

Secretary of State  
**NOTICE OF PROPOSED RULEMAKING HEARING\***  
A Statement of Need and Fiscal Impact accompanies this form.

Department of Human Services, Developmental Disabilities

411

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Agency and Division		Administrative Rules Chapter Number
Kimberly Colkitt-Hallman	500 Summer Street NE, E-48 Salem, OR 97301-1074	(503) 945-6398
Rules Coordinator	Address	Telephone

**RULE CAPTION**

**ODDS: Employment Services for Individuals with Intellectual or Developmental Disabilities**

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**Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.**

April 21, 2016	2:30 p.m.	Human Services Building 500 Summer Street NE, Rm. 160 Salem, Oregon 97301	Staff
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Hearing Date	Time	Location	
Hearings Officer			

*Auxiliary aids for persons with disabilities are available upon advance request.*

**RULEMAKING ACTION**

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

**AMEND:**

OAR chapter 411, division 345

**REPEAL:**

Temporary Rules: 411-345-0010(T); 411-345-0020(T); 411-345-0025(T);  
411-345-0030(T); 411-345-0085(T); 411-345-0110(T); 411-345-0160(T)

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Stat. Auth.: ORS 409.050, 430.662

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Other Auth.:

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Stats. Implemented: ORS 430.610, 430.662, 430.670

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**RULE SUMMARY**

The Department of Human Services, Office of Developmental Disabilities Services (Department) is amending the rules in OAR chapter 411, division 345 for employment services for individuals with intellectual or developmental disabilities.

These rules are being amended to --

- Make permanent temporary changes that became effective on January 1, 2016;
- Remove general definitions included in OAR 411-317-0000;
- Incorporate the standards for home and community-based (HCB) services and settings and person-centered service planning adopted by the Department in OAR chapter 411, division 004 to implement the regulations and expectations of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS);
- Incorporate the individual rights in OAR chapter 411, division 318 to ensure uniform standards related to individual rights across all types of entities involved in the delivery of developmental disabilities services;
- Ensure alignment with Executive Order 15-01 and OAR chapter 407, division 025 regarding integrated employment services to individuals with intellectual and developmental disabilities;
- Implement Oregon's Employment First Policy;
- Align with the terms of the Lane v. Brown settlement agreement;
- Move non-employment services to the new rules for community living supports in OAR chapter 411, division 450;
- Move case management requirements to the new rules for case management in OAR chapter 411, division 415;
- Require new provider organizations to be certified as agencies under OAR chapter 411, division 323 and endorsed to provide employment services under OAR chapter 411, division 345;
- Require existing providers certified under OAR chapter 411, division 340 to be certified under OAR chapter 411, division 323 as certification renews;
- Move the general provider enrollment requirements that are not specific to employment service providers to the rules in OAR chapter 411, division 370;
- Reflect current Department terminology and the restructuring of the rules relating to developmental disabilities services; and
- Perform minor grammar, punctuation, formatting, and housekeeping changes.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

Written comments may be submitted via e-mail to [Kimberly.Colkitt-Hallman@state.or.us](mailto:Kimberly.Colkitt-Hallman@state.or.us) or mailed to 500 Summer Street NE, E48 Salem, Oregon, 97301-1064. All comments received will be given equal consideration before the Department proceeds with the permanent rulemaking.

May 23, 2016 at 5:00 p.m.

**Last Day for Public Comment** (Last day to submit written comments to the Rules Coordinator)

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Department of Human Services, Developmental Disabilities

411

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Agency and Division  
Number

Administrative Rules Chapter

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**ODDS: Employment Services for Individuals with Intellectual or Developmental Disabilities**

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Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

The amendment of OAR chapter 411, division 345; and repeal of temporary OAR 411-345-0010(T); 411-345-0020(T); 411-345-0025(T); 411-345-0030(T); 411-345-0085(T); 411-345-0110(T); and 411-345-0160(T) relating to employment services for individuals with intellectual or developmental disabilities.

Statutory Authority:

ORS 409.050, 430.662

Other Authority:

Stats. Implemented:

ORS 430.610, 430.662, 430.670

Documents Relied Upon, and where they are available:

Executive Order 15-01 available at:

[http://www.oregon.gov/gov/Documents/executive\\_orders/eo\\_15\\_01.pdf](http://www.oregon.gov/gov/Documents/executive_orders/eo_15_01.pdf)

Lane v. Brown proposed settlement agreement available at:

<https://droregon.org/wp-content/uploads/Lane-Settlement-Agreement.pdf>

OAR chapter 411, division 004 for HCB services and settings and person-centered service planning available at:

[http://arcweb.sos.state.or.us/pages/rules/oars\\_400/oar\\_411/411\\_004.html](http://arcweb.sos.state.or.us/pages/rules/oars_400/oar_411/411_004.html)

Need for the Rule(s):

The Department needs to amend the rules in OAR chapter 411, division 345 to --

- Make permanent temporary changes that became effective on January 1, 2016;

- Provide consistency across services by removing terms included in the general definitions rule, OAR 411-317-0000;
- Implement the regulations and expectations of CMS for residential and non-residential HCB services and settings and person-centered service planning;
- Ensure uniform standards related to individual rights across all types of entities involved in the delivery of developmental disabilities services;
- Ensure alignment with Executive Order 15-01 and OAR chapter 407, division 025 for integrated employment services to individuals with intellectual and developmental disabilities;
- Implement Oregon's Employment First Policy;
- Align with the terms of the Lane v. Brown settlement agreement;
- Align requirements across provider types;
- Reflect current Department terminology and the restructuring of the rules relating to developmental disabilities services; and
- Perform minor grammar, punctuation, formatting, and housekeeping changes.

The proposed rules --

- Make permanent temporary changes that became effective on January 1, 2016;
- Remove general definitions included in OAR 411-317-0000;
- Incorporate the standards for HCB services and settings and person-centered service planning adopted by the Department in OAR chapter 411, division 004;
- Incorporate the individual rights in OAR chapter 411, division 318;
- Align with Executive Order 15-01 and OAR chapter 407, division 025 for integrated employment services to individuals with intellectual and developmental disabilities;
- Implement Oregon's Employment First Policy;
- Align with the terms of the Lane v. Brown settlement agreement;
- Move non-employment services to the new rules for community living supports in OAR chapter 411, division 450;
- Move case management requirements to the new rules for case management in OAR chapter 411, division 415;
- Require new provider organizations to be certified as agencies under OAR chapter 411, division 323 and endorsed to provide employment services under OAR chapter 411, division 345;
- Require existing providers certified under OAR chapter 411, division 340 to be certified under OAR chapter 411, division 323 as certification renews;
- Move the general provider enrollment requirements that are not specific to employment service providers to the rules in OAR chapter 411, division 370;

- Reflect current Department terminology and the restructuring of the rules relating to developmental disabilities services; and
- Perform minor grammar, punctuation, formatting, and housekeeping changes.

Fiscal and Economic Impact:

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

The Department estimates that amending OAR chapter 411, division 345 will have the following fiscal and economic impact:

State Agencies: The Department estimates there will be a fiscal impact to the Department as a result of these rule changes. The Department is unable to ascertain a reliable measure of the actual fiscal impact of the specific rule changes at this time. There will be an increased need for oversight, technical assistance, and training during the transition process to bring settings into compliance with the HCBS requirements. It is anticipated, however, that oversight and compliance will ultimately be embedded in existing licensing and quality assurance processes.

It is anticipated that increased technical assistance will also be required to support providers in the process of changing certification (i.e. to support providers certified under OAR chapter 411, division 340 to certify under OAR chapter 411, division 323, to support non-residential day service providers to certify under the community living supports rules, and to support providers to become vocational rehabilitation vendors). However, it is anticipated that much of this work will occur in already existing processes.

