individual hopes to achieve or maintain;

(B) Integration, such as the regular access to relationships and community resources the individual hopes to achieve or maintain;

(C) Productivity, such as the employment or other contributing roles an individual hopes to achieve or maintain; or

(D) Developing or maintaining the capacity of the family to continue to provide services for the individual in the family home.

(c) A description of the supports required that is consistent with the support needs identified in the assessment of the individual;

(d) The projected dates of when specific supports are to begin and end, as well as the end date, if any, of the period of service covered by the ISP;

(e) Projected costs with sufficient detail to support estimates;

(f) A list of personal, community, and alternative resources that are available to the individual and how the resources may be applied to provide the required supports. Sources of support may include waiver services, state plan services, state general funds, or natural supports;

(g) The manner in which services are delivered and the frequency of services;

(h) Providers;

(i) The setting in which the individual resides as chosen by the individual;

(j) The strengths and preferences of the individual;

(k) Individually identified goals and desired outcomes;

(l) The services and supports (paid and unpaid) to assist the individual to achieve identified goals and the providers of the services and supports, including voluntarily provided natural supports;

(m) The risk factors and the measures in place to minimize the risk factors, including back-up plans;

(n) The identity of the person responsible for case management and monitoring the ISP;

(o) A provision to prevent unnecessary or inappropriate care;

(p) The alternative settings considered by the individual;

(q) Schedule of ISP reviews; and

(r) Any changes in support needs identified through a functional needs assessment.

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

(5) A Nursing Service Plan must be present when IHS funds are used to purchase care and services requiring the education and training of a licensed professional nurse.

(6) A services coordinator must facilitate and document reviews of the ISP and resources with the individual, and as applicable the legal or designated representative of the individual, at least annually and as major activities or purchases are completed:

(a) Evaluate the progress of an individual toward achieving the purposes of the ISP;

(b) Note effectiveness of the use of IHS funds based on observation as well as the satisfaction of the individual; and

(c) Determine whether changing needs or availability of other resources has altered the need for continued use of IHS funds to purchase supports.

(7) For an individual moving to another service area within Oregon, the CDDP must collaborate with the receiving CDDP to transfer IHS funds designated for the individual to continue the ISP for supports.

(8) For an individual transferring from a Brokerage to in-home support, the Brokerage ISP may be used as authorization for available in-home support for up to 90 days.

Stat. Auth.: ORS 409.050, 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-670

411-330-0060 Assistance with Purchasing In-Home Supports
(Amended 12/28/2014)

(1) A CDDP must only use IHS funds to assist an individual to purchase supports when:

(a) The services coordinator has developed a written and approved ISP that meets requirements for development and content as described in OAR 411-330-0050;

(b) For Community First Choice state plan services, the support addresses a need that has been determined to be necessary by a functional needs assessment;

(c) The ISP specifies cost-effective arrangements for obtaining the required supports and applying public, private, formal, and informal resources available to the eligible individual;

(d) The ISP identifies the resources needed to purchase the remainder of necessary supports;

(e) The ISP is the most cost-effective plan to safely meet the goals of the individual's ISP; and

(f) The support is consistent with the In-home Expenditure Guidelines.

(2) Goods and services purchased with IHS funds must be provided only as a social benefit as defined in OAR 411-330-0020.

(3) The method, amount, and schedule of payment must be specified in written agreements between the CDDP and the individual and the legal or designated representative of the individual (as applicable). The CDDP is specifically prohibited from:

(a) Reimbursing an individual, or as applicable the legal or designated representative or family of the individual, for expenses related to services; and

(b) Advancing funds to an individual, or as applicable the legal or designated representative or family of the individual, to obtain services.

(4) Supports purchased for an individual with IHS funds are limited to those described in OAR 411-330-0110. The CDDP must arrange for these supports to be provided:

(a) In settings and under contractual conditions that enable the individual the choice to receive supports and services from another provider;

(b) In a manner consistent with positive behavioral theory and practice as defined in OAR 411-330-0020;

(c) In accordance with applicable state and federal wage and hour regulations in the case of personal care, training, and supervision;

(d) In accordance with applicable state or local building codes in the case of environmental modifications to the home; and

(e) According to the Oregon Board of Nursing rules in OAR chapter 851 when services involve performance of nursing care or delegation, teaching, and assignment of nursing tasks.

(5) SERVICE LIMITS. The use of IHS funds to purchase individual supports in any plan year is limited to:

(a) The service level of an individual as determined by a functional needs assessment. The functional needs assessment determines the total number of hours available to meet identified needs. The total number of hours may not be exceeded without prior approval from the Department. The types of services that contribute to the total number of hours used include:

(A) Attendant care;

(B) Hourly relief care;

(C) Skills training; and

(D) State plan personal care service hours as described in OAR chapter 411, division 034.

(b) Other services and supports determined by a services coordinator to be necessary to meet the support needs identified through a person-centered planning process and consistent with the In-home Expenditure Guidelines; and

(c) Employment services and payment for employment services are limited to:

(A) An average of 25 hours per week for any combination of job coaching, small group employment support, and employment path services; and

(B) 40 hours in any one week for job coaching if job coaching is the only service utilized.

(6) When IHS funds are used to purchase supports for individuals, the CDDP must require and document that providers are informed of:

(a) Mandatory responsibility to report suspected abuse of an adult;

(b) Responsibility to immediately notify the legal or designated representative (as applicable) of the individual, family (if services are provided to an individual in the family home), and the CDDP of injury, illness, accidents, or any unusual circumstances that may have a serious effect on the health, safety, physical, emotional well-being, or level of services required by the individual for whom services are being provided; and

(c) Limits of payment:

(A) IHS payments for the agreed-upon services must be considered full payment and the provider under no circumstances may demand or receive additional payment for these services from the individual, the legal or designated representative of the individual (as applicable), the family of the individual, or any other source.

(B) The provider must bill all third party resources before using IHS funds unless another arrangement is agreed upon by the CDDP in the ISP for the individual.

(7) USE OF IHS FUNDS PROHIBITED.

(a) Effective July 28, 2009, IHS funds may not be used to support, in whole or in part, a provider in any capacity who has been convicted of any of the disqualifying crimes listed in OAR 407-007-0275.

(b) Section (7)(a) of this rule does not apply to employees of the individual, the legal or designated representative of the individual (as applicable), or provider organizations, who were hired prior to July 28, 2009 that remain in the current position for which the employee was hired.

(c) IHS funds must not pay for:

(A) Services, materials, or activities that are illegal;

(B) Services or activities that are carried out in a manner that constitutes abuse as defined in OAR 407-045-0260;

(C) Materials or equipment that has been determined unsafe for the general public by recognized consumer safety agencies;

(D) Individual or family vehicles;

(E) Health and medical costs that the general public normally must pay, including but not limited to:

(i) Medications;

(ii) Health insurance co-payments;

(iii) Mental health evaluation and treatment;

(iv) Dental treatments and appliances;

(v) Medical treatments;

(vi) Dietary supplements; or

(vii) Treatment supplies not related to nutrition, incontinence, or infection control;

(F) Basic or specialized food or nutrition essential to sustain the individual including, but not limited to, high caloric supplements, gluten-free supplements, diabetic, ketogenic, or other metabolic supplements;

(G) Ambulance services;

(H) Legal fees including, but not limited to, costs of representation in educational negotiations, establishing trusts, or creating guardianships;

(I) Vacation costs for transportation, food, shelter, and entertainment that are normally incurred by a person on vacation, regardless of disability, and are not strictly required by the need of the individual for personal assistance in all home and community-based settings;

(J) Individual support that has not been arranged according to applicable state and federal wage and hour regulations;

(K) Rate enhancements to existing employment services under OAR chapter 411, division 345;

(L) Employee wages or contractor payments for services when the individual is not present or available to receive services, such as employee paid time off, hourly "no-show" charges, and contractor preparation hours;

(M) Services, activities, materials, or equipment that are not necessary or cost-effective and do not meet the definition of in-home supports, supports, and social benefits as defined in OAR 411-330-0020;

(N) Educational services for school-age adults, including professional instruction, formal training, and tutoring in communication, socialization, and academic skills;

(O) Services, activities, materials, or equipment that may be obtained by the individual through other available means, such as private or public insurance, philanthropic organizations, or other governmental or public services;

(P) Services or activities for which the legislative or executive branch of Oregon government has prohibited use of public funds;

(Q) Service in circumstances where the CDDP determines there is sufficient evidence to believe that the individual, the legal or designated representative of the individual (as applicable), family, or provider has engaged in fraud or misrepresentation, failed to use resources as agreed upon in the ISP, refused to cooperate with record keeping required to document use of IHS funds, or otherwise knowingly misused public funds associated with in-home support;

(R) Any purchase that is not generally accepted by the relevant mainstream professional or academic community as an effective means to address an identified support need; or

(S) Services, supplies, or supports that are illegal, experimental, or determined unsafe for the general public by recognized child or consumer safety agencies.

