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

CHAPTER 411
DIVISION 345

EMPLOYMENT AND ALTERNATIVES TO EMPLOYMENT SERVICES FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

411-345-0010 Statement of Purpose and Statutory Authority
(Effective 12/28/2003)

(1) Purpose. These rules prescribe standards by which Oregon Department of Human Services approves programs that provide employment and alternatives to employment services for individuals with developmental disabilities.

(2) Statutory authority. These rules are authorized by ORS 409.050 and 410.070 and carry out the provisions of 430.610, 430.630, and 430.670.

(3) Mission Statement. One mission of the Oregon Department of Human Services is to provide support services that enhance the quality of life of persons with developmental disabilities.

> (a) Employment and alternatives to employment services are key to the service delivery system and are critical to achieving this mission. The term "Employment Services" refers to the variety of non-sheltered and sheltered services that employ individuals. Oregon Department of Human Services recognizes supported employment as a desired method of providing employment services. "Alternatives to Employment Services" includes those services for individuals whose age or condition preclude employment situations. The overall purpose of employment and alternative to employment services is to provide services that promote individuals' opportunities for integration, independence and productivity and that are based upon individual needs.

(b) The service provider is responsible for developing and implementing policies, procedures and plans that ensure that the requirements of this rule are met.

(c) In addition, the service provider must ensure compliance with all applicable local, state and federal laws and regulations that apply to the type of business it runs.

(d) As a member of each individual's ISP team, the service provider has the responsibility to participate in the ISP process as required by this rule. It is through the ISP process that local providers, advocates, family members and community mental health program representatives determine with individuals the types of services to be delivered to the individual.

(e) The purpose of this rule is to ensure that the employment and alternative to employment service provider meets basic management, programmatic, health and safety and human rights regulations for those individuals receiving services funded by the Oregon Department of Human Services.

Stat. Auth.: ORS 409.050, 410.070
Stats. Implemented: ORS 430.610, 430.630 & 430.670

411-345-0020 Definitions
(Amended 7/1/2010)

As used in these rules, the following definitions apply:

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

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

(3) "Administration of Medication" means the act of placing a medication in or on an individual's body by a staff member who is responsible for the individual's care.

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

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

(6) "Aid to Physical Functioning" means any special equipment prescribed for an individual by a physician, therapist, or dietician that maintains or enhances the individual's physical functioning.

(7) "Alternatives to Employment Services" mean any services, conducted away from an individual's residence that addresses the academic, recreational, social, or therapeutic needs of the individuals for whom it serves.

(8) "Annual Individual Support Plan (ISP) Meeting" means an annual meeting, coordinated by a services coordinator of the community developmental disability program that is attended by the Individual Support Plan team members and other persons such as an advocate as appropriate. The purpose of the meeting is to determine needs, coordinate services and training, and develop an Individual Support Plan.

(9) "Board of Directors" mean a group of persons formed to set policy and give directions to a program designed to provide employment and alternatives to employment services for individuals with developmental disabilities. A board of directors includes local advisory boards used by multi-state organizations.

(10) "Certificate" means a document issued by the Department to a provider of employment and alternatives to employment services that certifies that the provider is eligible to receive state funds for the provision of these services.

(11) "Choice" means the individual's expression of preference, opportunity for, and active role in decision-making related to the selection of assessments, services, service providers, goals and activities, and verification of satisfaction with these services. Choice may be

communicated verbally, through sign language, or by other communication methods.

(12) "Community Based Service" means any service or program providing opportunities for the majority of an individual's time to be spent in community participation or integration.

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

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

(15) "Controlled Substance" means any drug classified as Schedules 1 to 5 under the Federal Controlled Substance Act.

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

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

> (a) Originates before the individual reaches the age of 22 years, except that in the case of mental retardation, the condition must be manifested before the age of 18;
>
> (b) Originates and directly affects the brain and has continued, or must be expected to continue, indefinitely;
>
> (c) Constitutes a significant impairment in adaptive behavior; and

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

(18) "Director" means the person responsible for administration of the employment and alternatives to employment services and provision of support services for individuals.

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

(20) "Employment Services" means any service that has as its primary goal the employment of individuals, including job assessment, job development, training, and ongoing supports.

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

(22) "Exit" means either termination from a Department-funded developmental disability service provider or transfer from one Department-funded program to another. Exit does not mean transfer within a service provided through the same CDDP.

(23) "Facility Based Service" means any service or program that occurs in a location serving more than eight individuals.

(24) "Founded Reports" means the Department's Children, Adults, and Families Division or Law Enforcement Authority (LEA) determination, based on the evidence, that there is reasonable cause to believe that conduct in violation of the child abuse statutes or rules has occurred and such conduct is attributable to the person alleged to have engaged in the conduct.

(25) "Incident Report" means a written report of any injury, accident, acts of physical aggression, or unusual incident involving an individual.

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

(27) "Individual" means a person with developmental disabilities for whom services are planned and provided.

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

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

(30) "Integration" means:

> (a) The use by individuals with developmental disabilities of the same community resources that are used by and available to other persons in the community;
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> (b) Participation in the same community activities in which persons without a developmental disability participate, together with regular contact with persons without a developmental disability; and
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> (c) Individuals with developmental disabilities live in homes that are in proximity to community resources and work and participate in activities that foster contact with persons in their community.

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

(32) "Mandatory Reporter" means any public or private official who, while acting in an official capacity, comes in contact with and has reasonable cause to believe an adult with developmental disabilities has suffered abuse, or comes in contact with any person whom the official has reasonable cause to believe abused an adult with developmental

disabilities. Pursuant to ORS 430.765(2) psychiatrists, psychologists, clergy, and attorneys are not mandatory reporters with regard to information received through communications that are privileged under ORS 40.225 to 40.295.

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

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

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

(36) "Productivity" as defined in ORS 427.005means engagement in income producing work by an individual with developmental disabilities that is measured through improvements in income level, employment status or job advancement, or engagement by an individual with developmental disabilities in work contributing to a household or community.

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

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

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

(40) "Service Provider" or "Service" means a public or private community agency or organization that provides recognized developmental disability services and is approved by the Department or other appropriate agency, to provide these services. For the purpose of these rules "provider" or "program" is synonymous with "service provider."

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

(42) "Significant Other" means a person selected by the individual to be the individual's friend.

(43) "Staff" means a paid employee responsible for providing services to individuals and whose wages are paid in part or in full with funds contracted with the community developmental disability program or contracted directly through the Department.