The Department also estimates a fiscal impact will occur as a result of rule changes to implement Executive Order 15-01, the Lane v. Brown settlement agreement, and Oregon's Employment First Policy. The Department is unable to ascertain a reliable measure of the actual fiscal impact. Increasing individualized employment services may have the effect of increasing expenditures. However, increasing community-based support has historically decreased expenditures.

Units of Local Government: The Department estimates there will be a fiscal impact to Community Developmental Disabilities Programs (CDDPs) and Support Services Brokerages as a result of these rules changes. The HCBS requirements contain new requirements for case managers. It is anticipated that these requirements align with existing practices and, as a result, there will be little to no fiscal impact.

As a result of rule changes to implement Executive Order 15-01, the Lane v. Brown settlement agreement, and Oregon's Employment First Policy, CDDPs and Support

Services Brokerages will also be required to more closely monitor and document progress for employment services. Again, it is anticipated that these requirements align with existing practices and, as a result, there will be little to no fiscal impact.

Consumers: The Department estimates there will be an overall positive fiscal and economic impact for individuals using services. Increasing individualized support to work in the community will increase the likelihood that an individual will obtain and maintain competitive integrated employment. Maintaining integrated jobs will have a significant positive impact for the individual. The Department is unable to estimate a more precise impact, however, the positive impact of maintaining a job will be maintained for months, years, decades, and even a lifetime.

Providers: The Department estimates an impact for providers that must transform to bring service settings into compliance with the HCBS requirements. However, many providers are already making changes for reasons unrelated to these rule changes. Those changes will simultaneously bring providers into compliance with these rules. Providers that ultimately transform and make these changes should have a positive impact. Providers that do not will likely have a negative fiscal impact.

Public: It is anticipated that the public will ultimately have a positive fiscal and economic impact. Initial changes will result in a negative fiscal impact. However, as individuals increasingly use individualized employment services and increasingly participate in competitive integrated employment, they will increase contributions to tax revenues. It also puts more money in the pockets of individuals who will spend it on goods and services in the marketplace. This will result in a positive fiscal and economic impact for the public. Hiring individuals with disabilities also has a proven positive fiscal impact for general employers in the public. It often results in an expanded customer base because people often want to do business with employers who hire individuals with disabilities. Many people with disabilities are very reliable employees, resulting in decreased turnover cost for general employers.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

Approximately 120 providers are subject to these rules. The agencies and providers of employment services may be considered small businesses as defined in ORS 183.310. These provider businesses offer services at provider sites as well as at numerous settings and businesses throughout the community.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

The impact is described above in the Department's statement of cost of compliance.

c. Equipment, supplies, labor and increased administration required for compliance:

The impact is described above in the Department's statement of cost of compliance.

How were small businesses involved in the development of this rule?

Small businesses as defined in ORS 183.310 participated on the Administrative Rule Advisory Committee. Small businesses will also be included in the public review and comment period.

Administrative Rule Advisory Committee consulted?:

Yes. The Administrative Rule Advisory Committee met in person on December 15, 2015, and January 28, 2016, to consider the proposed rule changes and discuss the fiscal impact. The rule was also circulated to stakeholders with a request for written feedback. Those invited to participate in the RAC included representation from CDDPs, Support Services Brokerages, individuals with intellectual or developmental disabilities, family members of individuals with intellectual or developmental disabilities, providers, provider organizations, Oregon Council on Developmental Disabilities, Oregon Rehabilitation Association, Community Providers Association of Oregon, Oregon Small Provider Coalition, Oregon Health Authority, Oregon Home Care Commission, Disability Rights Oregon, Service Employees International Union Local 503, Vocational Rehabilitation, Department of Education, and Employment First.

Signed Lilia Teninty, Director, Developmental Disabilities

3/9/2016

Signature

Date

DEPARTMENT OF HUMAN SERVICES  
DEVELOPMENTAL DISABILITIES  
OREGON ADMINISTRATIVE RULES

CHAPTER 411  
DIVISION 345

EMPLOYMENT SERVICES FOR INDIVIDUALS WITH INTELLECTUAL  
OR DEVELOPMENTAL DISABILITIES

411-345-0010 Statement of Purpose

(1) ~~These~~The rules, in OAR chapter 411-, division 345-0010 ~~through 411-345-0270~~, effectuate Oregon's Employment First policy under which the employment of individuals with intellectual or developmental disabilities in competitive integrated employment is the highest priority over unemployment, segregated employment, or other non-work day activities.

(2) For ~~these~~individuals who successfully achieve the goal of competitive integrated employment, future person-centered service planning focuses on maintaining employment ~~or~~, maximizing the number of hours an individual works, consistent with his or her preferences and interests, and considering additional career or advancement opportunities.

(3) Employment services are considered and provided on an individualized basis using a person-centered approach based on informed choice and consistent with the philosophy of self-determination.

(4) These rules ~~--~~

(a) pPrescribe service standards and requirements for providing employment services and the qualifications and eligibility requirements for employment services for adults with intellectual or developmental disabilities. These rules also prescribe the standards and procedures by which the Department endorses agency service providers to provide employment services providers of home and community-based services in settings where employment services are provided.;

(b) Prescribe the standards and procedures by which the Department endorses a provider agency to deliver employment services;

(c) Prescribe service eligibility requirements for individuals with intellectual or developmental disabilities to receive employment services; and

(d) Incorporate the provisions for home and community-based services and settings and person-centered service planning set forth in OAR chapter 411, division 004 to ensure individuals with intellectual or developmental disabilities receive services in settings that are integrated in and support the same degree of access to the greater community as people not receiving home and community-based services.

(5) Employment services are provided in accordance with these rules, Oregon's Employment First policy as described in the State of Oregon Executive Order No. 15-01, and OAR chapter 407, division 025 (Integrated Employment Services to Individuals with Intellectual and Developmental Disabilities).

Stat. Auth.: ORS 409.050, 427.007, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

#### **411-345-0020 Definitions and Acronyms**

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 345:

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

~~(2) "ADL" means "activities of daily living". ADL are basic personal everyday activities, such as eating, using the restroom, grooming, dressing, bathing, and transferring.~~

~~(3) "Adult" means an individual who is 18 years or older with an intellectual or developmental disability.~~

~~(4) "Agency Service Provider" means a public or private community agency or organization that provides recognized developmental disability services and is certified by the Department to provide services under these rules and is endorsed under these rules or the rules in OAR chapter 411, division 323.~~

~~(5) "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 411-345-0025.~~

~~(6) "Brokerage" means "Brokerage" as defined in OAR 411-340-0020.~~

~~(7) "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.~~

~~(81) "CDDP" means "Community Developmental Disability Program" as defined in OAR 411-320-0020.~~

~~(9) "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, service 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.~~

~~(10) "Collective Bargaining Agreement" means the Collective Bargaining Agreement between the Home Care Commission and the Service~~

~~Employees International Union, Local 503, Oregon Public Employees Union regarding wages, hours, rules, and working conditions.~~

(112) "Competitive Integrated Employment" means work that is performed on a full-time or part-time basis (including self-employment):

(a) For which an individual:

(A) Is compensated at a rate that:

(i) Is not less than the higher of the rate specified in ~~section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C.206(a)(1)) or the rate specified in the applicable~~ federal, state, or local minimum wage law; and (ii) also is not less than the customary rate paid by the employer for the same or similar work performed by other employees who are not individuals with disabilities, and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills; or

(iii) In the case of an individual who is self-employed, yields an income that is comparable to the income received by other individuals who are not individuals with disabilities, and who are self-employed in similar occupations or on similar tasks and who have similar training, experience, and skills; and

(B) Is eligible for the level of benefits provided to other employees.

(b) That is at a location where anthe employee interacts with other persons who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that individuals who are not individuals with disabilities and who are in comparable positions interact with other persons; and ~~that, as appropriate, presents opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions; and~~

(c) That, as appropriate, presents opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions.

(123) "Customized Employment" means competitive integrated employment for an individual with a disability that is based on an individualized determination of the strengths, needs, and interests of the individual, is designed to meet the specific abilities of the individual and the business needs of the employer.