(8) The CDDP must inform an individual, and as applicable the legal or designated representative of an individual, in writing of records and procedures required in OAR 411-330-0140 regarding expenditure of IHS funds for direct assistance. During development of the ISP, the services coordinator must determine the need or preference for the CDDP to provide support with documentation and procedural requirements and must include delineations of responsibility for maintenance of records in the ISP and any other written service agreements.

Stat. Auth.: ORS 409.050, 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-670

411-330-0065 Standards for Employers
(Amended 12/28/2014)

(1) EMPLOYER OF RECORD. An employer of record is required when a personal support worker who is not an independent contractor is selected by an individual to provide supports. The Department may not act as the employer of record.

(2) SERVICE AGREEMENT. The employer must create and maintain a service agreement for a personal support worker that is in coordination with the services authorized in the ISP. The service agreement serves as a written job description for the employed personal support worker.

(3) BENEFITS. Only personal support workers qualify for benefits. The benefits provided to personal support workers are described in OAR chapter 411, division 375.

(4) INTERVENTION. For the purpose of this rule, "Intervention" means the action the Department or the designee of the Department requires when an

employer fails to meet the employer responsibilities described in this rule. Intervention includes, but is not limited to:

(a) A documented review of the employer responsibilities described in section (5) of this rule;

(b) Training related to employer responsibilities;

(c) Corrective action taken as a result of a personal support worker filing a complaint with the Department, the designee of the Department, or other agency who may receive labor related complaints;

(d) Identifying an employer representative if a person is not able to meet the employer responsibilities described in section (5) of this rule; or

(e) Identifying another representative if the current employer representative is not able to meet the employer responsibilities described in section (5) of this rule.

(5) EMPLOYER RESPONSIBILITIES.

(a) For an individual to be eligible for in-home support provided by a personal support worker, an employer must demonstrate the ability to:

(A) Locate, screen, and hire a qualified personal support worker;

(B) Supervise and train the personal support worker;

(C) Schedule work, leave, and coverage;

(D) Track the hours worked and verify the authorized hours completed by the personal support worker;

(E) Recognize, discuss, and attempt to correct, with the personal support worker, any performance deficiencies and

provide appropriate, progressive, disciplinary action as needed; and

(F) Discharge an unsatisfactory personal support worker.

(b) Indicators that an employer may not be meeting the employer responsibilities described in subsection (a) of this section include, but are not limited to:

(A) Personal support worker complaints;

(B) Multiple complaints from a personal support worker requiring intervention from the Department or CDDP as defined in section (4) of this rule;

(C) Frequent errors on timesheets, mileage logs, or other required documents submitted for payment that results in repeated coaching from the Department or CDDP;

(D) Complaints to Medicaid Fraud involving the employer; or

(E) Documented observation by the Department or CDDP of services not being delivered as identified in an ISP.

(c) The Department or the CDDP may require intervention as defined in section (4) of this rule when an employer has demonstrated difficulty meeting the employer responsibilities described in subsection (a) of this section.

(d) An individual may not receive in-home support provided by a personal support worker if, after appropriate intervention and assistance, an employer is not able to meet the employer responsibilities described in subsection (a) of this section.

(A) An individual determined ineligible to be an employer of a personal support worker and unable to designate an employer representative, may not request in-home support provided by a personal support worker until the next annual ISP. Improvements in health and cognitive functioning may be factors in demonstrating the ability of the individual to meet the

employer responsibilities described in subsection (a) of this section. If an individual is able to demonstrate the ability to meet the employer responsibilities sooner than the next annual ISP, the individual may request the waiting period be shortened.

(B) An individual determined ineligible to be an employer of a personal support worker is offered other available service options that meet the service needs of the individual, including in-home support through a contracted qualified provider organization or general business provider when available. As an alternative to in-home support, the Department or the designee of the Department may offer other available services through the Home and Community Based Services Waiver or State Plan.

(6) DESIGNATION OF EMPLOYER RESPONSIBLITIES.

(a) An individual not able to meet all of the employer responsibilities described in section (5)(a) of this rule must:

(A) Designate an employer representative in order for the individual to receive or continue to receive in-home support provided by a personal support worker; or

(B) Select a provider organization or general business provider to provide in-home support for the individual.

(b) An individual able to demonstrate the ability to meet some of the employer responsibilities described in section (5)(a) of this rule must:

(A) Designate an employer representative to fulfill the responsibilities the individual is not able to meet in order for the individual to receive or continue to receive in-home support provided by a personal support worker; and

(B) On a Department approved form, document the specific employer responsibilities performed by the individual and the employer responsibilities performed by the employer representative of the individual.

(c) When the employer representative of an individual is not able to meet the employer responsibilities described in section (5)(a) or the qualifications in section (7)(c) of this rule, an individual must:

(A) Designate a different employer representative in order for the individual to receive or continue to receive in-home support provided by a personal support worker; or

(B) Select a provider organization or general business provider to provide in-home support for the individual.

(7) EMPLOYER REPRESENTATIVE.

(a) An individual, or the legal representative of an individual, may designate an employer representative to act on behalf of the individual, to meet the employer responsibilities described in section (5)(a) of this rule. The legal or designated representative of an individual may be the employer.

(b) An employer who is also the personal support worker of in-home support must seek an alternate employer for purposes of employment of the personal support worker. The alternate employer must:

(A) Track the hours worked and verify the authorized hours completed by the personal support worker; and

(B) Document the specific employer responsibilities performed by the employer on a Department approved form.

(c) The Department or the CDDP may suspend, terminate, or deny a request for an employer representative if the requested employer representative has:

(A) A history of substantiated abuse of an adult as described in OAR 411-045-0250 to 411-045-0370;

(B) A history of founded abuse of a child as described in ORS 419B.005;

(C) Participated in billing excessive or fraudulent charges; or

(D) Failed to meet the employer responsibilities in section (5)(a) or (7)(b) of this rule, including previous termination as a result of failing to meet the employer responsibilities in section (5)(a) or (7)(b).

(d) If the Department or CDDP suspends, terminates, or denies a request for an employer representative for the reasons described in subsection (c) of this section, an individual may select another employer representative.

(8) NOTICE.

(a) The Department or the CDDP, respectively, shall mail a notice identifying the individual, and if applicable the employer representative and legal or designated representative of the individual, when:

(A) The Department or the CDDP denies, suspends, or terminates an employer from performing the employer responsibilities described in sections (5)(a) or (7)(b) of this rule; and

(B) The Department or the CDDP denies, suspends, or terminates an employer representative from performing the employer responsibilities described in section (5)(a) or (7)(b) of this rule because the employer representative does not meet the qualifications in section (7)(c) of this rule.

(b) CDDP ISSUED NOTICES. An individual receiving in-home support, or as applicable the legal or designated representative or employer representative of the individual, may appeal a notice issued by the CDDP by requesting a review by the Director of the CDDP.