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

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

(46) "Supported Employment" means the provision of situational assessment, job development, job training, and ongoing support necessary to place, maintain, or change the employment of an individual in an integrated work setting. Work must be performed on a full or part-time basis, averaging at least 20 hours per week for each pay period. The individual is compensated in accordance with the Fair Labor Standards Act.

(47) "These Rules" mean the rules in OAR chapter 411, division 345.

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

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

(50) "Unit of Service" means the equivalent of an individual receiving services 25 hours per week, 52 weeks per year minus the following:

(a) Personal, vacation, or sick leave allowed by the service provider or employer;

(b) Holidays as recognized by the state of Oregon; and

(c) Up to 4 days for all-staff in-service training.

(d) Any deviation from the 25 hours per week per individual served must be agreed to and documented by the Individual Support Plan team.

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

(52) “Volunteer” means any person providing services without pay to individuals receiving employment or alternatives to employment services.

Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0030 Issuance of Certificate
(Effective 12/28/2003)

(1) Certificate required. No person or governmental unit acting individually or jointly with any other person or governmental unit will establish, conduct, maintain, manage or operate an employment or alternative to employment service without being certified.

(2) Not transferable. Each certificate is issued only for the employment or alternative to employment service and persons or governmental units named in the application. No certificate is transferable or assignable.

(3) Terms of certificate. Each certificate is issued for a maximum of three years.

(4) Service provider review. As part of the certificate renewal process the service provider must conduct a self-evaluation based upon the requirements of this rule.

> (a) The service provider must document the self-assessment on forms provided by the Department;
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> (b) The service provider must develop and implement a plan of improvement based upon the findings of the self-evaluation; and
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> (c) The service provider must submit these documents to the local CMHP with a copy to the Department.

(5) Department Review. The Department must conduct a review of the service provider prior to the issuance of a certificate.

Stat. Auth.: ORS 409.050, 410.070
Stats. Implemented: ORS 430.610, 430.630 & 430.670

411-345-0040 Application for Initial Certificate and Certificate Renewal
(Effective 12/28/2003)

(1) Form. The application must be on a form provided by the Department and must include all information requested by the Department.

(2) Initial Application. The applicant must identify the number and types of units of service that will be provided.

(3) Renewal application. To renew certification, the service provider must make application at least 30 days but not more than 120 days prior to the expiration date of the existing certificate. On renewal, no increase in the number of units of service shall be certified unless specifically approved by the Department.

(4) Renewal application extends expiration date. Filing of an application for renewal at least 30 days but not more than 120 days prior to the expiration date of the existing certificate extends the effective date until the Department or its designee takes action upon such application.

(5) Incomplete or incorrect information. Failure to disclose requested information on the application, or provision of incomplete or incorrect information on the application, may result in denial, revocation or refusal to renew the certificate

(6) Demonstrated capability. Prior to issuance or renewal of the certificate the applicant must demonstrate to the satisfaction of the Department that the applicant is capable of providing the types of services identified in a manner consistent with the requirements of these rules.

(7) Separate certificates. Separate certificates are required when the service provider delivers services in multiple counties to the extent that contracts with each different county are required.

Stat. Auth.: ORS 409.050, 410.070
Stats. Implemented: ORS 430.610, 430.630 & 430.670

411-345-0050 Reciprocal Compliance
(Effective 12/28/2003)

(1) Acceptance of compliance with other standards. The Department may accept compliance with other formally recognized standards as assurance of compliance with all or part of these rules.

(2) Certificate based on compliance with other standards. An Employment or Alternative to Employment service seeking a Department Certificate based on compliance with other standard must:

(a) Provide the Department with a copy of the complete detailed report from the reviewing group; and

(b) Where there are differences between other standards and Oregon Administrative Rules, the Oregon Administrative Rules will take precedence.

Stat. Auth.: ORS 409.050, 410.070
Stats. Implemented: ORS 430.610, 430.630 & 430.670

411-345-0060 Certification Expiration, Termination of Operations, Certificate Return
(Effective 12/28/2003)

(1) Expiration. Unless revoked or terminated earlier, each certificate to operate an employment or alternative to employment service will expire on the expiration date specified on the certificate.

(2) Termination of operation. If the director or director's designee of an employment or alternative to employment service discontinues operation of the certified service, the certificate terminates automatically.

(3) Return of Certificate. Each certificate in the possession of the service must be returned to the Department immediately upon suspension or revocation of the certificate, or when operation is discontinued by the holder of the certificate.

Stat. Auth.: ORS 409.050, 410.070
Stats. Implemented: ORS 430.610, 430.630 & 430.670

411-345-0070 Change of Ownership, Legal Entity, Legal Status, Management Corporation
(Effective 12/28/2003)

(1) Notice of pending change in ownership, legal entity, legal status or management corporation. The program must notify the Department in writing of any pending change in the program's ownership or legal entity, legal status or management corporation.

(2) New certificate required. A new certificate is required upon change in a program's ownership/legal entity or legal status. The program must submit a certificate application at least 30 days prior to change in ownership/legal entity or legal status.

Stat. Auth.: ORS 409.050, 410.070
Stats. Implemented: ORS 430.610, 430.630 & 430.670

411-345-0080 Inspections and Investigations
(Amended 7/1/2010)

(1) All services covered by this rule must allow the following types of investigations and inspections:

(a) Quality assurance, certificate renewal, and on-site inspections;

(b) Complaint investigations; and

(c) Abuse investigations.

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

(3) Any inspection or investigation may be unannounced.

(4) All documentation and written reports required by this rule must be:

(a) Open to inspection and investigation by the Department, the Department's designee, or proper authority; and

(b) Submitted to or made available for review by the Department within the time allotted.

(5) When abuse is alleged or death of an individual has occurred and a law enforcement agency, or the Department or the Department's designee, has determined to initiate an investigation, the service provider 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 persons 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 to assure individual safety.

(6) When an abuse investigation has been initiated, the CDDP must provide notice to the program according to OAR 407-045-0290.

(7) The Department or the Department's designee must conduct investigations as described in OAR 407-045-0250 to OAR 407-045-0360.

(8) When an abuse investigation has been completed, the CDDP must provide notice of the outcome of the Abuse Investigation and Protective Services Report according to OAR 407-045-0320.

(9) Upon completion of the abuse investigation by the Department, the Department's designee, or a law enforcement agency, the service provider may conduct an investigation to determine if any other personnel actions are necessary.

(10) Upon completion of the Abuse Investigation and Protective Services 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. The service provider

must implement the actions necessary within the deadlines listed, to prevent further abuse as stated in the report.