~~(13) "Department" means the Department of Human Services.~~

~~(14) "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 legal representative of the individual in connection with the provision of funded supports. An individual or the legal representative of the individual is not required to appoint a designated representative.~~

~~(15) "Developmental Disability" means "developmental disability" as defined in OAR 411-320-0020 and described in OAR 411-320-0080.~~

~~(16) "Director" means the Director of the Department of Human Services, Office of Developmental Disability Services or Office of Licensing and Regulatory Oversight, or the designee of the Director.~~

(174) "Discovery" is a time-limited comprehensive ~~and~~ person-centered, and community-based employment planning support service to better inform an individual seeking an individualized job in a competitive integrated employment setting and to create a Discovery Profile. Discovery includes a series of work or volunteer related activities to inform the individual and the job developer about the strengths, interests, abilities, skills, experiences, and support needs of the individual, as well as identify the conditions and employment settings in which the individual will be successful. Discovery is also an opportunity for the individual to begin active pursuit of competitive integrated employment.

(185) "Discovery Profile" is a comprehensive and person-centered report produced as an outcome of discovery, representing an individual and providing information to better inform employment service planning and job development activities. The Discovery Profile includes information about the strengths, interests, abilities, skills, experiences, and support needs of the individual, as well as information about conditions and employment settings for the success of the individual.

(196) "Employment Path Services" means services to provide learning and work experiences, including volunteer opportunities, for an individual to develop general, non-job-task-specific, strengths, and skills that contribute to employability in an individual job in a competitive integrated employment settingsetting in the general workforce.

~~(20) "Employment Service" means a service that has obtaining and maintaining competitive integrated employment as the primary goal. Employment services include supported employment - individual employment support (job coaching and job development), supported employment - small group employment support, discovery, and employment path services. Employment services do not include vocational assessments in sheltered workshops or facility-based settings.~~

(217) "Employment Professional" means an employee of an provider agency service provider, an independent provider, or an employee of an independent provider who has ~~specific~~the qualifications and training to provide employment services under these rules, including supported employment - individual employment support ~~(job coaching and job development), supported employment -~~ small group employment support, discovery, and/or employment path services.

(228) "Endorsement" means the authorization to provide program services issued by the Department to a certified provider agency service provider that has met the qualification criteria outlined in these rules, the corresponding program rules, and the rules in OAR chapter 411, division 323.

~~(23) "Entry" means admission to a Department-funded developmental disability service.~~

(249) "Evidence-Based Practices" means well-defined best practices, which have been demonstrated to be effective by multiple peer-reviewed research studies that are specific to the relevant population or subset of that population.

(2510) "Executive Director" means the person designated by a board of directors or corporate owner of an provider agency ~~service provider~~ who is responsible for the administration of agency provided employment services, ~~attendant care, and skills training.~~

~~(26) "Exit" means termination or discontinuance of a Department-funded developmental disability service by an agency service provider.~~

~~(27) "Facility-Based" means a service that is operated at a fixed site owned, operated, or controlled by a service provider where an individual has few or no opportunities to interact with people who do not have a disability except for paid staff.~~

(2811) "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 may be the Adult Needs Assessment (ANA), Child Needs Assessment, Support Needs Assessment Profile (SNAP), or Supports Intensity Scale (SIS).

(A) ~~Effective December 31, 2014, t~~The Department incorporates Version C of the ANA and CNA into these rules by this reference. The ANA and CNA is maintained by the Department at: <http://www.dhs.state.or.us/spd/tools/dd/cm>.

~~(i) The ANA is maintained by the Department at: <http://www.dhs.state.or.us/spd/tools/dd/ANAadultInhome.xls>. (ii) The CNA is maintained by the Department at:~~

~~<http://www.dhs.state.or.us/spd/tools/dd/CNAchildInhome.xls>~~.

(B) The Department incorporates the SNAP into these rules by this reference. The SNAP is maintained by the Department at ~~<http://www.oregon.gov/dhs/dd/rebar/pages/assess-afc.aspx>~~. ~~<https://www.oregon.gov/DHS/SENIORS-DISABILITIES/DD/PROVIDERS-PARTNERS/Pages/rebar-assessments.aspx>~~.

(C) The Department incorporates the SIS into these rules by this reference. ~~[The SIS is maintained at http://aaidd.org/sis#.VvwgeaPn\\_Dc](http://aaidd.org/sis#.VvwgeaPn_Dc)~~.

(c) A printed copy of a blank functional needs assessment 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.

~~(12) "Individual Employment Support" means job coaching or job development services to obtain, maintain, or advance in an individual job in a competitive integrated employment setting in the general workforce, including customized employment or self-employment.~~

~~(29) "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) Budgeting;~~
- ~~(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.~~

~~(30) "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.~~

~~(31) "Independence" means the extent to which an individual exerts control and choice over his or her own life.~~

~~(32) "Independent Provider" means a qualified person who is contracted or employed by an individual to provide employment services based on the ISP for the individual.~~

~~(33) "Individual" means a person with an intellectual or developmental disability applying for, or determined eligible for, Department-funded 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 exercise the rights of the individual.~~

(3413) "Integrated Employment Setting" means employment at a location where an employee interacts with other persons who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that individuals who are not individuals with disabilities and who are in comparable positions interact with other persons; and that, as appropriate, presents opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions.

~~(35) "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 in home-like settings that are in proximity to~~

~~community resources, together with regular contact with people without disabilities in their community.~~

~~(36) "Intellectual Disability" means "intellectual disability" as defined in OAR 411-320-0020 and described in OAR 411-320-0080.~~

~~(37) "Involuntary Reduction" means an agency service provider has made the decision to reduce services provided to an individual without prior approval from the individual.~~

~~(38) "Involuntary Transfer" means an agency service provider has made the decision to transfer an individual to be served at another site without prior approval from the individual.~~

~~(3914) "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. 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 service 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, the Community First Choice state plan, natural supports, or alternative resources. The ISP includes the Career Development Plan.~~

~~(40) "ISP Team" means a team composed of an individual receiving services and the legal or designated representative of the individual (as applicable), services coordinator or personal agent, and others chosen by the individual, such as service providers and family members.~~

~~(4115) "Job Coaching" means support for an individual to maintain or advance in an individual job in a competitive integrated employment setting in the general workforce, including customized employment or self-employment.~~

(4216) "Job Development" means support for an individual to obtain an individual job in a competitive integrated employment setting in the general workforce, including customized employment or self-employment.

~~(43) "Legal Representative" means an attorney at law who has been retained by or for an individual, an individual 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.~~

~~(44) "Mandatory Reporter" means any public or private official as defined in OAR 407-045-0260 who, while acting in an official capacity, comes in contact with an adult with an intellectual or developmental disability and has reasonable cause to believe the adult has suffered abuse, or comes in contact with any person whom the public or private official has reasonable cause to believe abused the adult. Nothing contained in ORS 40.225 to 40.295 affects the duty to report imposed by this definition, except that a psychiatrist, psychologist, clergy, or attorney is not required to report if the communication is privileged under ORS 40.225 to 40.295.~~

~~(45) "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.~~

~~(46) "OIS" means "Oregon Intervention System". OIS is 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 used to maintain health and safety.~~

(4717) "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.