(A) For an appeal regarding denial, suspension, or termination of an employer to be valid, written notice of the appeal and request for review must be received by the CDDP within 45 days from the date of the notice.

(B) The CDDP Director shall complete a review and issue a decision within 30 days of the date the written appeal was received by the CDDP.

(C) If an individual, or as applicable the legal or designated representative or employer representative of the individual, is dissatisfied with the decision of the CDDP Director, the individual, or as applicable the legal or designated representative or employer representative of the individual, may request an administrator review by the Director of the Department.

(D) For an appeal of the decision of the CDDP to be valid, written notice of the appeal and request for an administrator review must be received by the Department within 15 days from the date of the decision of the CDDP.

(E) The Director shall complete an administrator review within 30 days from the date the written appeal was received by the Department.

(F) The determination of the Director is the final response from the Department.

(c) DEPARTMENT ISSUED NOTICES. An individual receiving in-home support, or as applicable the legal or designated representative of the individual, may appeal a notice issued by the Department by requesting an administrator review by the Director of the Department.

(A) For an appeal regarding denial, suspension, or termination of an employer to be valid, written notice of the appeal and request for an administrator review must be received by the Department within 45 days from the date of the notice.

(B) The Director shall complete an administrator review and issue a decision within 30 days of the date the written appeal was received by the Department.

(C) The determination of the Director is the final response from the Department.

(d) When a denial, suspension, or termination of an employer results in the Department denying, suspending, or terminating an individual from in-home support, the hearing rights in OAR chapter 411, division 318 apply.

Stat. Auth.: ORS 409.050, 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-670

411-330-0070 Standards for Independent Providers Paid with In-Home Support Funds
(Amended 12/28/2014)

(1) PERSONAL SUPPORT WORKER QUALIFICATIONS. Each personal support worker must meet the qualifications described in OAR chapter 411, division 375.

(2) INDEPENDENT PROVIDER WHO ARE NOT PERSONAL SUPPORT WORKERS. An independent provider who is not a personal support worker who is paid as a contractor or a self-employed person must:

(a) Be at least 18 years of age;

(b) Have approval to work based on Department policy and a background check completed by the Department in accordance with OAR 407-007-0200 to 407-007-0370. A subject individual as defined in OAR 407-007-0210 may be approved for one position to work with multiple individuals statewide when the subject individual is working in the same employment role. The Background Check Request Form must be completed by the subject individual to show intent to work statewide;

(A) Prior background check approval for another Department provider type is inadequate to meet background check requirements for independent provider enrollment.

(B) Background check approval is effective for two years from the date an independent provider is contracted with to provide in-home support, except in the following circumstances:

(i) Based on possible criminal activity or other allegations against the independent provider, a new fitness determination is conducted resulting in a change in approval status; or

(ii) The background check approval has ended because the Department has inactivated or terminated the provider enrollment for the independent provider.

(c) Effective July 28, 2009, not have been convicted of any of the disqualifying crimes listed in OAR 407-007-0275;

(d) Be legally eligible to work in the United States;

(e) Not be the spouse of an individual receiving services;

(f) Not be the employer of record or designated representative of the individual;

(g) Demonstrate by background, education, references, skills, and abilities that he or she is capable of safely and adequately performing the tasks specified in the ISP, with such demonstration confirmed in writing by the employer including:

(A) Ability and sufficient education to follow oral and written instructions and keep any records required;

(B) Responsibility, maturity, and reputable character exercising sound judgment;

(C) Ability to communicate with the individual; and

(D) Training of a nature and type sufficient to ensure that the provider has knowledge of emergency procedures specific to the individual;

(h) Hold a current, valid, and unrestricted appropriate professional license or certification where services and supervision requires specific professional education, training, and skill;

(i) Understand requirements of maintaining confidentiality and safeguarding individual information;

(j) Not be on the list of excluded or debarred providers maintained by the Office of Inspector General (http://exclusions.oig.hhs.gov/);

(k) Sign a Medicaid provider agreement and be enrolled as a Medicaid provider prior to delivery of any services; and

(l) If transporting an individual, have a valid license to drive and proof of insurance, as well as any other license or certification that may be required under state and local law depending on the nature and scope of the transportation.

(3) Section (2)(c) of this rule does not apply to employees of an employer or employees of provider organizations who were hired prior to July 28, 2009 that remain in the current position for which the employee was hired.

(4) All providers must self-report any potentially disqualifying condition as described in OAR 407-007-0280 and OAR 407-007-0290. The provider must notify the Department or the designee of the Department within 24 hours.

(5) Independent providers, including personal support workers, are not employees of the state, CDDP, or Brokerage.

(6) BEHAVIOR CONSULTANTS. Behavior consultants are not personal support workers. Behavior consultants may include, but are not limited to, autism specialists, licensed psychologists, or other behavioral specialists. Behavior consultants providing specialized supports must:

(a) Have education, skills, and abilities necessary to provide behavior support services as described in OAR 411-330-0110;

(b) Have current certification demonstrating completion of OIS training; and

(c) Submit a resume or the equivalent to the CDDP indicating at least one of the following:

(A) A bachelor's degree in special education, psychology, speech and communication, occupational therapy, recreation, art or music therapy, or a behavioral science field, and at least one year of experience with individuals who present difficult or dangerous behaviors; or

(B) Three years of experience with individuals who present difficult or dangerous behaviors and at least one year of that experience includes providing the services of a behavior consultant as described in OAR 411-330-0110.

(7) NURSE. A nurse providing community nursing services is not a personal support worker. The nurse must:

(a) Have a current Oregon nursing license;

(b) Be enrolled in the Long Term Care Community Nursing Program as described in OAR chapter 411, division 048; and

(c) Submit a resume to the CDDP indicating the education, skills, and abilities necessary to provide nursing services in accordance with Oregon law, including at least one year of experience with individuals with intellectual or developmental disabilities.

Stat. Auth.: ORS 409.050, 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-670

411-330-0080 Standards for Provider Organizations Paid with In-Home Support Funds
(Amended 12/28/2014)

(1) A provider organization certified, licensed, and endorsed under OAR chapter 411, division 325 for a 24-hour residential setting, or licensed under OAR chapter 411, division 360 for an adult foster home, or certified under OAR chapter 411, division 340 for support services, or certified and endorsed under OAR chapter 411, division 345 for employment services or OAR chapter 411, division 328 for a supported living setting, does not require additional certification as an organization to provide relief care,

attendant care, skills training, community transportation, or behavior consultation.

(2) Current license, certification, or endorsement is considered sufficient demonstration of ability to:

(a) Recruit, hire, supervise, and train qualified staff;

(b) Provide services according to an ISP; and

(c) Develop and implement operating policies and procedures required for managing an organization and delivering services, including provisions for safeguarding individuals receiving services.

(3) A person directed by a provider organization to provide services paid for with IHS funds as an employee, contractor, or volunteer, must meet the qualifications of an independent provider outlined in OAR 411-330-0070.

Stat. Auth.: ORS 409.050, 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-670

411-330-0090 Standards for General Business Providers
(Amended 12/28/2014)

(1) General business providers providing services to individuals and paid with IHS funds must hold any current license appropriate to function required by the state of Oregon or federal law or regulation including, but not limited to:

(a) For a home health agency, a license under ORS 443.015;

(b) For an in-home care agency, a license under ORS 443.315;

(c) For providers of environmental modifications involving building modifications or new construction, a current license and bond as a building contractor as required by OAR chapter 812 (Construction Contractor's Board) or OAR chapter 808 (Landscape Contractors Board);

(d) For environmental accessibility consultants, a current license as a general contractor as required by OAR chapter 812, including experience evaluating homes, assessing the needs of an individual, and developing cost-effective plans to make homes safe and accessible;

(e) For public transportation providers, the established standards;

(f) For private transportation providers, a business license and drivers licensed to drive in Oregon; and

(g) For vendors and medical supply companies providing assistive devices or specialized medical supplies, a current retail business license, including enrollment as Medicaid providers through the Division of Medical Assistance Programs if vending medical equipment.