(11) A plan of improvement must be submitted to the CDDP and the Division for any noncompliance found during an inspection under this rule.

Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0090 Alternative Methods, Variances
(Effective 12/28/2003)

(1) Criteria for a variance. Variances may be granted to a service provider if the service provider lacks the resources needed to implement the standards required by chapter 411, division 345, if implementation of the proposed alternative services, methods, concepts or procedures would result in services or systems that meet or exceed the standards in these rules or if there are other extenuating circumstances.

(2) Variance application. The service provider requesting a variance must submit in writing, an application to the CMHP 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; and

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

(3) Community Mental Health Program Review. The CMHP must forward signed documentation to the Department within 30 days of the receipt of the request for variance indicating its position on the proposed variance.

(4) Department review. The Administrator for the Department or designee may approve or deny the request for a variance.

(5) Notification. The Department must notify the provider and the CMHP of the decision. This notice must be sent within 30 days of the receipt of the request by the Department with a copy to other relevant sections of the Department.

(6) Appeal application. Appeal of the denial of a variance request must be made in writing to the Administrator of the Department, whose decision is final.

(7) Duration of Variance. The duration of the variance must be determined by the Department.

(8) Written approval. The provider may implement a variance only after written approval from the Department.

Stat. Auth.: ORS 409.050, 410.070
Stats. Implemented: ORS 430.610, 430.630 & 430.670

411-345-0100 Program Management
(Amended 7/1/2010)

(1) NONDISCRIMINATION. The service must comply with all applicable state and federal statutes, rules, and regulations in regard to nondiscrimination in employment practices.

(2) PROHIBITION AGAINST RETALIATION. A community program or service provider may not retaliate against any staff that reports in good faith suspected abuse or retaliate against the individual with respect to any report. An accused person may not self-report solely for the purpose of claiming retaliation.

> (a) Any community facility, community program, or person that retaliates against any person because of a report of suspected abuse or neglect shall be liable according to ORS 430.755, in a private action to that person for actual damages and, in addition, shall be subject to a penalty up to $1000, notwithstanding any other remedy provided by law.
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> (b) Any adverse action is evidence of retaliation if taken within 90 days of a report of abuse. Adverse action means only those actions

arising solely from the filing of an abuse report. For purposes of this subsection, "adverse action" means any action taken by a community facility, community program, or person involved in a report against the person making the report or against the adult because of the report and includes but is not limited to:

(A) Discharge or transfer from the community program, except for clinical reasons;

(B) Discharge from or termination of employment;

(C) Demotion or reduction in remuneration for services; or

(D) Restriction or prohibition of access to the community program or the individuals served by the program.

(3) DOCUMENTATION REQUIREMENTS. All entries required by these rules, unless stated otherwise, must:

(a) Be prepared at the time, or immediately following the event being recorded;

(b) Be accurate and contain no willful falsifications;

(c) Be legible, dated, and signed by the person making the entry; and

(d) Be maintained for no less than three years.

(4) PROVIDER SERVICE PAYMENT LIMITATION.

(a) Effective February 1, 2010, monthly service rates, as authorized in Division payment and reporting systems for individuals enrolled in employment and alternatives to employment services and paid to certified providers for delivering employment or alternatives to employment services as described in these rules, shall be limited to a maximum of $1,800 per month.

(b) An exception to the provider service payment limitation, only for costs of directly supporting the individual served, may be granted by the Division if documentation supports the following criteria are met:

(A) The individual has a current behavior or health condition, as well as a documented history of such, posing a risk to the individual's health and welfare or that of others; AND

(B) The individual has a current employment and alternatives to employment service rate and ISP requiring at least 1:1 staffing for purposes of meeting behavioral or medical support needs; AND

(C) Steps have been taken to address the existing behavior or condition within the $1,800 cap and there is continued risk to health and safety of self or others, regardless of setting.

(c) Special conditions shall be required in the provider contract. The Division or the Division's designee shall monitor services to assure their delivery and the continued need for additional funds.

(5) INDEPENDENCE, PRODUCTIVITY, AND INTEGRATION. As stated in ORS 427.007 the service must have a written policy that states that each individual's ISP is developed to meet each of the following:

(a) Employment and activities that address each individual's level of independence;

(b) Employment and activities that address each individual's productivity; and

(c) Employment and activities that address each individual's integration into the local community.

(6) DISSOLUTION OF SERVICE. Prior to the dissolution of a service, a representative of the governing body or owner of the service must notify the Department in writing 30 days in advance and make appropriate arrangements for the transfer of individual records.

Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0110 Rights: General

(Effective 12/28/2003)

(1) Abuse prohibited. Any adult as defined by OAR 411-345-0020(4) or any individual as defined by 411-345-0020(27) must not be abused nor will abuse be condoned by any employee, staff or volunteer of the program.

(2) Policies and procedures. The service must have and implement written policies and procedures that protect individuals' rights during the hours the individual is receiving services. The service must encourage and assist individuals to understand and exercise these rights. These policies and procedures must at a minimum provide for:

(a) Assurance that each individual has the same civil and human rights accorded to other citizens;

(b) Adherence to all applicable state and federal labor rules and regulations;

(c) Opportunities for individuals to be productive;

(d) Services that promote independence and that are appropriate to the age and preferences of the individual;

(e) Confidentiality of personal information regarding the individual;

(f) Adequate medical and health care, supportive services and training;

(g) Opportunities for visits to legal and medical professionals when necessary;

(h) Private communication, including personal mail and access to a telephone, consistent with the service provider's policies for all employees;

(i) Personal property and fostering of personal control and freedom regarding that property;

(j) Protection from abuse and neglect, including freedom from unauthorized training, treatment and chemical/mechanical restraints

(k) Freedom from unauthorized personal restraints; and

(l) Transfer of individuals within a program follows OAR 411-345-0140(6).

(3) Notification of policies and procedures. The service must inform each individual and parent/guardian/advocate orally and in writing of its rights policy and procedures and a description of how to exercise them at entry to the service and, in a timely manner, as changes occur.

Stat. Auth.: ORS 409.050, 410.070
Stats. Implemented: ORS 430.610, 430.630 & 430.670

411-345-0120 Rights: Confidentiality of Records
(Effective 12/28/2003)

Confidentiality. All individuals' records are confidential except as otherwise provided by applicable rule or laws.

(1) For the purpose of disclosure from individual medical records under these rules, service providers under these rules will be considered "providers" as defined in ORS 179.505(1) and 179.505 will be applicable.