(48) "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, service 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.~~

~~(49) "Personal Agent" means "personal agent" as defined in OAR 411-340-0020.~~

~~(50) "Personal Support Worker" means "personal support worker" as defined in OAR 411-375-0010.~~

**(5118)** "PRN" means the administration of medication to an individual on an 'as needed' basis (pro re nata).

~~(52) "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 with an intellectual or developmental disability in work contributing to a household or community.~~

~~(53) "Protection" means the necessary actions offered to an individual as soon as possible to prevent subsequent abuse or exploitation of the individual, to prevent self-destructive acts, or to safeguard the person, property, and funds of an individual.~~

~~(54) "Protective Physical Intervention" means any manual physical holding of, or contact with, an individual that restricts freedom of movement.~~

~~(55) "Psychotropic Medication" means a 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.~~

~~(56) "Self-Determination" means a philosophy and process by which an individual is empowered to gain control over the selection of services and supports that meets the needs of the individual. The basic principles of self-determination are:~~

~~(a) Freedom. The ability for an individual, together with freely chosen family, friends, and professionals, to plan for employment beyond the parameters of a predefined program;~~

~~(b) Authority. The ability for an individual to declare a chosen employment path and to plan supports accordingly;~~

~~(c) Autonomy. Planning for and accessing resources that support an individual to seek employment; and~~

~~(d) Responsibility. The acceptance of a valued role of an individual in the community through employment, organizational affiliations, personal development, and general caring for others in the community, as well as accountability for spending public dollars in ways that are life-enhancing for the individual.~~

~~(57) "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.~~

~~(58) "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.~~

~~(59) "Service Provider" means:~~

~~(a) An agency service provider as defined by these rules;~~

~~(b) An independent provider, as defined by these rules, qualified to provide services under these rules; or~~

~~(c) A personal support worker as defined in OAR 411-375-0010, qualified to provide services under these rules.~~

~~(60) "Services Coordinator" means "services coordinator" as defined in OAR 411-320-0020.~~

~~(61) "Sheltered Workshop" means the service as defined under OAR 407-025-0010.~~

~~(62) "Skills Training" means the activities described in OAR 411-345-0025 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.~~

~~(63) "Staff" means paid employees of service provider agencies responsible for providing supports or services to individuals for which payment is made through the Department.~~

~~(64) "Support Services" means "support services" as defined in OAR 411-340-0020.~~

~~(65) "Supported Employment-- Individual Employment Support" means job coaching or job development services to obtain or maintain an individual job in a competitive integrated employment setting in the general workforce, including customized employment or self-employment.~~

~~(66)~~19 "Supported Employment-- Small Group Employment Support" means services and training activities provided in regular business, industry, and community settings for groups of two to eight individuals with disabilities. ~~Supported employment--~~ Small group employment support is provided in a manner that promotes integration into the workplace and interaction between participants and people without disabilities in those workplaces.

~~(67)~~20 "These Rules" mean the rules in OAR chapter 411, division 345.

~~(68) "Transfer" means movement of an individual from one site to another site administered or operated by the same agency service provider.~~

~~(69) "Transition Plan" means the ISP describing necessary services and supports for an individual upon entry to a new service setting. The Transition Plan is approved by a services coordinator or personal agent and 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 further ISP development.~~

~~(70) "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.~~

~~(71) "Variance" means the temporary exception from a regulation or provision of these rules that may be granted by the Department upon written application by an agency service provider.~~

(7221) "Vocational Assessment" means an assessment administered to provide employment related information essential to the development of, or revision of, the employment related planning documents for an individual.

Stat. Auth.: ORS 409.050 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

### **411-345-0025 Services Provided**

(1) The delivery of employment services provided under these rules presumes all individuals eligible for services ~~are capable of working~~ can succeed in a job and career in an integrated employment setting in the general workforce and earning minimum wage or better.

(2) Employment is the preferred activity for individuals receiving services under these rules. Competitive integrated employment is the highest priority over unemployment, segregated or sheltered employment, ~~supported employment~~—small group employment support, or non-work day activities.

(3) Employment services must be individually planned based on person-centered planning principles. Consistent with the person-centered approach to these services, individuals accessing employment services under these rules must be encouraged, on an ongoing basis, to explore their interests, strengths, and abilities relating to employment or career advancement.

(4) All employment services have an optimal and expected outcome of sustained paid employment at the maximum number of hours, consistent with individual preferences, and work experience leading to further career development, maximizing hours, and competitive integrated employment for which an individual is compensated at or above minimum wage, with a goal of not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities.

(5) A provider initially certified and endorsed on or after January 1, 2016 must meet the requirements in OAR chapter 411, division 004 prior to being certified and endorsed. A provider certified and endorsed prior to January 1, 2016 must make measurable progress toward compliance with the rules in OAR chapter 411, division 004 and be in full compliance by September 1, 2018

(65) Employment services are provided under these rules in accordance with the State of Oregon Executive Order No. 13-0415-01 and OAR chapter 407, division 025 (Integrated Employment Services to Individuals with Intellectual and Developmental Disabilities).

(67) Employment services must be evidence-based where evidence-based practices have been identified.

(78) Employment services must be:

(a) Offered to eligible individuals in accordance with the exit, entry, and transfer requirements described in OAR 411-345-0140;

(b) Provided to eligible individuals under the authorization of an ISP and Career Development Plan in accordance with OAR 411-345-0160;

(c) Offered in accordance with these rules ~~when services are provided by a certified provider organization~~;

(d) Provided in a non-residential setting, unless an individual is operating a home-based business;

(e) Provided in the most integrated employment setting appropriate to the needs of an individual, and consistent with the choice of the individual regarding services, providers, and goals; and

(f) Designed to:

(A) Increase independence, integration, and productivity (productivity meaning regular engagement in income producing work, preferably competitive integrated employment, by an individual that is measured through improvements in income

level, employment status, or job advancement, or engagement by an individual with an intellectual or developmental disability in work contributing to a household or community);

(B) Promote integration into the workforce and workplace;

(C) Promote interaction with people without disabilities; and

(D) Support successful employment outcomes consistent with personal and career goals.

(89) Employment services do not include:

(a) Services available to an individual under Vocational Rehabilitation and Other Services, 29 U.S.C. § 701-7961, as amended;

(b) Services available to an individual under the Individuals with Disabilities Education Act, 20 U.S.C §1400, as amended; ~~or~~

(c) Vocational assessments in a sheltered workshop; or

(d) Services used for support to work in a sheltered workshop setting for individuals who did not enter or use services for support in a sheltered workshop setting on or before June 30, 2015.

(910) Employment services include the following:

(a) SUPPORTED EMPLOYMENT-;

(A) INDIVIDUAL EMPLOYMENT SUPPORT:

(Ai) JOB COACHING: ~~(i)~~ - Support to ~~assist an individual to maintain~~ or advance in an individualized job in a competitive integrated employment setting in the general workforce, including customized employment or self-employment. ~~Job coaching does not include support in volunteer work~~ This also includes support for maximizing hours, pay, benefits, and other opportunities for career advancement.

(I) Personal care or attendant care provided as an incidental part of job coaching is considered a component part of the employment service.

(II) Job coaching does not include support in volunteer work.

(III) Individuals utilizing job coaching must be compensated at a rate that is not less than the higher of the rate specified in federal, state, or local minimum wage law and also is not less than the customary rate and benefits paid by the employer for the same or similar work performed by other employees who are not individuals with disabilities, and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills.

(IV) Job coaching must be provided, at minimum, for the number of hours identified in an ISP.

(V) Transportation provided within the course of job coaching is a component part of the employment service.

~~(ii) Individuals utilizing this service for jobs obtained prior to December 28, 2014 are optimally compensated at or above the minimum wage. Individuals utilizing this service for jobs obtained after December 28, 2014, must be compensated at or above the minimum wage. Effective July 1, 2015, all jobs that pay below minimum wage must be supported through another employment service available under these rules, including all jobs obtained prior to December 28, 2014.~~

~~(iii) Job coaching services must be provided, at minimum, for the number of hours identified in an ISP.~~

(iiiv) Job coaching ~~Support~~ to maintain self-employment requires the following in addition to the requirements outlined under (i):

(I) Ongoing assistance, counseling, and guidance after a business has been launched.

(II) ~~This service cannot~~ Support to maintain self-employment may not be provided to defray the operational expenses of the business.

(III) The self-employment must yield an income that is comparable to the income received by other ~~individuals~~ people who are not individuals with disabilities, and who are self-employed in similar occupations or in similar tasks and who have similar training, experience, and skills.