(2) Services provided and paid for with IHS funds must be limited to the services within the scope of the license of the general business provider.

Stat. Auth.: ORS 409.050, 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-670

411-330-0100 Provider Enrollment Inactivation and Termination
(Amended 12/28/2014)

(1) The provider enrollment for a personal support worker is inactivated or terminated as described in OAR chapter 411, division 375.

(2) An independent provider who is not a personal support worker may have their provider enrollment terminated.

(a) Provider enrollment may be terminated when the CDDP or Department determines that, at some point after the initial qualification and authorization of the provider to provide supports purchased with IHS funds, the provider has:

(A) Been convicted of any crime that would have resulted in an unacceptable background check upon hiring or authorization of service;

(B) Been convicted of unlawfully manufacturing, distributing, prescribing, or dispensing a controlled substance;

(C) Surrendered his or her professional license or had his or her professional license suspended, revoked, or otherwise limited;

(D) Failed to safely and adequately provide the services authorized;

(E) Had a founded report of child abuse or substantiated adult abuse;

(F) Failed to cooperate with any Department or CDDP investigation or grant access to, or furnish, records or documentation as requested;

(G) Billed excessive or fraudulent charges or been convicted of fraud;

(H) Made a false statement concerning conviction of a crime or substantiated abuse;

(I) Falsified required documentation;

(J) Not adhered to the provisions of OAR 411-330-0060(6) and OAR 411-330-0070;

(K) Been suspended or terminated as a provider by the Department or Oregon Health Authority;

(L) Violated the requirement to maintain a drug-free work place;

(M) Failed to provide services as required;

(N) Failed to provide a tax identification number or social security number that matches the legal name of the independent provider, as verified by the Internal Revenue Service or Social Security Administration; or

(O) Been excluded or debarred by the Office of the Inspector General.

(b) If the CDDP makes a decision to terminate provider enrollment, the CDDP must issue a written notice.

(A) The written notice must include:

(i) An explanation of the reason for termination of the provider enrollment;

(ii) The alleged violation as listed in section (a) of this rule; and

(iii) The appeal rights of the independent provider, including where to file the appeal.

(B) For terminations based on substantiated abuse allegations, the notice may only contain the limited information allowed by law. In accordance with ORS 124.075, 124.085, 124.090, and OAR 411-020-0030, complainants, witnesses, the name of the alleged victim, and protected health information may not be disclosed.

(c) The provider may appeal a termination within 30 days from the date the termination notice was mailed to the provider. The provider must appeal a termination separately from any appeal of audit findings and overpayments.

(A) A provider of Medicaid services may appeal a termination by requesting an administrator review.

(B) For an appeal regarding provision of Medicaid services to be valid, written notice of the appeal must be received by the

Department within 30 days from the date the termination notice was mailed to the provider.

(d) At the discretion of the Department, providers who have previously been terminated or suspended by the Department or by the Oregon Health Authority may not be authorized as providers of Medicaid services.

Stat. Auth.: ORS 409.050, 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-670

411-330-0110 Supports Purchased with In-Home Support Funds
(Amended 12/28/2014)

(1) For an initial or annual ISP, IHS funds may be used to purchase a combination of the following waiver and state plan services when the conditions of purchase in OAR 411-330-0060 are met:

(a) An individual who is eligible for OHP Plus and meets the level of care as defined in OAR 411-320-0020 may access Community First Choice state plan services when supported by an assessed need.

(b) Transfer of Assets.

(A) As of October 1, 2014, an individual receiving medical benefits under chapter 410, division 200 requesting Medicaid coverage for services in a nonstandard living arrangement (see OAR 461-001-0000) is subject to the requirements of the rules regarding transfer of assets (see OAR 461-140-0210 to 461-140-0300) in the same manner as if the individual was requesting these services under OSIPM. This includes, but is not limited to, the following assets:

(i) An annuity evaluated according to OAR 461-145-0022;

(ii) A transfer of property when an individual retains a life estate evaluated according to OAR 461-145-0310;

(iii) A loan evaluated according to OAR 461-145-0330; or

(iv) An irrevocable trust evaluated according to OAR 461-145-0540;

(B) When an individual is considered ineligible due to a disqualifying transfer of assets, the individual must receive a notice meeting the requirements of OAR 461-175-0310 in the same manner as if the individual was requesting services under OSIPM.

(c) Community First Choice state plan services include:

(A) Behavior support services as described in section (2) of this rule;

(B) Community nursing services as described in section (3) of this rule;

(C) Environmental modifications as described in section (4) of this rule;

(D) Attendant care as described in section (5) of this rule;

(E) Skills training as described in section (6) of this rule;

(F) Relief care as described in section (7) of this rule;

(G) Assistive devices as described in section (8) of this rule;

(H) Assistive technology as described in section (9) of this rule;

(I) Chore services as described in section (10) of this rule;

(J) Community transportation as described in section (11) of this rule;

(K) Transition costs as described in section (12) of this rule; and

(L) Home delivered meals as described in OAR chapter 411, division 40.

(d) Individuals who are eligible for OSIPM and meet the level of care as defined in OAR 411-320-0020 may access Community First Choice state plan services and the following home and community-based waiver services:

(A) Case management as defined in OAR 411-320-0020;

(B) Employment services as described in section (13) of this rule that include:

(i) Supported employment - individual employment support;

(ii) Supported employment - small group employment support;

(iii) Employment path services; and

(iv) Discovery and career exploration services;

(C) Family training as described in section (14) of this rule;

(D) Environmental safety modifications as described in section (15) of this rule;

(E) Vehicle modifications as described in section (16) of this rule; and

(F) Specialized medical supplies as described in section (17) of this rule.

(e) State Plan personal care as described in OAR chapter 411, division 034.

(2) BEHAVIOR SUPPORT SERVICES.

(a) Behavior support services consist of:

(A) Assessing an individual or the needs of the family of the individual and the environment;

(B) Developing positive behavior support strategies, including a Behavior Support Plan, by a qualified behavior consultant as described in OAR 411-330-0070, if needed;

(C) Implementing the Behavior Support Plan with the provider or family; and

(D) Revising and monitoring the Behavior Support Plan as needed.

(b) Behavior support services may include:

(A) Training, modeling, and mentoring the family of an individual;

(B) Developing a visual communication system as a strategy for behavior support; and

(C) Communicating, as authorized by an individual, with school, medical, or other professionals about the strategies and outcomes of the Behavior Support Plan.

(c) Behavior support services exclude:

(A) Mental health therapy or counseling;

(B) Health or mental health plan coverage;

(C) Educational services including, but not limited to, consultation and training for classroom staff;

(D) Adaptations to meet the needs of an individual at school;

(E) An assessment in a school setting;

(F) Attendant care;

(G) Skills training; or

(H) Relief care.

(3) COMMUNITY NURSING SERVICES.

(a) Community nursing services include:

(A) Nursing assessments, including medication reviews;

(B) Care coordination;

(C) Monitoring;

(D) Development of a Nursing Service Plan;

(E) Delegation and training of nursing tasks to a provider and primary caregiver;

(F) Teaching and education of the provider and primary caregiver and identifying supports that minimize health risks while promoting the autonomy of an individual and self-management of healthcare; and

(G) Collateral contact with a services coordinator regarding the community health status of an individual to assist in monitoring safety and well-being and to address needed changes to the ISP for the individual.

(b) Community nursing services exclude direct nursing care.

(c) A Nursing Service Plan must be present when IHS funds are used for community nursing services. A services coordinator must authorize the provision of community nursing services as identified in an ISP.

(d) After an initial nursing assessment, a nursing re-assessment must be completed every six months or sooner if a change in a medical condition requires an update to the Nursing Service Plan.

(4) ENVIRONMENTAL MODIFICATIONS.