(2) For the purposes of disclosure from non-medical individual records, all or portions of the information contained in those 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).

Stat. Auth.: ORS 409.050, 410.070
Stats. Implemented: ORS 430.610, 430.630 & 430.670

411-345-0130 Rights: Grievances
(Effective 12/28/2003)

(1) Policies and procedures. The service must implement written policies and procedures for individuals' grievances. These policies and procedures must, at a minimum, provide for:

(a) Receipt of grievances from individual(s) or others acting on his/her behalf. If the grievance is associated in any way with abuse or the violation of the individual's rights, the recipient of the grievance must immediately report the issue to the program's director or designee and the CMHP;

(b) Investigation of the facts supporting or disproving the grievance;

(c) Taking appropriate actions on grievances within five working days following receipt of the grievance;

(d) Submission to the Program Director. If the grievance is not resolved it must be submitted to the Program Director for review. Such review must be completed and a written response provided within 15 days;

(e) Submission to the Community Mental Health Program. If the grievance is not resolved by the Program Director it may be submitted to the Community Mental Health Program for review. Such review must be completed and a written response provided within 30 days;

(f) Submission to the Administrator. If the grievance is not resolved by the Community Mental Health Program it may be submitted to the Administrator of the Department for review. Such review must be completed and a written response provided within 45 days of submission. The decision of the Administrator or designee is final;

(g) Documentation of each grievance and its resolution in the grievant's record. If a grievance resulted in disciplinary action against a staff member, the documentation must include a statement that disciplinary action was taken.

(2) Copies of all grievances to case manager. Copies of the documentation on all grievances must be sent by the service to the case manager within 15 working days of initial receipt of the grievance.

(3) Notification of policy and procedures. The service must inform each individual and parent/guardian/advocate orally and in writing at entry to the

service and as changes occur of the service's grievance policy and procedures and a description of how to utilize them.

Stat. Auth.: ORS 409.050, 410.070
Stats. Implemented: ORS 430.610, 430.630 & 430.670

411-345-0140 Entry, Exit and Transfer: General
(Effective 12/28/2003)

(1) Qualifications for Department funding. Unless the circumstances in 411-345-0140(1)(f) apply, all individuals considered for Department-funded services must:

(a) Be referred by the Community Mental Health Program;

(b) Be determined to have a developmental disability by the Department or its designee;

(c) Not be discriminated against because of race, color, creed, age, disability, national origin, gender, religion, duration of Oregon residence, method of payment or other forms of discrimination under applicable state or Federal law;

(d) Be 18 years of age or older;

(e) Be an individual also receiving residential services that are paid or regulated by the Department, excluding Semi-Independent Living Programs certified under OAR chapter 309, division 41, and including, but not limited to, services in:

(A) A Comprehensive Residential Service regulated by OAR chapter 411, division 325;

(B) An adult foster home regulated by OAR chapter 309, division 40;

(C) A Supported Living program regulated by OAR chapter 411, division 305; or

(D) An individual's own or family home when the individual receives Comprehensive In-Home Support services which are provided according to OAR chapter 411, division 330 and which cost over $20,000 annually.

(f) Individuals who meet the conditions of OAR 411-345-0140(1)(a) through (d), live in their own or family home, do not meet the conditions of 411-345-0140(1)(e), and are enrolled in Employment or Alternative to Employment services as of June 30, 2003, may be eligible for Employment or Alternative to Employment services governed by these rules until the date designated by the Department for transfer to Support Services governed by OAR chapter 411, division 340.

(2) Information required for entry meeting. The service must acquire the following information prior to an entry ISP team meeting:

(a) Written documentation that the individual has been determined to have a developmental disability;

(b) A statement indicating the individual's safety skills including ability to evacuate from a building when warned by a signal device;

(c) A brief written history of any behavioral challenges;

(d) Documentation of the individual's current physical condition, including any physical limitations that would affect employment;

(e) Documentation of any guardian or conservator, or any other legal restriction on the rights of the individual, if applicable; and

(f) A copy of the most recent ISP, if applicable.

(3) Entry meeting. An entry ISP Team meeting must be conducted prior to the initiation of services to the individual. The findings of the entry meeting must be recorded in the individual's file and include at a minimum:

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

(b) The date of the meeting;

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

(d) Documentation of the participants at the meeting;

(e) Documentation as required by OAR 411-345-0190(4) and 411-345-0200;

(f) Documentation of the pre-entry information required by OAR 411-345-0140(2)(a-f);

(g) Documentation of the proposed transition plan as defined in the Community Developmental Disability Programs Chapter 411, Division 320 for services to be provided if the decision was made to serve;

(h) Documentation of the type of employment or alternative to employment service the individual will receive. This service must be one of the following:

(A) Supported employment;

(B) Community based service;

(C) Facility based services; or

(D) A combination of the above.

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

(4) Exit meeting. Each individual considered for exit must have a meeting by the ISP Team before any decision to exit is made. Findings of such a meeting must be recorded in the individual's file and include at a minimum:

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

(b) The date of the meeting;

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

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

(e) Documentation of the discussion of the strategies to prevent an exit from service (unless the individual is requesting exit);

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

(g) Documentation of the proposed plan for services to the individual after the exit.

(5) Requirements for waiver of exit meeting. Requirements for an exit meeting may be waived if an individual is immediately removed from the service under the following conditions:

(a) The individual and his/her guardian requests an immediate removal from the service; or

(b) The individual is removed by a legal authority acting pursuant to civil or criminal proceedings.

(6) Transfer decision. A decision to transfer an individual within a service provider may be made by the ISP team. Findings of the ISP team must be recorded in the individual's file and include at a minimum:

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

(b) The date of the meeting or telephone call(s);

(c) Documentation of the participants included in the meeting or telephone call(s);

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

(e) Documentation of the alternatives considered, including transfer;

(f) Documentation of the reasons why any preferences of the individual, legal representative or family members cannot be honored;

(g) Documentation of a majority agreement of the participants regarding the decision; and

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

Stat. Auth.: ORS 409.050, 410.070
Stats. Implemented: ORS 430.610, 430.630 & 430.670

411-345-0150 Entry, Exit and Transfer: Appeal Process
(Effective 12/28/2003)

(1) Procedures. In cases where the individual and parent/guardian/advocate object to, or the ISP team cannot reach majority agreement regarding an admission refusal, a request to exit the program, or a transfer within a service, an appeal may be filed by any member of the ISP team.