(IV) Evidence of the self-employment must be documented and reviewed by the ~~services~~ services coordinator or personal agent on an annual basis. Documentation may include, but is not limited to, business filings with the Secretary of State, tax records submitted to the Internal Revenue Service, and an annual business plan.

(Biii) JOB DEVELOPMENT: ~~(i)~~ - Support ~~for an individual~~ to obtain an individual job in a competitive integrated employment setting in the general workforce, including customized employment or self-employment.

(I) Personal care or attendant care provided as an incidental part of job development is considered a component part of the employment service.

(II) The job developed must provide compensation at ~~or above the~~ a rate that is not less than the higher of the rate specified in federal, state, or local minimum wage ~~but~~ law and also is not less than the customary ~~wage~~ rate and ~~level of~~ benefits paid by

the employer for the same or similar work performed by other employees who are not individuals with disabilities, and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills.

~~(iii) The job developed must meet criteria established in a Career Development Plan.~~

(III) The job developed must meet criteria established in a Career Development Plan, or Individual Plan for Employment (IPE) including, but not limited to, criteria regarding the number of hours the individual shall work in the job. The Career Development Plan must document either a goal or discussion regarding opportunities for maximizing work hours and other career advancement opportunities. The recommended standard for planning job coaching and job development is the opportunity to work at least 20 hours per week. Individualized planning should ultimately be based on individual choice, preferences, and circumstances, and recognizes that some individuals may choose to pursue working full time, part time, or another goal identified by the individual.

~~(IViv) Job development may be authorized in the limited circumstances where the service is not available through Vocational Rehabilitation and the Department has approved authorization.~~

(V) Transportation provided within the course of job development is a component part of the employment service.

~~(Bb) SUPPORTED EMPLOYMENT - SMALL GROUP  
EMPLOYMENT SUPPORT: (A) - To provide s~~Services and

training activities in regular business, industry, and community settings.

(Bi) Small group employment support may be provided in groups of two to eight individuals.

(Gii) Small group employment support must be provided in a manner that promotes integration into the work place and interaction with people without disabilities in those work places.

(Diii) Small group employment support does not include vocational services provided in a provider owned, operated, or controlled setting, or a facility-based work setting.

(Eiv) ~~This service~~ Small group employment support does not include support in volunteer work.

(Fv) Individuals utilizing ~~this service~~ small group employment support for jobs obtained prior to December 28, 2014, are optimally must be compensated at a rate that is not less than the higher of the rate specified in federal, state, or local minimum wage law and also is not less than the customary rate and benefits paid by the employer for the same or similar work performed by other employees who are not individuals with disabilities, and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills. or above the minimum wage. ~~Individuals utilizing this service for jobs obtained after December 28, 2014, must be compensated at or above the minimum wage. Effective July 1, 2015, a job that pays below minimum wage must be supported through another Employment Service available under these rules, including all jobs obtained prior to December 28, 2014.~~

(vi) Personal care or attendant care provided as an incidental part of small group employment support is considered a component part of the employment service.

(vii) Transportation provided within the course of small group employment support is a component part of the employment service.

(~~eb~~) DISCOVERY: ~~(A)~~ - A comprehensive and person-centered employment planning support service to better inform an individual seeking competitive integrated employment in the general workforce and develop a Discovery Profile. ~~It includes~~

(A) Discovery must include a series of work or volunteer related activities, completed in competitive integrated employment settings, to inform the individual and the job developer about the ~~strength's~~strengths, interests, abilities, skills, experiences, and support needs of the individual. Discovery ~~includes~~must include analyzing detailed information from novel and past experiences in order to identify the conditions or integrated employment settings in which the individual shall be most successful.

(B) Discovery may include job and task analysis activities, assessment for use of assistive technology, job shadowing, informational interviewing, employment preparation, resume development, and volunteerism to identify transferable skills and job or career interests.

(C) Discovery must be completed within a three month period. A three month extension may be authorized if the individual and the services coordinator or personal agent determines there is a legitimate reason. Legitimate reasons may include, but are not limited to:

(i) The individual ~~had~~has a medical event that delayed completing discovery;

(ii) The individual had a medical event that significantly changed his or her strengths, interests, and abilities; or

(iii) An opportunity to participate in particular work trials or volunteer positions may only be scheduled outside of the three month period.

(D) Discovery must have an outcome of a Discovery Profile. The Discovery Profile must meet requirements established by the Department.

(E) Discovery ~~should result~~ most often results in a referral to vocational rehabilitation services.

(F) Personal care or attendant care provided as an incidental part of discovery is considered a component part of the employment service.

(G) Transportation provided within the course of discovery is a component part of the employment service.

~~(dc) EMPLOYMENT PATH SERVICES: (A) To provide learning - Support to obtain experience and work experiences, including volunteer work, where an individual may develop general, non-job-task-specific strengths and skills that contribute to employability in competitive integrated employment settings~~ in the general workforce.

(A) Personal care or attendant care provided as an incidental part of employment path services is considered a component part of the employment service.

(B) Producing goods or services may be incidental to this service employment path services but the primary purpose must be to develop general employment skills that may be transferred to used in an individual integrated job.

(BC) Employment path services are time-limited based on the ISP. These services A are expected to occur over a defined period of time with specific outcomes to be achieved, as determined by the individual and his or her service and supports planning team through an ongoing person-centered planning process.

(i) Prior to beginning employment path services there must be measureable goals outlined in the Career Development Plan that support the intended outcomes of this service.

(ii) The measureable goals must include a timeline for achieving the goals as well as the frequency and duration for which progress towards achieving the goals are monitored by the services coordinator or personal agent during service monitoring as outlined in OAR chapter 411, division 415.

~~(C) Requires that an individual have an employment-related goal in his or her ISP. General habilitation activities accessed through employment path services must be designed to support such employment goals.~~

(D) Employment path services require that an individual have an employment-related goal in his or her ISP. The employment goal must be related to obtaining, maintaining, or advancing in competitive integrated employment, or, at minimum, exploring competitive integrated employment. General habilitation activities accessed through employment path services must be designed to support such employment goals.

(E) Transportation provided within the course of employment path services is a component part of the employment service.

(F) Consistent with setting requirements for home and community-based services, employment path services must be provided in a setting where individuals using these services gain experience working with the general public to the same or a similar degree as individuals who do not have a disability and do not use home and community-based services.

(i) A provider agency initially certified or endorsed by the Department on or after January 1, 2016, must provide this service in settings that meet this requirement.

(ii) An existing provider agency certified and endorsed prior to January 1, 2016, must make measurable progress toward compliance with this requirement, consistent with a Department approved transition plan, and be in full compliance with this requirement by September 1, 2018.

(DG) Employment path services are a facility-based service if delivered at a fixed site ~~operated, owned, or controlled by the service provider and~~ where the supported individual has few or no opportunities to interact with people who do not have a disability except for paid staff. Facility-based employment services under this definition are permissible until September 1, 2018.

(H) Employment path services are the only service that may be used for support in a sheltered workshop setting. Effective July 1, 2015, no service may be authorized in a sheltered workshop setting for any individual who has not already entered or used services for support to work in a sheltered workshop.