(a) Environmental modifications include, but are not limited to:

(A) An environmental modification consultation to determine the appropriate type of adaptation;

(B) Installation of shatter-proof windows;

(C) Hardening of walls or doors;

(D) Specialized, hardened, waterproof, or padded flooring;

(E) An alarm system for doors or windows;

(F) Protective covering for smoke alarms, light fixtures, and appliances;

(G) Installation of ramps, grab-bars, and electric door openers;

(H) Adaptation of kitchen cabinets and sinks;

(I) Widening of doorways;

(J) Handrails;

(K) Modification of bathroom facilities;

(L) Individual room air conditioners for an individual whose temperature sensitivity issues create behaviors or medical conditions that put the individual or others at risk;

(M) Installation of non-skid surfaces;

(N) Overhead track systems to assist with lifting or transferring;

(O) Specialized electric and plumbing systems that are necessary to accommodate the medical equipment and supplies necessary for the welfare of the individual; and

(P) Adaptations to control lights, heat, stove, etc.

(b) Environmental modifications exclude:

(A) Adaptations or improvements to the home that are of general utility, such as carpeting, roof repair, and central air conditioning, unless directly related to the assessed health and safety needs of the individual and identified in the ISP for the individual;

(B) Adaptations that add to the total square footage of the home except for ramps that attach to the home for the purpose of entry or exit;

(C) Adaptations outside of the home; and

(D) General repair or maintenance and upkeep required for the home.

(c) Environmental modifications must be tied to supporting assessed ADL, IADL, and health-related tasks as identified in the needs assessment and ISP for an individual.

(d) Environmental modifications are limited to $5,000 per modification. A services coordinator must request approval for additional expenditures through the Department prior to expenditure. Approval is based on the service and support needs and goals of the individual and the determination by the Department of appropriateness and cost-effectiveness. In addition, separate environmental modification projects that cumulatively total up to over $5,000 in a plan year must be submitted to the Department for review.

(e) Environmental modifications must be completed by a state licensed contractor with a minimum of $1,000,000 liability insurance. Any modification requiring a permit must be inspected by a local inspector and certified as in compliance with local codes. Certification of compliance must be filed in the file for the contractor prior to payment.

(f) Environmental modifications must be made within the existing square footage of the home, except for external ramps, and may not add to the square footage of the home.

(g) Payment to the contractor is to be withheld until the work meets specifications.

(h) A scope of work as defined in OAR 411-330-0020 must be completed for each identified environmental modification project. All contractors submitting bids must be given the same scope of work.

(i) A services coordinator must follow the processes outlined in the In-home Expenditure Guidelines for contractor bids and the awarding of work.

(j) All dwellings must be in good repair and have the appearance of sound structure.

(k) The identified home may not be in foreclosure or be the subject of legal proceedings regarding ownership.

(l) Environmental modifications must only be completed to the primary residence of the individual.

(m) Upgrades in materials that are not directly related to the health and safety needs of the individual are not paid for or permitted.

(n) Environmental modifications are subject to Department requirements regarding material and construction practices based on industry standards for safety, liability, and durability, as referenced in building codes, materials, manuals, and industry and risk management publications.

(o) RENTAL PROPERTY.

> (A) Environmental modifications to rental property may not substitute or duplicate services otherwise the responsibility of the landlord under the landlord tenant laws, the Americans with Disabilities Act, or the Fair Housing Act.

(B) Environmental modifications made to a rental structure must have written authorization from the owner of the rental property prior to the start of the work.

(C) The Department does not fund work to restore the rental structure to the former condition of the rental structure.

(5) ATTENDANT CARE SERVICES. Attendant care services include direct support provided to an individual in the home of the individual or community by a qualified personal support worker or provider organization. ADL and IADL services provided through attendant care must support the individual to live as independently as possible, and be based on the identified goals, preferences, and needs of the individual.

(a) ADL services include, but are not limited to:

(A) Basic personal hygiene - providing or assisting with needs such as bathing (tub, bed, bath, shower), hair care, grooming, shaving, nail care, foot care, dressing, skin care, or oral hygiene;

(B) Toileting, bowel, and bladder care - assisting to and from the bathroom, on and off toilet, commode, bedpan, urinal, or other assistive device used for toileting, changing incontinence supplies, following a toileting schedule, managing menses, cleansing an individual or adjusting clothing related to toileting, emptying a catheter, drainage bag, or assistive device, ostomy care, or bowel care;

(C) Mobility, transfers, and repositioning - assisting with ambulation or transfers with or without assistive devices, turning an individual or adjusting padding for physical comfort or pressure relief, or encouraging or assisting with range-of-motion exercises;

(D) Nutrition - assisting with adequate fluid intake or adequate nutrition, assisting with food intake (feeding), monitoring to prevent choking or aspiration, assisting with adaptive utensils, cutting food, and placing food, dishes, and utensils within reach for eating;

(E) Delegated nursing tasks;

(F) First aid and handling emergencies - addressing medical incidents related to the conditions of an individual, such as seizure, aspiration, constipation, or dehydration, responding to the call of the individual for help during an emergent situation, or for unscheduled needs requiring immediate response;

(G) Assistance with necessary medical appointments - help scheduling appointments, arranging medical transportation services, accompaniment to appointments, follow up from appointments, or assistance with mobility, transfers, or cognition in getting to and from appointments; and

(H) Observation of the status of an individual and reporting of significant changes to a physician, health care provider, or other appropriate person.

(b) IADL services include, but are not limited to:

(A) Light housekeeping tasks necessary to maintain an individual in a healthy and safe environment - cleaning surfaces and floors, making the individual's bed, cleaning dishes, taking out the garbage, dusting, and laundry;

(B) Grocery and other shopping necessary for the completion of other ADL and IADL tasks;

(C) Meal preparation and special diets;

(D) Cognitive assistance or emotional support provided to an individual due to an intellectual or developmental disability - helping the individual cope with change and assisting the individual with decision-making, reassurance, orientation, memory, or other cognitive functions;

(E) Medication and medical equipment - assisting with ordering, organizing, and administering medications (including pills, drops, ointments, creams, injections, inhalers, and

suppositories), monitoring an individual for choking while taking medications, assisting with the administration of medications, maintaining equipment, or monitoring for adequate medication supply; and

(F) Support in the community around socialization and participation in the community:

(i) Support with socialization - assisting an individual in acquiring, retaining, and improving self-awareness and self-control, social responsiveness, social amenities, and interpersonal skills;

(ii) Support with community participation - assisting an individual in acquiring, retaining, and improving skills to use available community resources, facilities, or businesses; and

(iii) Support with communication - assisting an individual in acquiring, retaining, and improving expressive and receptive skills in verbal and non-verbal language and the functional application of acquired reading and writing skills.

(c) Assistance with ADLs, IADLs, and health-related tasks may include cueing, monitoring, reassurance, redirection, set-up, hands-on, or standby assistance. Assistance may be provided through human assistance or the use of electronic devices or other assistive devices. Assistance may also require verbal reminding to complete any of the IADL tasks described in subsection (b) of this section.

(A) "Cueing" means giving verbal, audio, or visual clues during an activity to help an individual complete the activity without hands-on assistance.

(B) "Hands-on" means a provider physically performs all or parts of an activity because an individual is unable to do so.

(C) "Monitoring" means a provider observes an individual to determine if assistance is needed.

(D) "Reassurance" means to offer an individual encouragement and support.

(E) "Redirection" means to divert an individual to another more appropriate activity.

(F) "Set-up" means the preparation, cleaning, and maintenance of personal effects, supplies, assistive devices, or equipment so that an individual may perform an activity.

(G) "Stand-by" means a provider is at the side of an individual ready to step in and take over the task if the individual is unable to complete the task independently.

(6) SKILLS TRAINING. Skills training is specifically tied to accomplishing ADL, IADL, and other health-related tasks as identified by the functional needs assessment and ISP and is a means for an individual to acquire, maintain, or enhance independence.