(a) In the case of a refusal to admit, the unit of service must be held vacant and the payment for the service will continue.

(b) In the case of a request to exit or transfer, the individual must continue to receive the same services received prior to the appeal until the appeal is resolved.

(2) Appeal to the County. All appeals must be made in writing to the Community Mental Health Program Director or his/her designee for decision using the county's appeal process. The Community Mental Health Program Director or designee will make a decision within 30 working days of receipt of the appeal and notify the appellant of the decision in writing.

(3) Appeal to the Department. The decision of the Community Mental Health Director may be appealed by the individual, his/her parent, guardian, advocate or the provider by notifying the Department in writing within ten working days of receipt of the county's decision.

(a) A committee must be appointed by the Administrator for the Department or the Administrator's designee every two years, and must be composed of a Department representative, an employment

or alternative to employment service representative and a developmental disability case management representative.

(b) In case of a conflict of interest, as determined by the Administrator of the Department or designee, alternative representatives will be temporarily appointed by the Administrator or designee to the committee;

(c) The committee will review the appealed decision and make a written recommendation to the Administrator of the Department or designee within 45 working days of receipt of the notice of appeal;

(d) The Administrator of the Department or designee must make a decision on the appeal within ten working days after receipt of the recommendation from the committee; and

(e) If the decision is for admission or continued placement and the service refuses admission or continued placement, the funding for that unit of service may be withdrawn by the contractor.

Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 430.610, 430.630 & 430.670

411-345-0160 Rights: Plan
(Effective 12/28/2003)

Individual support plan available. A copy of each individual's Individual Support Plan must be available at the service within 60 days of entry and updated at least annually or as changes occur.

Stat. Auth.: ORS 409.050, 410.070
Stats. Implemented: ORS 430.610, 430.630 & 430.670

411-345-0170 Rights: Behavior Intervention
(Effective 12/28/2003)

(1) Written policy. The service must have and implement a written policy concerning behavior intervention procedures. The service must inform the individual and his/her legal guardian of the behavior intervention policy and procedures at the time of entry and as changes occur.

(2) Implementation of a program to alter an individual's behaviors. A decision to implement a program to alter an individual's behavior must be made by the ISP team and the program must be described fully in the individual's ISP. The program must:

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

(b) Use the least intervention possible;

(c) Ensure that abusive or demeaning intervention must never be used; and

(d) Be evaluated by the service provider through timely review of specific data on the progress and effectiveness of the procedures.

(3) Documentation requirements. Documentation regarding the behavior program must include:

(a) Documentation that the individual, the guardian, and ISP team are fully aware of and consent to the program in accordance with the ISP process as defined in the Community Developmental Disability Programs Rule OAR chapter 411, division 320;

(b) Documentation of all prior programs used to develop an alternative behavior; and

(c) A written record of a functional analysis of the behavior which is defined as:

(A) A clear, measurable description of the behavior to include frequency, duration, intensity and severity of the behavior;

(B) A clear description of the need to alter the behavior;

(C) An assessment of the meaning of the behavior, which includes the possibility that the behavior is:

(i) An effort to communicate;

(ii) The result of medical conditions;

(iii) The result of environmental causes; or

(iv) The result of other factors.

(d) A description of the conditions which precede the behavior in question;

(e) A description of what appears to reinforce and maintain the behavior; and

(f) A clear and measurable procedure which will be used to alter the behavior and develop the functional alternative behavior.

Stat. Auth.: ORS 409.050, 410.070
Stats. Implemented: ORS 430.610, 430.630 & 430.670

411-345-0180 Rights: Physical Restraints
(Effective 12/28/2003)

(1) Circumstances when physical restraint allowed. The service must only employ physical restraint:

(a) As part of an Individual Support Plan that may be prescribed by a physician and meets the requirements of OAR 411-345-0170;

(b) As an emergency measure, but only if absolutely necessary to protect the individual or others from immediate injury; or

(c) As a health-related protection prescribed by a physician, but only if absolutely necessary for individual protection during the time that a medical condition exists.

(2) Staff training. Staff members who reasonably anticipate needing to apply restraint as part of an individual's ongoing training program must be trained by a Department-approved trainer. Documentation verifying such training must be maintained in his/her personnel file.

(3) Physical restraints in emergency situations. Physical restraints in emergency situations must:

(a) Be authorized by the program's director or designee, or physician;

(b) Be authorized within one hour of application of restraint or within one hour of the beginning of the next working day;

(c) Result in the immediate notification of the individual's case manager;

(d) Be used only until the individual is calm; and

(e) Prompt an ISP meeting if used more than three times in a six month period.

(4) Avoid physical injury. Physical restraint must be designed to avoid physical injury to the individual and to minimize physical discomfort.

(5) Incident report. All use of physical restraint must be documented in an incident report. The report must include:

(a) The name of the individual to whom the restraint was applied;

(b) The date, type and length of time, of restraint application;

(c) The name and position of the person authorizing the use of the restraint;

(d) The name of the staff member(s) applying the restraint; and

(e) Description of the incident.

(6) Copy to CMHP. A copy of the incident report must be forwarded within five working days of the incident to the Community Mental Health Program.

Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 430.610, 430.630 & 430.670

411-345-0190 Health and Safety: Medical Services

(Effective 12/28/2003)

(1) Confidentiality. All individuals' records must be kept confidential as described in OAR 411-345-0120(1).

(2) Written polices and procedures. The service must have and implement written policies and procedures which describe the medical management system including medication administration, early detection and prevention of infectious disease, self-administration of medication, drug disposal, emergency medical procedures including the handling of bodily fluids, and confidentiality of medical records.

(3) Individual care. Individuals must receive care that promotes their health and well being, as follows:

> (a) The service must observe the health and physical condition of individuals and take action in a timely manner in response to identified changes in condition that could lead to deterioration or harm;
>
> (b) The service must assist individuals with the use and maintenance of prosthetic devices as necessary for the activities of the service;
>
> (c) The service must share information regarding medical conditions with the individual's residential provider, if any, and case manager, with the individual's knowledge; and
>
> (d) The service must provide rest and lunch periods at least as required by applicable law unless the individual's needs dictate additional time.

(4) Documentation. The service must maintain records on each individual to aid physicians, medical professionals and the service in understanding the individual's medical history and current treatment program. These records must be kept current and organized in a manner that permits staff and medical persons to follow easily the individual's course of treatment. Such documentation must include:

> (a) A medical history obtained prior to entry to the program that includes, where available:

(A) A copy of a record of immunizations;

(B) The status of Hepatitis B screening; and

(C) A list of known communicable diseases and allergies.