~~(10) Attendant care and skills training must be:~~

~~(a) Provided to eligible individuals under the authorization of an ISP; and~~

~~(b) Offered in accordance with these rules, when services are provided by an agency service provider.~~

~~(11) Attendant care and skills training do not include:~~

~~(a) Services available to an individual under Vocational Rehabilitation and Other Rehabilitation Services, 29 U.S.C. § 701-7961, as amended; or~~

~~(b) Services available to an individual under the Individuals with Disabilities Education Act, 20 U.S.C §1400, as amended.~~

~~(12) Agency service providers operating under these rules may provide one or more of the following services:~~

~~(a) ATTENDANT CARE SERVICES:~~

~~(A) ADL services that include, but are not limited to:~~

~~(i) 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;~~

~~(ii) 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;~~

~~(iii) 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;~~

~~(iv) 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;~~

~~(v) Delegated nursing tasks~~

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

~~(vii) 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~~

~~(viii) 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 that include, but are not limited to:~~

~~(i) 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;~~

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

~~(iii) Meal preparation and special diets;~~

~~(iv) 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;~~

~~(v) 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;~~

~~(vi) Social 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.~~

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

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

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

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

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

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

~~(vii) "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.~~

~~(b) 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:~~

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

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

~~(iii) Progress towards the anticipated outcome are measured and the measurements are evaluated by a services coordinator or personal agent 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 outline in the ISP, the services coordinator or personal agent must reassess or redefine the use of skills training with the individual for that particular goal.~~

~~(c) Attendant care and skills training are facility-based services if delivered at a fixed site operated, owned, or controlled by the service provider and where the supported individual has few or no opportunities to interact with people who do not have a disability except for paid staff.~~

Stat. Auth.: ORS 409.050, 410.070

Stats. Implemented: ORS 430.610, 430.630, 430.662, 430.670

#### 411-345-0027 Qualification for Employment Services

(1) To ~~receive~~ be eligible for employment services, ~~attendant care, or skills training~~, 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) Meet the level of care as defined in OAR 411-320-0020; ~~and~~

~~(d) Have services under these rules authorized in an ISP by the CDDP or Brokerage providing case management services.~~

(d) Be eligible for the Comprehensive Services Waiver or Support Services Waiver;

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

(f) Have services under these rules authorized in an ISP by the CDDP or Brokerage providing case management services; and

(g) Have an employment related goal in the ISP as outlined under these rules and the case management rules in OAR chapter 411, division 415. An employment related goal means a goal related to obtaining, maintaining, or advancing in competitive integrated employment, or, at minimum, exploring competitive integrated employment.

~~(2) To be eligible for employment services, an individual must:~~

- ~~(a) Meet the criteria in section (1) of this rule;~~
- ~~(b) Be eligible for OSIPM;~~
- ~~(c) Be legally eligible to work in the United States; and~~
- ~~(d) Have an employment related goal in their ISP.~~

(32) Employment services for individuals under the age of 18 years must have Department approval. The provider must retain documentation of the approval.

~~(4) To be eligible for attendant care or skills training, an individual must meet the criteria in section (1) of this rule and must:~~

- ~~(a) Be eligible for OHP Plus;~~
- ~~(b) Have an assessed need for attendant care based upon a functional needs assessment; and~~
- ~~(c) Have attendant care or skills training identified as a service in their ISP.~~

(53) As of October 1, 2014, an individual receiving medical benefits under OAR 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.

(a) This includes, but is not limited to, the following assets:

- (A) An annuity evaluated according to OAR 461-145-0022;
- (B) A transfer of property when an individual retains a life estate evaluated according to OAR 461-145-0310;
- (C) A loan evaluated according to OAR 461-145-0330; or

(D) 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.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

### **411-345-0030 ~~Service~~ Provider Requirements**

(1) ~~Providers~~ A provider of ~~E~~employment ~~S~~services must be:

(a) A provider certified and endorsed under OAR chapter 411, division 323;

(b) A provider certified under OAR ~~chapter 411, division 340-0170~~ (Standards for Provider Organizations) prior to January 1, 2016. Providers certified under OAR 411-340-0170 prior to January 1, 2016 must certify under OAR chapter 411, division 323 upon re-certification; or

(c) A qualified independent provider. Independent providers who are employed by the individual may only provide ~~Individual Employment support—Job Coaching~~ job coaching. Independent providers who are independent contractors may only provide job development and discovery.

(2) ~~EMPLOYMENT SERVICE~~ PROVIDER REQUIREMENTS:

(a) The provider must complete enrollment requirements outlined under OAR chapter 411, division 370. As part of enrollment, the provider must complete a Department designated assessment for each setting in which employment services are provided.

(b) Providers must meet requirements regarding Medicaid Performing Provider Numbers as described under OAR chapter 411, division 370.

~~(a) EMPLOYMENT PROFESSIONALS. All employment professionals who provide employment services must:~~

~~(A) Provide services designed to support successful employment outcomes consistent with the personal and career goals of an individual, including goals identified in the ISP and Career Development Plan for the individual;~~

~~(B) Ensure all records are confidential as described in OAR 411-323-0060;~~

~~(C) Perform the duties as a mandatory reporter when appropriate and as required by law; and~~

~~(D) Have a service agreement or job description with clearly stated job responsibilities. The service agreement must be current, signed by the employment professional, and dated. The service agreement must also include duties specific to the area of specialization, including job coach, job developer, discovery provider, or employment path services provider.~~

~~(b) INDEPENDENT PROVIDERS. All qualified independent providers 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. Additionally:~~

~~(i) 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; and~~

~~(ii) The Background Check Request form must be completed by the subject individual to show intent to work statewide;~~

~~(C) Not have been convicted of any of the disqualifying crimes listed in OAR 407-007-0275, unless hired or contracted with prior to July 28, 2009, remaining in the current position for which the independent provider was hired.~~

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

~~(E) Not be the spouse of the supported individual;~~

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

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

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

~~(I) If providing transportation, 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 service;~~

~~(J) Meet the required qualifications for the employment service provided including those required for an employment professional; and~~

~~(K) Sign a Medicaid provider agreement and be enrolled as a Medicaid provider prior to delivery of any services.~~

~~(c) AGENCY SERVICE PROVIDERS.~~

~~(A) INSPECTIONS AND INVESTIGATIONS. The agency service provider must allow inspections and investigations as described in OAR 411-323-0040.~~

~~(B) AGENCY MANAGEMENT AND PERSONNEL PRACTICES. The agency service provider must comply with the agency management and personnel practices as described in OAR 411-323-0050.~~

~~(C) PERSONNEL FILES AND QUALIFICATION RECORDS. The agency service provider must maintain written documentation of six hours of pre-service training prior to staff providing services or supports to individuals, including mandatory abuse reporting training, training to work with individuals with developmental disabilities, and training on the support needs of the individual to whom they will provide support;~~

~~(D) STAFFING REQUIREMENTS:~~

~~(i) Each agency service provider must provide direct service staff appropriate to the number and level of individuals served, to ensure individual rights, basic health, and safety are met;~~

~~(ii) Staff must have approval to work based on current Department policy and procedures for background checks in OAR 411-323-0050;~~

~~(iii) When individuals are present at an agency site, the service provider must provide and document there are staff trained in the following areas:~~

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

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

~~(III) At least one staff member on duty with training to meet other specific medical needs as determined through ISP processes; and~~

~~(IV) At least one staff member on duty with training to meet other specific behavior intervention needs as determined through ISP processes.~~

~~(3) EMPLOYMENT PROVIDER QUALIFICATIONS:~~

(c) Providers must have a job description or service agreement with clearly stated job responsibilities or service requirements. The job description or service agreement must be current, signed, and dated

by the provider. Job descriptions for providers must also include duties specific to the area of specialization.

(d) A provider agency must have at least one employee in a supervisory position who has the Department approved credentialing. Providers independently contracted to provide an employment service must have the Department approved credentialing.

**(a3) EMPLOYMENT PROFESSIONAL REQUIREMENTS.**

(a) Each employment professional must possess and demonstrate the following qualifications:

(A) Knowledge of developmental ~~disability~~ disabilities services; ~~;~~

(B) Knowledge of the rules governing employment services; ~~;~~

(C) Ability to provide services designed to support successful employment outcomes consistent with individualized career goals, including goals identified in the ISP and Career Development Plan. ~~skills training for individuals to increase employability;~~

(D) Ability to support individuals to maintain and be successful in employment; ~~and.~~

(E) Demonstrate by background, education, references, skills, and abilities that the employment professional is capable of safely and adequately performing the tasks to support the ISP and Career Development Plan for an individual, with such demonstration confirmed in writing by the individual, or their legal or designated representative including:

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

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

(iii) Ability to communicate with the individual; and

(iv) Training of a nature and type sufficient to ensure that the employment professional has knowledge of emergency procedures specific to the individual receiving services.