(a) Skills training may be applied to the use and care of assistive devices and technologies.

(b) Skills training is authorized when:

(A) The anticipated outcome of the skills training, as documented in the ISP, is measurable;

(B) Timelines for measuring progress towards the anticipated outcome are established in the ISP; and

(C) Progress towards the anticipated outcomes are measured and the measurements are evaluated by a services coordinator no less frequently than every six months, based on the start date of the initiation of the skills training.

(c) When anticipated outcomes are not achieved within the timeframe outlined in the ISP, the services coordinator must reassess or redefine the use of skills training with the individual for that particular goal.

(7) RELIEF CARE.

(a) Relief care may not be characterized as daily or periodic services provided solely to allow the primary caregiver to attend school or work. Daily relief care may be provided in segments that are sequential but may not exceed seven consecutive days without permission from the Department. No more than 14 days of relief care in a plan year are allowed without approval from the Department.

(b) Relief care may include both day and overnight services that may be provided in:

(A) The home of the individual;

(B) A licensed or certified setting;

(C) The home of a qualified provider, chosen by the individual or the representative of the individual, that is a safe setting for the individual; or

(D) The community, during the provision of ADL, IADL, health-related tasks, and other supports identified in the ISP for the individual.

(8) ASSISTIVE DEVICES. Assistive devices are primarily and customarily used to meet an ADL, IADL, or health-related support need. The purchase, rental, or repair of an assistive device with IHS funds must be limited to the types of equipment and supplies that are not excluded under OAR 410-122-0080.

(a) Assistive devices may include the purchase of devices, aids, controls, supplies, or appliances primarily and customarily used to enable an individual to increase the ability of the individual to perform and support ADLs and IADLs or to perceive, control, or communicate within the home and community environment in which the individual lives.

(b) Assistive devices may be purchased with IHS funds when the intellectual or developmental disability of an individual otherwise

prevents or limits the independence of the individual in areas identified in a functional needs assessment.

(c) Assistive devices that may be purchased for the purpose described in subsection (b) of this section must be of direct benefit to the individual and may include:

(A) Devices to secure assistance in an emergency in the community and other reminders, such as medication minders, alert systems for ADL or IADL supports, or mobile electronic devices; and

(B) Assistive devices, not provided by any other funding source, to assist and enhance the independence of an individual in performing ADLs or IADLs, such as durable medical equipment, mechanical apparatus, or electronic devices.

(d) Expenditures for assistive devices are limited to $5,000 per plan year without Department approval. Any single purchase costing more than $500 must be approved by the Department prior to expenditure. A services coordinator must request approval for additional expenditures through the Department prior to expenditure. Approval is based on the service and support needs and goals of the individual and a determination by the Department of appropriateness and cost-effectiveness.

(e) Devices must be limited to the least costly option necessary to meet the assessed need of an individual.

(f) Assistive devices must meet applicable standards of manufacture, design, and installation.

(g) To be authorized by a services coordinator, assistive devices must be:

(A) In addition to any assistive devices, medical equipment. and supplies furnished under OHP, the state plan, private insurance, or alternative resources;

(B) Determined necessary to the daily functions of the individual; and

(C) Directly related to the disability of the individual.

(h) Assistive devices exclude:

(A) Items that are not necessary or of direct medical benefit to the individual or do not address the underlying need for the device;

(B) Items intended to supplant similar items furnished under OHP, private insurance, or alternative resources;

(C) Items that are considered unsafe for an individual;

(D) Toys or outdoor play equipment; and

(E) Equipment and furnishings of general household use.

(9) ASSISTIVE TECHNOLOGY Assistive technology is primarily and customarily used to provide additional safety and support and replace the need for direct interventions, to enable self-direction of care, and maximize independence. Assistive technology includes, but is not limited to, motion or sound sensors, two-way communication systems, automatic faucets and soap dispensers, incontinence and fall sensors, or other electronic backup systems, including the expense necessary for the continued operation of the assistive technology.

(a) Expenditures for assistive technology are limited to $5,000 per plan year without Department approval. Any single purchase costing more than $500 must be approved by the Department prior to expenditure. A services coordinator must request approval for additional expenditures through the Department prior to expenditure. Approval is based on the service and support needs and goals of the individual and a determination by the Department of appropriateness and cost-effectiveness.

(b) Payment for ongoing electronic back-up systems or assistive technology costs must be paid to providers each month after services are received.

(A) Ongoing costs do not include electricity or batteries.

(B) Ongoing costs may include minimally necessary data plans and the services of a company to monitor emergency response systems.

(10) CHORE SERVICES. Chore services may be provided only in situations where no one else is responsible or able to perform or pay for the services.

(a) Chore services include heavy household chores, such as:

(A) Washing floors, windows, and walls;

(B) Tacking down loose rugs and tiles; and

(C) Moving heavy items of furniture for safe access and egress.

(b) Chore services may include yard hazard abatement to ensure the outside of the home is safe for the individual to traverse and enter and exit the home.

(11) COMMUNITY TRANSPORTATION.

(a) Community transportation includes, but is not limited to:

(A) Community transportation provided by a common carrier, taxicab, or bus in accordance with standards established for these entities;

(B) Reimbursement on a per-mile basis for transporting an individual to accomplish ADL, IADL, a health-related task, or employment goal identified in an ISP; or

(C) Assistance with the purchase of a bus pass.

(b) Community transportation may only be authorized when natural supports or volunteer services are not available and one of the following is identified in the ISP of the individual:

(A) The individual has an assessed need for ADL, IADL, or health-related task during transportation; or

(B) The individual has either an assessed need for ADL, IADL, or health-related task at the destination or a need for waiver funded services at the destination.

(c) Community transportation must be provided in the most cost effective manner which meets the needs identified in the ISP for the individual.

(d) Community transportation expenses exceeding $500 per month must be approved by the Department.

(e) Community transportation must be prior authorized by a services coordinator and documented in an ISP. The Department does not pay any provider under any circumstances for more than the total number of hours, miles, or rides prior authorized by the services coordinator and documented in the ISP. Personal support workers who use their own personal vehicle for community transportation are reimbursed as described in OAR chapter 411, division 375.

(f) Community transportation services exclude:

(A) Medical transportation;

(B) Purchase or lease of a vehicle;

(C) Routine vehicle maintenance and repair, insurance and fuel;

(D) Ambulance services;

(E) Costs for transporting a person other than the individual;

(F) Transportation for a provider to travel to and from the workplace of the provider;

(G) Transportation that is not for the sole benefit of the individual;

(H) Transportation to vacation destinations or trips for relaxation purposes;

(I) Transportation provided by family members who are not personal support workers and are not simultaneously providing other paid supports at the time of the transportation;

(I) Payment to the spouse of an individual receiving in-home support;

(J) Reimbursement for out-of-state travel expenses; and

(K) Mileage reimbursement for the vehicle of the supported individual.

(12) TRANSITION COSTS.

(a) Transition costs are limited to an individual transitioning to the home or community-based setting where the individual resides from a nursing facility, ICF/ID, or acute care hospital.

(b) Transition costs are based on an the assessed need of an individual determined during the person-centered service planning process and must support the desires and goals of the individual receiving services and supports. Final approval for transition costs must be through the Department prior to expenditure. The approval of the Department is based on the need of an individual and the determination by the Department of appropriateness and cost-effectiveness.

(c) Financial assistance for transition costs is limited to:

(A) Moving and move-in costs, including movers, cleaning and security deposits, payment for background or credit checks

(related to housing), or initial deposits for heating, lighting, and phone;

(B) Payment of previous utility bills that may prevent the individual from receiving utility services and basic household furnishings, such as a bed; and

(C) Other items necessary to re-establish a home.

(d) Transition costs are provided no more than twice annually.

(e) Transitions costs for basic household furnishings and other items are limited to one time per year.