(b) A record of the individual's current medical condition which includes:

(A) A copy of all current orders for medication administered at the program site;

(B) A list of all current medications;

(C) A record of visits to medical professionals, consultants or therapists if facilitated or provided by the service.

(5) Written physician's order. The administration of medication at the employment or alternative to employment site must be avoided whenever possible. When medications, treatments or special diets must be administered or monitored for self-administration, the service must:

(a) Obtain a copy of a written order, signed by a physician or physician's designee, prescribing the medication or other medical service; and

(b) Follow written orders.

(6) PRN/Psychotropic medication prohibited. PRN orders must not be accepted for psychotropic medication.

(7) Requirement for medications. All medications administered or monitored in the case of self-administration must be:

(a) Properly labeled as specified per physician written order;

(b) Kept secured, unavailable to any other individual and stored as prescribed; and

(c) Recorded on an individualized Medication Administration Record (MAR), including treatments and PRN orders.

(8) Medication Administration Record (MAR) requirements. The MAR shall include:

(a) The name of the individual;

(b) The brand name and/or generic name of the medication, including the prescribed dosage and frequency of administration as contained on physician order and medication;

(c) Times and dates the administration or self-administration of the medication occurs

(d) The signature of the staff administering the medication or monitoring the self-administration of the medication;

(e) Method of administration;

(f) Documentation of any known allergies or adverse reactions to a medication;

(g) Documentation and an explanation of why a PRN medication was administered and the results of such administration; and

(h) An explanation of any medication administration irregularity with documentation of administrative review by the service's executive director or designee.

(9) Adverse effects safeguards. Safeguards to prevent adverse medications reactions shall be utilized that include:

(a) Maintaining information about each prescribed medication's effects and side-effects;

(b) Communicating any concerns regarding any medication usage, effectiveness or effects to the residential provider and/or Case Manager; and

(c) Prohibiting the use of one individual's medications by another.

(10) Unused, discontinued, outdated, or recalled drugs and drug containers. No unused, discontinued, outdated, or recalled drugs, or drug containers with worn, illegible or missing labels may be kept at the employment or alternative to employment service. All unused, discontinued, outdated, or recalled drugs and drug containers with worn, illegible or missing labels must be promptly disposed of in a manner consistent with federal statutes and designed to prevent illegal diversion of the substances into the possession of people other than for whom it was prescribed. A written record must be maintained by the service provider of all disposed drugs and must include:

(a) Date of disposal;

(b) A description of the medication, including amount

(c) The individual for whom the medication was prescribed

(d) The reason for disposal;

(e) The method of disposal; and

(f) Signature of staff disposing.

(11) Self-administration of medication. For any individual who is self-administering medication the service must:

(a) Have documentation that a training program was initiated with approval of the individual's ISP team or that training for the individual is unnecessary;

(b) If necessary, have a training program that is consistent with the self-administration training program in place at the individual's residence;

(c) If necessary, have a training program that provides for retraining when there is a change in dosage, medication or time of delivery;

(d) Have specific supports identified and documented for the individual when training has been deemed unnecessary; and

(e) Provide for an annual review, at a minimum, as part of the ISP process, upon completion of the training program or when training for the individual has been deemed necessary by the ISP team.

(12) Self-administration medications kept secured. The service provider must ensure that individuals able to self-administer medications keep them secured, unavailable to any other person and stored as prescribed.

(13) Notification. When the individual's medical, behavioral or physical needs change to a point that they cannot be met by the service, the case manager must be notified immediately. The ISP team will determine alternative placement or arrangement if necessary.

Stat. Auth.: ORS 409.050, 410.070
Stats. Implemented: ORS 430.610, 430.630 & 430.670

411-345-0200 Health and Safety: Individual Summary Sheets
(Effective 12/28/2003)

Current one to two page record. A current one to two page record must be maintained at the service's primary place of business for each individual receiving services. The record must include:

(1) The individual's name, current address, home phone number, date of entry into the program, date of birth, sex, social security number, social security beneficiary account number, preferred hospital, CAF number where applicable, guardianship status; and

(2) The name, address and telephone number of:

(a) The individual's legal representative, spouse, family, advocate and/or other designated contact person;

(b) The individual's preferred physician, secondary physician and/or clinic;

(c) The individual's preferred dentist for emergency use;

(d) The individual's case manager;

(e) Other agencies and representatives providing services to the individual; and

(f) The individual's employment/alternative to employment site(s) if different from the service's primary place of business.

Stat. Auth.: ORS 409.050, 410.070
Stats. Implemented: ORS 430.610, 430.630 & 430.670

411-345-0210 Health and Safety: Personnel
(Amended 7/1/2010)

(1) BASIC PERSONNEL POLICIES AND PROCEDURES. The service must have in place and implement personnel policies and procedures that address suspension, increased supervision, or other appropriate disciplinary employment procedures when a staff member has been identified as an accused person in an abuse investigation. The service must also have in place and implement personnel policies and procedures that address disciplinary and termination of employment when the allegation of abuse has been substantiated.

(2) MANDATORY ABUSE REPORTING PERSONNEL POLICIES AND PROCEDURES. Any employee of a private agency that contracts with a CDDP is a mandatory reporter. Notification of mandatory reporting status must be made at least annually to all employees on forms provided by the Department. All employees must be provided with a Department-produced card regarding abuse reporting status and abuse reporting.

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

(4) CRIMINAL RECORDS CHECKS. Any employee, volunteer, advisor, or any subject individual defined by OAR 407-007-0200 to 407-007-0370, who has or will have contact with an individual of the service, must have an approved criminal records check in accordance with OAR 407-007-0200 to 407-007-0370 and under ORS 181.534.

(a) Effective July 28, 2009, the service may not use public funds to support, in whole or in part, any person as described in section (4) of this rule in any capacity who has been convicted of any of the disqualifying crimes listed in OAR 407-007-0275.

(b) Section (4)(a) of this rule does not apply to employees of the service provider who were hired prior to July 28, 2009 and remain in the current position for which the employee was hired.

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

(5) DIRECTOR QUALIFICATIONS. The service must be operated under the supervision of a Director who has a minimum of a bachelor's degree and two years of experience, including supervision, in developmental disabilities, social services, mental health, or a related field. Six years of experience, including supervision, in the field of developmental disabilities or a social services or mental health field may be substituted for a degree.