(b) JOB DEVELOPERS-Qualifications for specific types of employment professionals --

(A) JOB DEVELOPMENT.

(i) A provider of job development services must also possess and demonstrate the following qualifications:

(A<sub>i</sub>) Possess knowledge of best practice methodologies for job development; and

(B<sub>ii</sub>) Be able to demonstrate the core competencies of a job developer within one year of employment, including those pertaining to skills assessment, job matching, job customization, job carving, community building, mapping and networking, analyzing labor trends, identifying patterns in job markets, identifying incentives for businesses, and mentoring job seekers. Documentation that the employment professional has demonstrated these competencies must be maintained in the personnel file.

(ii) A job development provider must be qualified as a vendor of Vocational Rehabilitation job placement in order to provide the job development service.

(c<sub>B</sub>) JOB COACHES/COACHING. A provider of job coaching services must also possess and demonstrate the following qualifications:

(A<sub>i</sub>) Knowledge of best practice methodologies for job coaching; and

(Bii) Be able to demonstrate the core competencies of a job coach within one year of employment, including skills to recognize and adapt supports to individual learning styles and needs, conduct task design and accommodations, train instructional and schedule procedures, and collaborate with employee, employer, co-workers, and support team. Documentation that the employment professional has demonstrated these competencies must be maintained in the personnel file.

(dC) DISCOVERY ~~PROVIDER.~~

(Ai) A provider of discovery services must also possess and demonstrate the following qualifications:

(I) Knowledge of best practice methodologies for conducting discovery; and

(II) Be able to demonstrate the core competencies of a discovery provider within one year of employment, including skills to facilitate the discovery process, apply person-centered planning techniques, develop an employment portfolio, identify ~~a job seekers'~~ the strengths, interests, and talents of the job seeker, and integrate all pertinent information required by the Department into a Discovery Profile. Documentation that the employment professional has demonstrated these competencies must be maintained in the personnel file.

(Bii) ~~Effective July 1, 2015,~~ A discovery provider must be qualified as a vendor of Vocational Rehabilitation job placement in order to provide the discovery service.

(eD) EMPLOYMENT PATH ~~SERVICE PROVIDERS~~ SERVICES. A provider of employment path services must also possess and demonstrate the following qualifications:

(Ai) Knowledge of best practice methodologies for providing employment path services; and

(Bii) Be able to demonstrate the core competencies of an employment path ~~skills~~ provider within one year of employment, including skills to provide learning and work experiences to teach general, non-job-task-specific strengths and skills. Documentation that the employment professional has demonstrated these competencies must be maintained in the personnel file.

(4) EMPLOYMENT PROVIDER PROFESSIONAL TRAINING:

~~(a) Employment professional employed by an agency service provider must complete the following training:~~

~~(A) A review of these rules;~~

~~(B) CPR and First Aid by a recognized training agency within 90 calendar days of hire;~~

~~(C) Six hours of pre-service training including:~~

~~(i) Mandatory abuse reporting training;~~

~~(ii) Training to work with individuals with developmental disabilities; and~~

~~(iii) Training on the employment service and support needs of the individual to whom they will provide support.~~

~~(b) An agency service provider must keep documentation of required training in the personnel files of the employment professional.~~

~~(ea)~~ All employment specialists professionals must complete a competency based employment training as follows:

(A) Job coaches must complete at least one Department approved training for job coaching within 90 days of providing job coaching.

(B) Job developers must complete at least one Department approved training for job developers within 90 days of providing job development.

(C) Discovery providers must complete at least one Department approved training for discovery before being authorized to provide discovery.

(D) Employment path providers must complete at least one Department approved training for employment path providers within 90 days of providing employment path services.

(b) Documentation that the employment professionals have completed this training requirement must be maintained in the personnel file of the employment professional.

~~(d) Effective July 1, 2016, agency service providers must have at least one employee who has the Department approved credentialing. Effective July 1, 2016, Providers independently contracted to provide an employment service must have the Department approved credentialing.~~

(5) DISQUALIFICATION. Employment professionals must self-report any potentially disqualifying condition as described in OAR 407-007-0280 (Potentially Disqualifying Conditions) and OAR 407-007-0290- (Other Potentially Disqualifying Conditions). The employment professionals must notify the Department or the designee of the Department within 24 hours.

Stat. Auth.: ORS 409.050, 410.070

Stats. Implemented: ORS 430.610, 430.662, 430.670

## **411-345-0085 Reports and Recordkeeping**

### (1) PROGRESS NOTES.

(a) Providers must maintain --

(A) Regular progress notes regarding the employment service provided. The progress note must include, at minimum, the following information regarding the service rendered:

(i) Date and time the service was provided;

(ii) Information regarding progress towards achieving the intended employment goal for which the employment service was purchasedutilized, including progress towards outcomes and milestones outlined in the Career Development Plan and the implementation strategies or plan; and

(iii) Documentation of the number of hours the supported individual works.

(B) At minimum, monthly progress notes that document the wages and level of benefits the supported individual receives, as well as any potential for increasing the number of work hours.

(b) Progress notes must be made available upon request.

(12) For each individual supported, ~~service~~ providers being paid for job development services must report activity at least monthly to the services coordinator or personal agent for the individual.

(23) For each individual supported, ~~service~~ providers being paid for discovery services must complete a Discovery Profile and submit the Discovery Profile to the services coordinator or personal agent for the individual.

(34) All documentation 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 five years.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

### **411-345-0095 Service and Payment Limitations**

(1) ~~Effective Employment~~ service rates ~~as~~ authorized in Department payment and reporting systems ~~for individuals enrolled in employment, attendant care, and skills training and are~~ paid to providers for delivering services, as described in these rules, and shall be based upon the Collective Bargaining Agreement ~~or and~~ the agency fee Rate s Schedule ~~published by the Department.~~

(2) Only one employment S service may be billed per individual per hour. Payments based on an outcome are not in conflict with payments made based on direct service delivery.

(3) Employment S services and payment for ~~E~~ employment services s are limited to:

(a) An average of 25 hours per week for any combination of job coaching, ~~supported employment~~ - 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.

(4) Exceptions to the service and payment limitations may be considered by the Department based upon applicable Department policy.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

### **411-345-0110 Individuals' Rights**

(1) An ~~agency service~~ provider agency must have and implement written policies and procedures that protect the rights of individuals described in

~~subsection (3) of this section~~ OAR 411-318-0010 (Individual Rights) and encourage and assist individuals to understand and exercise these rights.

(2) Upon entry and request and annually thereafter, the individual rights described in ~~section (3) of this rule~~ OAR 411-318-0010 (Individual Rights) must be provided to an individual and the legal or designated representative of the individual.