(13) EMPLOYMENT SERVICES. Employment services must be:

(a) Delivered according to OAR 411-345-0025; and

(b) Provided by an employment specialist meeting the requirements described in OAR 411-345-0030.

(14) FAMILY TRAINING. Family training services are provided to the family of an individual to increase the abilities of the family to care for, support, and maintain the individual in the home of the individual.

(a) Family training services include:

(A) Instruction about treatment regimens and use of equipment specified in an ISP;

(B) Information, education, and training about the disability, medical, and behavioral conditions of an individual; and

(C) Registration fees for organized conferences and workshops specifically related to the intellectual or developmental disability of the individual or the identified, specialized, medical, or behavioral support needs of the individual.

(i) Conferences and workshops must be prior authorized by a services coordinator, directly relate to the intellectual

or developmental disability of the individual, and increase the knowledge and skills of the family to care for and maintain the individual in the home of the individual.

(ii) Conference and workshop costs exclude:

(I) Travel, food, and lodging expenses;

(II) Services otherwise provided under OHP or available through other resources; or

(III) Costs for individual family members who are employed to care for the individual.

(b) Family training services exclude:

(A) Mental health counseling, treatment, or therapy;

(B) Training for a paid provider;

(C) Legal fees;

(D) Training for a family to carry out educational activities in lieu of school;

(E) Vocational training for family members; and

(F) Paying for training to carry out activities that constitute abuse of an adult.

(c) Prior authorization by the CDDP is required for attendance by family members at organized conferences and workshops funded with IHS funds.

(15) ENVIRONMENTAL SAFETY MODIFICATIONS.

(a) Environmental safety modifications must be made from materials of the most cost effective type and may not include decorative additions.

(b) Fencing may not exceed 200 linear feet without approval from the Department .

(c) Environmental safety modifications exclude:

(A) Large gates, such as automobile gates;

(B) Costs for paint and stain;

(C) Adaptations or improvements to the home that are of general utility and are not for the direct safety or long-term benefit to the individual or do not address the underlying environmental need for the modification; and

(D) Adaptations that add to the total square footage of the home.

(d) Environmental safety modifications must be tied to supporting ADL, IADL, and health-related tasks as identified in the ISP.

(e) Environmental safety modifications are limited to $5,000 per modification. A services coordinator must request approval for additional expenditures through the Department prior to expenditure. Approval is based on the service and support needs and goals of the individual and the determination by the Department of appropriateness and cost-effectiveness. In addition, separate environmental safety modification projects that cumulatively total up to over $5,000 in a plan year must be submitted to the Department for review.

(f) Environmental safety modifications must be completed by a state licensed contractor with a minimum of $1,000,000 liability insurance. Any modification requiring a permit must be inspected by a local inspector and certified as in compliance with local codes. Certification of compliance must be filed in the file for the contractor prior to payment.

(g) Environmental safety modifications must be made within the existing square footage of the home and may not add to the square footage of the home.

(h) Payment to the contractor is to be withheld until the work meets specifications.

(i) A scope of work as defined in OAR 411-330-0020 must be completed for each identified environmental safety modification project. All contractors submitting bids must be given the same scope of work.

(j) A services coordinator must follow the processes outlined in the In-home Expenditure Guidelines for contractor bids and the awarding of work.

(k) All dwellings must be in good repair and have the appearance of sound structure.

(l) The identified home may not be in foreclosure or the subject of legal proceedings regarding ownership.

(m) Environmental safety modifications must only be completed to the primary residence of the individual.

(n) Upgrades in materials that are not directly related to the health and safety needs of the individual are not paid for or permitted.

(o) Environmental safety modifications are subject to Department requirements regarding material and construction practices based on industry standards for safety, liability, and durability, as referenced in building codes, materials manuals, and industry and risk management publications.

(p) RENTAL PROPERTY.

> (A) Environmental safety modifications to rental property may not substitute or duplicate services otherwise the responsibility of the landlord under the landlord tenant laws, the Americans with Disabilities Act, or the Fair Housing Act.

(B) Environmental safety modifications made to a rental structure must have written authorization from the owner of the rental property prior to the start of the work.

(C) The Department does not fund work to restore the rental structure to the former condition of the rental structure.

(16) VEHICLE MODIFICATIONS.

(a) Vehicle modifications may only be made to the vehicle primarily used by an individual to meet the unique needs of the individual. Vehicle modifications may include a lift, interior alterations to seats, head and leg rests, belts, special safety harnesses, other unique modifications to keep the individual safe in the vehicle, and the upkeep and maintenance of a modification made to the vehicle.

(b) Vehicle modifications exclude:

(A) Adaptations or improvements to a vehicle that are of general utility and are not of direct medical benefit to the individual or do not address the underlying need for the modification;

(B) The purchase or lease of a vehicle; or

(C) Routine vehicle maintenance and repair.

(c) Vehicle modifications are limited to $5,000 per modification. A services coordinator must request approval for additional expenditures through the Department prior to expenditure. Approval is based on the service and support needs and goals of the individual and the determination by the Department of appropriateness and cost-effectiveness. In addition, separate vehicle modification projects that cumulatively total up to over $5,000 in a plan year must be submitted to the Department for review.

(d) Vehicle modifications must meet applicable standards of manufacture, design, and installation.

(17) SPECIALIZED MEDICAL SUPPLIES. Specialized medical supplies do not cover services which are otherwise available to an individual under Vocational Rehabilitation and Other Rehabilitation Services, 29 U.S.C. 701-7961, as amended, or the Individuals with Disabilities Education Act, 20 U.S.C. 1400 as amended. Specialized medical supplies may not overlap with, supplant, or duplicate other services provided through a waiver, OHP, or Medicaid state plan services.

Stat. Auth.: ORS 409.050, 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-670

411-330-0120 Abuse and Unusual Incidents
(Amended 12/28/2013)

(1) ABUSE PROHIBITED. No adult or individual, as defined by OAR 411-330-0020, shall be abused nor shall abuse be tolerated by any employee, staff, or volunteer of an individual, provider organization, or CDDP.

(2) UNUSUAL INCIDENTS.

(a) A written report that describes any injury, accident, act of physical aggression, or unusual incident involving an individual and a CDDP employee must be prepared at the time of the incident and placed in the individual's service record. The report must include:

(A) Conditions prior to, or leading to, the incident;

(B) A description of the incident;

(C) Staff response at the time; and

(D) Administrative review and follow-up to be taken to prevent recurrence of the injury, accident, physical aggression, or unusual incident.

(b) The CDDP must notify the Department immediately of an incident or allegation of abuse falling within the scope of OAR 407-045-0260.

(A) When an abuse investigation has been initiated, the CDDP must provide notification in accordance with OAR 407-045-0290.

(B) When an abuse investigation has been completed, the CDDP must provide notification in accordance with OAR 407-045-0320.

(c) In the case of a serious illness, injury, or death of an individual, the CDDP must immediately notify the individual's legal or designated representative, parent, next of kin, and designated contact person, as applicable.

Stat. Auth.: ORS 409.050 and 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, and 430.662 to 430.670

411-330-0130 Complaints, Notification of Planned Action, and Hearings
(Amended 12/28/2014)

(1) COMPLAINTS.

(a) Complaints must be addressed in accordance with OAR 411-318-0015.

(b) The policy and procedures for complaints must be explained and provided as described in OAR 411-320-0175.

(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.

(c) A notice of hearing rights and the policy and procedures for hearings as described in OAR chapter 411, division 318 must be explained and provided as described in OAR 411-320-0175.

Stat. Auth.: ORS 409.050, 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-670

411-330-0140 In-Home Support Operation
(Amended 12/28/2014)

(1) PERSONNEL POLICIES AND PRACTICES. The CDDP must maintain up-to-date written position descriptions for all services coordinators coordinating in-home support that includes written documentation of the following for each staff person:

(a) Reference checks and confirmation of qualifications prior to hire;

(b) Satisfactory completion of basic orientation, including mandatory abuse reporting training;

(c) Satisfactory completion of job-related in-service training;

(d) Department approval to work based on a background check;

(e) Notification and acknowledgement of mandatory abuse reporter status;

(f) Any founded reports of child abuse or substantiated adult abuse;

(g) Any grievances filed against the staff person and the results of the grievance process, including, if any, disciplinary action; and

(h) Legal U.S. worker status.