(6) STAFF QUALIFICATIONS. Any staff who supervises individuals must:

(a) Be at least 18 years of age;

(b) Be capable of performing the duties of the job as described in a current job description which he or she has signed and dated; and

(c) If hired on or after July 28, 2009, not have been convicted of any of the disqualifying crimes listed in OAR 407-007-0275.

(7) PERSONNEL FILES AND QUALIFICATION RECORDS. The service must maintain a personnel file on each staff person. In addition, the service must maintain the following on each staff person in a file available to the Department or the Department's designee for inspection:

(a) Written documentation that references and qualifications were checked;

(b) Written documentation of six hours of pre-service training prior to supervising individuals including mandatory abuse reporting training;

(c) Documentation that CPR and first-aid certification were obtained from a recognized training agency within three months of employment and kept current if needed to meet the staffing requirements as described in OAR 411-345-0220(1)(b)(A) and (B);

(d) Written documentation of 12 hours of job-related in-service training annually;

(e) Written documentation of employees' notification of mandatory reporter status;

(f) Written documentation of any founded report of child abuse or substantiated abuse;

(g) Written documentation of an approved criminal records check by the Department; and

(h) Written documentation of any complaints filed against the staff person and the results of the complaint process, including, if any, disciplinary action.

Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0220 Health and Safety: Staffing Requirements
(Effective 12/28/2003)

(1) General staffing requirements. Each employment/alternative to employment service must provide direct service staff appropriate to the number and level of individuals served, as follows:

(a) Supported employment and community based services must provide adequate direct service staff to ensure initial program and site development, training and ongoing support to ensure that individual's basic health, safety and rights are met. Individuals receiving services through supported employment or community based sites must be

contacted in person by a staff member a minimum of two times per month.

(b) Facility based services must provide adequate direct service staff to ensure that individual's basic health, safety and rights are met. When individuals are present the service must provide and document that there are staff trained in the following areas:

(A) At least one staff member on duty with CPR certification at all times;

(B) At least one staff member on duty with current First Aid certification at all times;

(C) At least one staff member on duty with training to meet other specific medical need(s) as determined through the ISP process; and

(D) At least one staff member on duty with training to meet other specific behavior intervention need(s) as determined through the ISP process.

(2) Contract requirements for direct service staff ratios. Each service must meet all additional requirements for direct service staff ratios and specialized training as specified by contract requirements.

Stat. Auth.: ORS 409.050, 410.070
Stats. Implemented: ORS 430.610, 430.630 & 430.670

411-345-0230 Health and Safety: Incident Reports and Emergency Notifications
(Amended 7/1/2010)

(1) INCIDENT REPORTS. A written report that describes any injury, accident, act of physical aggression, or unusual incident involving an individual must be placed in the individual's record. Such description 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 a recurrence of the injury, accident, physical aggression, or unusual incident.

(2) SENT TO SERVICES COORDINATOR. Copies of all unusual incident (as defined by OAR 411-345-0020) reports must be sent to the services coordinator within five working days of the incident.

(3) NOTIFICATION OF ALLEGATIONS OF ABUSE AND ABUSE INVESTIGATIONS. The program must notify the CDDP immediately of an incident or allegation of abuse falling within the scope of OAR 407-045-0260.

(4) IMMEDIATE NOTIFICATION. In the case of an unusual incident requiring emergency response, the service must immediately notify:

(a) The individual's legal guardian or conservator, parent, next of kin, designated contact person, and other significant person;

(b) The CDDP;

(c) The individual's residential provider, if applicable; and

(d) Any other agency responsible for the individual.

(5) MISSING PERSON NOTIFICATION. In the case of an individual who is missing or absent without supervision beyond the time frames established by the ISP team, the service must immediately notify:

(a) The individual's designated contact person;

(b) The individual's guardian, if any, or nearest responsible relative;

(c) The individual's residential provider, if applicable;

(d) The local police department; and

(e) The CDDP.

Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0240 Health and Safety: Emergency Plan
(Effective 12/28/2003)

(1) Written Plan. A written emergency plan must be developed and implemented and must include instructions for staff in the event of fire, explosion, accident, or other emergency including evacuation of individuals served.

(2) Posting of emergency information: Facility Based Services.

(a) The telephone numbers of the local fire, police department and ambulance service, or "911" service where available, must be posted by designated telephone(s); and

(b) The telephone numbers of the Director, and other persons to be contacted in case of emergency must be posted by designated telephone(s).

(3) Emergency information: Community Based Service.

(a) The telephone numbers of the local fire, police department and ambulance service, or "911" service where available, must be posted by designated telephone(s); and

(b) The telephone numbers of the Director, emergency physician and other persons to be contacted in case of emergency must be made available to the service site personnel department or responsible supervisor.

(4) Quarterly safety review. A documented safety review must be conducted quarterly to ensure that the service site is free of hazards. These reports must be kept in a central location by the service provider for three years.

Stat. Auth.: ORS 409.050, 410.070
Stats. Implemented: ORS 430.610, 430.630 & 430.670

411-345-0250 Health and Safety: Evacuation Drills
(Effective 12/28/2003)

(1) Training. The service must train all individuals immediately upon entry to the service site to leave the site in response to an alarm or other emergency signal and to cooperate with assistance to exit the site.

(2) Drill requirements for Facility Based Services. Each service must conduct an unannounced evacuation drill each month when individuals are present;

(a) Exit routes must vary based on the location of a simulated fire.

(b) Any individual failing to evacuate the service site unassisted within the established time limits set by the local fire authority for the site must be provided specialized training and support in evacuation procedures. The training must be included in the individual's ISP.

(c) Written documentation must be made at the time of the drill and kept by the program for at least two years following the drill. It must include:

(A) The date and time of the drill;

(B) The location of the simulated fire;

(C) The last names of all individuals and staff present in the service area at the time of the drill;

(D) The amount of time required by each individual to evacuate if the individual needs more than the established time limit; and

(E) The signature of the staff conducting the drill.

(3) Drill requirements for individuals who are medically fragile or have severe physical limitations. In sites providing services to individuals who

are medically fragile or have severe physical limitations, requirements of evacuation drill conduct may be modified. The modified plan must:

(a) Be developed with the local fire authority, case manager, and the service provider designee; and

(b) Be presented as a variance request per OAR 411-345-0090(2)(a) through (d).

(4) Adaptations required for sensory or physically impaired. The service must provide necessary adaptations to ensure fire safety for sensory and physically impaired individuals.

Stat. Auth.: ORS 409.050, 410.070
Stats. Implemented: ORS 430.610, 430.630 & 430.670

411-345-0260 Health and Safety: Physical Environment
(Effective 12/28/2003)

(1) Health and Safety Inspections: Community Based Services. All supported employment and community based services must ensure that the site has no known health or safety hazards in its immediate environment and that individuals are trained to avoid recognizable hazards.

(2) Health and Safety Inspections: Owned, leased, or rented buildings and property. The service must assure that at least once every three years health and safety inspection(s) will be conducted.

(a) The inspection(s) must cover all areas and buildings where services are delivered to individuals, administrative offices and storage areas.

(b) The inspection(s) may be performed by:

(A) Oregon Occupational Safety and Health Division;

(B) The service's workers compensation insurance carrier; or

(C) An appropriate expert such as a licensed safety engineer or consultant as approved the Department; and

(D) The Oregon Health Department, when necessary.

(c) The inspection(s) must cover:

(A) Hazardous material handling and storage;

(B) Machinery and equipment used by the service;

(C) Safety equipment;

(D) Physical environment; and

(E) Food handling, when necessary.

(d) The documented results of the inspection, including recommended modifications or changes, and documentation of any resulting action taken must be kept by the provider for five years.

(3) Health and Safety: Fire and Life Safety Inspections for Owned, Leased, or Rented Buildings and Property. The service provider must ensure that each service site has annual fire and life safety inspections performed by the local fire authority or a Deputy State Fire Marshal. The documented results of the inspection, including documentation of recommended modifications or changes, and documentation of any resulting action taken must be kept by the provider for five years.

Stat. Auth.: ORS 409.050, 410.070
Stats. Implemented: ORS 430.610, 430.630 & 430.670

411-345-0270 Health and Safety: Vehicles and Drivers
(Effective 12/28/2003)

(1) Vehicles operated to transport individuals. Services that own or operate vehicles that transport individuals must:

(a) Maintain the vehicles in safe operating condition;

(b) Comply with Department of Motor Vehicles laws;

(c) Maintain insurance coverage; and

(d) Carry in vehicles a fire extinguisher and first-aid kit.

(2) Drivers. Drivers operating vehicles to transport individuals must meet applicable Department of Motor Vehicles requirements.

Stat. Auth.: ORS 409.050, 410.070
Stats. Implemented: ORS 430.610, 430.630 & 430.670

411-345-0280 Individual/Family Involvement
(Effective 12/28/2003)

Policy Needed. The program must have and implement a written policy that addresses:

(1) Opportunities for the individual to participate in decisions regarding the operations of the program;

(2) Opportunities for families, guardians, and significant others of the individuals served by the program to interact; or

(3) Opportunities for individuals, families, guardians, and significant others to participate on the Board or on committees of the program or to review policies of the program that directly affect the individuals served by the program.

Stat. Auth.: ORS 409.050, 410.070
Stats. Implemented: ORS 430.610, 430.630 & 430.670

411-345-0290 Certificate Denial, Suspension, Revocation, Refusal to Renew
(Amended 7/1/2010)

(1) The Department may deny, revoke, or refuse to renew a certificate when it finds the service, or any person holding five percent or greater financial interest in the service:

(a) Demonstrates substantial failure to comply with these rules such that the health, safety, or welfare of individuals is jeopardized and

fails to correct the noncompliance within 30 calendar days of receipt of written notice of non-compliance;

(b) Has demonstrated a substantial failure to comply with these rules such that the health, safety, or welfare of individuals is jeopardized during two inspections within a six year period (for the purpose of this subsection, "inspection" means an onsite review of the service site by the Department for the purpose of investigation or certification);

(c) Has demonstrated a failure to comply with applicable laws relating to safety from fire;

(d) Has been convicted of any crime that would have resulted in an unacceptable criminal records check upon hiring or authorization of service;

(e) Has been convicted of a misdemeanor associated with the operation of employment and alternatives to employment services;

(f) Falsifies information required by the Department to be maintained or submitted regarding care of individuals, employment and alternatives to employment services finances, or individuals' funds; or

(g) Has been found to have permitted, aided, or abetted any illegal act that has had significant adverse impact on individual health, safety, or welfare.

(2) In any case where the Department finds a serious and immediate threat to individual health and safety and sets forth the specific reasons for such findings, the Department may, by written notice to the certificate holder, immediately suspend a certificate without a pre-suspension hearing and the service may not continue operation.

(3) Following a Department finding that there is a substantial failure to comply with these rules such that the health, safety, or welfare of individuals is jeopardized, or that one or more of the events listed in section (1) of this rule has occurred, the Department may issue a notice of certificate revocation, denial, or refusal to renew.

(4) Following the notice issued pursuant to section (3) of this rule, the Department shall provide the certificate holder an opportunity for an informal conference within 10 calendar days from the date of the notice.

(5) Following issuance of a notice of certificate revocation, denial, or refusal to renew, the Department shall provide the opportunity for a hearing pursuant to OAR 411-345-0300.

Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0300 Hearings
(Effective 12/28/2003)

(1) Hearing Rights. An applicant for a certificate, or a certificate holder, upon written notice from the Department of denial, suspension, revocation or refusal to renew a certificate, may request a hearing pursuant to the Contested Case Provisions of ORS chapter 183.

(2) Request for hearing. Upon written notification by the Department of revocation, denial or refusal to renew a certificate, pursuant to OAR 411-345-0300(1) the applicant/certified program will be entitled to a hearing in accordance with ORS chapter 183 within 60 days of receipt of notice. The request for hearing must include an admission or denial of each factual matter alleged by the Department and must affirmatively allege a short plain statement of each relevant affirmative defense the applicant/certified program may have.

(3) Hearing rights under OAR 411-345-0290(2). In the event of a suspension of a certificate pursuant to 411-345-0290(2) and during the first 30 days after the suspension of a certificate, the certified program will be entitled to a fair hearing within 10 days after its written request to the Department for a hearing regarding certificate suspension. Any hearing requested after the end of the 30 day period following certificate suspension will be treated as a request for hearing under OAR 411-345-0300(2).

(4) Issue at hearing on denial or revocation pursuant to OAR 411-345-0290(1)(a). The issue at a hearing on certification denial, revocation or refusal to renew a certificate pursuant to 411-345-0290(1)(a) is limited to

whether the service was/is in compliance at the end of the 30 calendar days following written notice of non-compliance.

Stat. Auth.: ORS 409.050, 410.070
Stats. Implemented: ORS 430.610, 430.630 & 430.670