(2) SERVICES COORDINATOR TRAINING. The CDDP must provide or arrange for services coordinators to receive training needed to provide or arrange for the in-home support.

(3) RECORD REQUIREMENTS. The CDDP must maintain records in compliance with this rule, OAR 411-320-0070, applicable state and federal law, and other state rules regarding audits and clinical records and confidentiality.

(a) DISCLOSURE AND CONFIDENTIALITY. For the purpose of disclosure from individual medical records under these rules, the CDDPs are considered "providers" as defined in ORS 179.505(1) and ORS 179.505 is applicable.

(A) Access to records by the Department does not require authorization by an individual or the legal or designated representative or family of the individual.

(B) For the purposes of disclosure of non-medical individual records, all or portions of the information contained in the non-medical individual records may be exempt from public inspection under the personal privacy information exemption to the public records law set forth in ORS 192.502(2).

(b) INDIVIDUAL RECORDS. The CDDP must maintain, and make available on request for Department review, up-to-date records for each individual receiving in-home support. These records must include:

(A) An easily-accessed summary of basic information including individual name, family name (if applicable), name of the legal or designated representative of the individual(as applicable), or conservator of the individual (if applicable), address, telephone number, date of entry into services, date of birth, gender, marital status, and individual financial resource information.

(B) Records related to receipt and disbursement of public and private support funds including expenditure authorizations, expenditure verification, copies of CPMS expenditure reports, verification that providers meet requirements of OAR 411-330-

0070, and documentation that the individual, and as applicable the legal or designated representative of the individual, understand and accept or delegate record keeping responsibilities outlined in this rule;

(C) Incident reports involving CDDP staff;

(D) Assessments used to determine supports required, preferences, and resources;

(E) ISP and reviews;

(F) Services coordinator correspondence and notes related to resource development and plan outcomes; and

(G) Customer satisfaction information.

(c) SPECIAL REQUIREMENTS FOR IHS DIRECT ASSISTANCE EXPENDITURES. The CDDP must develop and implement written policies and procedures concerning use of IHS funds to purchase goods and services to meet the supports needs of an individual that are described in the ISP. These policies and procedures must include, but are not limited to:

(A) Minimum acceptable records of expenditures and under what conditions these records must be maintained by the individual, or as applicable the legal or designated representative or family of the individual:

(i) Itemized invoices and receipts to record the purchase of any single item;

(ii) A trip log indicating purpose, date, and total miles to verify vehicle mileage reimbursement;

(iii) Signed contracts and itemized invoices for any services purchased from independent contractors and business providers;

(iv) Pay records to record employee services, including timesheets signed by both employee and employer; and

(v) Documentation that services provided were consistent with the authorized ISP for an individual.

(B) Return of purchased goods.

(i) Any goods purchased with IHS funds that are not used according to an ISP or according to an agreement securing the use of the state may be immediately recovered.

(ii) Failure to furnish written documentation upon written request from the Department, the Oregon Department of Justice Medicaid Fraud Unit, or Centers for Medicare and Medicaid Services, or as applicable their authorized representatives, immediately or within timeframes specified in the written request, may be deemed reason to recover payments or deny further assistance.

(d) GENERAL FINANCIAL POLICIES AND PRACTICES. The CDDP must:

(A) Maintain up-to-date accounting records accurately and consistent with generally accepted accounting principles that reflect all revenue by source, all expenses by object of expense, and all assets, liabilities, and equities.

(B) Develop and implement written statements of policy and procedure as are necessary and useful to assure compliance with any Department administrative rule pertaining to fraud and embezzlement.

(e) RECORDS RETENTION. Records must be retained in accordance with OAR chapter 166, Secretary of State, Archives Division.

(A) Financial records, supporting documents, statistical records, and all other records (except individual records) must be

retained for at least three years after the close of the contract period, or until audited.

(B) Individual records must be kept for at least seven years.

(4) OTHER OPERATING POLICIES AND PRACTICES. The CDDP must develop and implement such written statements of policy and procedure, in addition to those specifically required by this rule, as are necessary and useful to enable the CDDP to accomplish the objectives of the CDDP and to meet the requirements of these rules and other applicable standards and rules.

Stat. Auth.: ORS 409.050, 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-670

411-330-0150 Quality Assurance
(Amended 12/28/2013)

The CDDP must participate in statewide evaluation and regulation activities as directed by the Department in OAR 411-320-0045.

Stat. Auth.: ORS 409.050 and 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, and 430.662 to 430.670

411-330-0160 Inspections and Investigations
(Amended 12/28/2013)

(1) The CDDP must allow the following types of investigations and inspections to be performed by the Department, or other proper authority:

(a) Quality assurance and on-site inspections;

(b) Complaint investigations; and

(c) Abuse investigations.

(2) Any inspection or investigation may be unannounced.

(3) All documentation and written reports required by these rules must be:

(a) Open to inspection and investigation by the Department or other proper authority; and

(b) Submitted to or be made available for review by the Department, or other proper authority within the time allotted.

(4) When abuse is alleged or death of an individual has occurred and a law enforcement agency or the Department has determined to initiate an investigation, the CDDP may not conduct an internal investigation without prior authorization from the Department. For the purposes of this section, an internal investigation is defined as:

(a) Conducting interviews of the alleged victim, witness, the accused person, or any other person who may have knowledge of the facts of the abuse allegation or related circumstances;

(b) Reviewing evidence relevant to the abuse allegation other than the initial report; or

(c) Any other actions beyond the initial actions of determining:

(A) If there is reasonable cause to believe that abuse has occurred;

(B) If the alleged victim is in danger or in need of immediate protective services;

(C) If there is reason to believe that a crime has been committed; or

(D) What, if any, immediate personnel actions must be taken.

(5) Abuse investigations must be completed as described in OAR 407-045-0250 to OAR 407-045-0360 and must include an Abuse Investigation and Protective Services Report according to OAR 407-045-0320.

(6) Upon completion of the abuse investigation by the Department, the Department's designee, or a law enforcement agency, the CDDP may

conduct an investigation without further Department approval to determine if any other personnel actions are necessary.

(7) Upon completion of the Abuse Investigation and Protective Service Report, according to OAR 407-045-0330, the sections of the report that are public records and not exempt from disclosure under the public records law must be provided to the appropriate service provider.

(8) The provider must implement the actions necessary within the deadlines listed, to prevent further abuse as stated in the report.

(9) A plan of improvement must be submitted to the Department for any noncompliance found during an inspection under this rule.

Stat. Auth.: ORS 409.050 and 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, and 430.662 to 430.670

411-330-0170 Variances
(Amended 12/28/2013)

(1) A variance may be granted to a CDDP if the CDDP lacks the resources needed to implement the standards required in these rules, if implementation of the proposed alternative services, methods, concepts, or procedures shall result in services or systems that meet or exceed the standards in these rules, or if there are other extenuating circumstances. OAR 411-330-0060(6) and 411-330-0110 are specifically excluded from variance.

(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) The alternative practice, service, method, concept, or procedure proposed;

(d) A plan and timetable for compliance with the section of the rule from which the variance is sought; and

(e) If the variance applies to an individual's service, evidence that the variance is consistent with the individual's current ISP.

(3) The Department's director may approve or deny the request for a variance. The director's decision is final.

(4) The Department must notify the CDDP of the Department's decision. The decision notice must be sent within 45 calendar days of the receipt of the request by the Department with a copy sent to all relevant Department programs or offices.

(5) The CDDP may implement a variance only after written approval from the Department.

Stat. Auth.: ORS 409.050 and 430.662
Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, and 430.662 to 430.670