~~(3) While receiving developmental disability services, an individual has the right to:~~

~~(a) Be free and protected from abuse or neglect and to report any incident of abuse or neglect without being subject to retaliation;~~

~~(b) Be free from seclusion, unauthorized training or treatment, protective physical intervention, chemical restraint, or mechanical restraint and assured that medication is administered only for the clinical needs of the individual as prescribed by a health care provider unless an imminent risk of physical harm to the individual or others exists and only for as long as the imminent risk continues;~~

~~(c) Individual choice to consent to or refuse treatment unless incapable and then an alternative decision maker must be allowed to consent to or refuse treatment for the individual;~~

~~(d) Informed, voluntary, written consent prior to receiving services, except in a medical emergency or as otherwise permitted by law;~~

~~(e) Informed, voluntary, written consent prior to participating in any experimental programs;~~

~~(f) A humane service environment that affords reasonable protection from harm, reasonable privacy in all matters that do not constitute a documented health and safety risk to the individual, and access and the ability to engage in private communications with any public or private rights protection program, services coordinator, and others chosen by the individual through personal visits, mail, telephone, or electronic means;~~

~~(g) Contact and visits with legal and medical professionals, legal and designated representatives, family members, friends, advocates, and others chosen by the individual, except where prohibited by court order;~~

~~(h) Participate regularly in the community and use community resources, including recreation, developmental disability services, employment services, school, educational opportunities, and health care resources;~~

~~(i) For individuals less than 21 years of age, access to a free and appropriate public education, including a procedure for school attendance or refusal to attend;~~

~~(j) Reasonable and lawful compensation for performance of labor, except personal housekeeping duties;~~

~~(k) Manage his or her own money and financial affairs unless the right has been taken away by court order or other legal procedure;~~

~~(l) Keep and use personal property, personal control and freedom regarding personal property, and a reasonable amount of personal storage space;~~

~~(m) Adequate food, housing, clothing, medical and health care, supportive services, and training;~~

~~(n) Seek a meaningful life by choosing from available services, service settings, and providers consistent with the support needs of the individual identified through a functional needs assessment and enjoying the benefits of community involvement and community integration:~~

~~(A) Services must promote independence and dignity and reflect the age and preferences of the individual; and~~

~~(B) The services must be provided in a setting and under conditions that are most cost effective and least restrictive to the liberty of the individual, least intrusive to the individual, and that provide for self-directed decision-making and control of~~

~~personal affairs appropriate to the preferences, age, and identified support needs of the individual;~~

~~(o) An individualized written plan for services created through a person-centered planning process, services based upon the plan, and periodic review and reassessment of service needs;~~

~~(p) Ongoing opportunity to participate in the planning of services in a manner appropriate to the capabilities of the individual, including the right to participate in the development and periodic revision of the plan for services, the right to be provided with a reasonable explanation of all service considerations through choice advising, and the right to invite others chosen by the individual to participate in the plan for services;~~

~~(q) Request a change in the plan for services and a reassessment of service needs;~~

~~(r) A timely decision upon request for a change in the plan for services;~~

~~(s) Advance written notice of any action that terminates, suspends, reduces, or denies a service or request for service and notification of other available sources for necessary continued services;~~

~~(t) A hearing to challenge an action that terminates, suspends, reduces, or denies a service or request for service;~~

~~(u) Exercise all rights set forth in ORS 426.385 and 427.031 if the individual is committed to the Department;~~

~~(v) Be informed at the start of services and annually thereafter of the rights guaranteed by this rule, the contact information for the protection and advocacy system described in ORS 192.517(1), the procedures for reporting abuse, and the procedures for filing complaints, reviews, or requests for hearings if services have been or are proposed to be terminated, suspended, reduced, or denied;~~

~~(w) Have these rights and procedures prominently posted in a location readily accessible to individuals and made available to representatives of the individual;~~

~~(x) Be encouraged and assisted in exercising all legal, civil, and human rights accorded to other citizens of the same age, except when limited by a court order;~~

~~(y) Be informed of and have the opportunity to assert complaints as described in OAR 411-318-0015 with respect to infringement of the rights described in this rule, including the right to have such complaints considered in a fair, timely, and impartial complaint procedure without any form of retaliation or punishment; and~~

~~(z) Freedom to exercise all rights described in this rule without any form of reprisal or punishment.~~

~~(4) The rights described in this rule are in addition to, and do not limit, all other statutory and constitutional rights that are afforded all citizens including, but not limited to, the right to exercise religious freedom, vote, marry, have or not have children, own and dispose of property, and enter into contracts and execute documents unless specifically prohibited by law.~~

~~(5) An individual who is receiving developmental disability services has the right under ORS 430.212 and OAR 411-320-0090 to be informed that a family member has contacted the Department to determine the location of the individual and to be informed of the name and contact information of the family member, if known.~~

~~(6) The rights described in this rule may be asserted and exercised by an individual, the legal representative of an individual, and any representative designated by an individual.~~

~~(7) A guardian is appointed for an adult only as is necessary to promote and protect the well-being of the adult. A guardianship for an adult must be designed to encourage the development of maximum self-reliance and independence of the adult, and may be ordered only to the extent necessitated by the actual mental and physical limitations of the adult. An adult for whom a guardian has been appointed is not presumed to be incompetent. An adult with a guardian retains all legal and civil rights~~

~~provided by law, except those that have been expressly limited by court order or specifically granted to the guardian by the court. Rights retained by an adult include, but are not limited to, the right to contact and retain counsel and to have access to personal records. (ORS 125.300).~~

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

## **411-345-0130 Complaints, Notification of Planned Action, and Hearings**

### **(1) INDIVIDUAL COMPLAINTS.**

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

(b) An ~~agency service~~ provider agency must have and implement written policies and procedures for individual complaints in accordance with OAR 411-318-0015.

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

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

### **(3) HEARINGS.**

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

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

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

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

#### **411-345-0140 Entry, Exit, and Transfer Requirements for a Provider Agency Service Providers**

(1) NON-DISCRIMINATION. An individual considered for Department-funded services may 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.

(2) ENTRY. ~~For individuals who receive case management from a CDDPA provider agency must participate in an entry ISP team meeting must be conducted prior to when requested by the initiation individual. A provider agency may require an entry meeting as a condition of employment services, attendant care, or skill training for an individual. This meeting shall be conducted as follows:~~

(a) Prior to or upon an entry ISP team meeting, ~~a provider agency agency service provider~~ must acquire or demonstrate efforts to acquire and then maintain the following ~~individual~~ information:

(A) A copy of the Career Development Plan and any relevant sections of the ISP eligibility determination document;

(B) All information related to the employment goals and interests of the individual. This may include, but is not limited to, provider implementation strategies, documentation available through Vocational Rehabilitation or the local school, or a Discovery Profile;

(C) A copy of the service agreement or job description; and

(D) Any other documentation required by a provider, and that is consistent with requirements under OAR chapter 411, division 415 (regarding case management).

(b) Prior to or during an entry ISP team meeting, or prior to the commencement of employment services, a provider must develop a preliminary written plan or implementation strategies that includes measurable goals and milestones to support the individual to achieve career goals and outcomes outlined in the Career Development Plan. Within 60 days of an ISP team meeting, or the start of services, the provider must update, revise, or further refine the written plan or implementation strategies to reflect updates from the ISP team meeting and updates to the Career Development Plan. The plan or strategies may become part of the service agreement or job description.

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

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

~~(D) Documentation of any relevant physical limitations that may affect services;~~

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

~~(F) A copy of the most recent ISP (if applicable) and Career Development Plan (if applicable).~~

~~(b) The findings of the entry meeting must be recorded in the file for the individual and include, at a minimum:~~

~~(A) The name of the individual;~~

~~(B) The date of the entry meeting;~~

~~(C) The date determined to be the date of entry;~~

~~(D) Documentation of the participants included in the entry meeting;~~

~~(E) Documentation as required by OAR 411-345-0190 and 411-345-0200;~~

~~(F) Documentation of the pre-entry information required by subsection (a) of this section;~~

~~(G) The written Transition Plan for no longer than 60 calendar days that includes all medical, behavior, and safety supports needed by the individual;~~

~~(H) Documentation of the type of services the individual is to receive; and~~

~~(I) Documentation of the decision to serve the individual requesting services.~~

### (3) VOLUNTARY TRANSFERS AND EXITS.

(a) An provider agency ~~service provider~~ must promptly notify a services coordinator or personal agent if an individual gives notice of the intent to exit services or abruptly exits services.

(b) An provider agency ~~service provider~~ must notify a services coordinator or personal agent prior to the voluntary transfer or exit of an individual from services.

(c) Notification and authorization of the voluntary transfer or exit of the individual must be documented in the record for the individual.

### (4) INVOLUNTARY REDUCTIONS, TRANSFERS, AND EXITS.

(a) An provider agency ~~service provider must~~may only reduce, transfer, or exit an individual or group of individuals involuntarily for one or more of the following reasons:

(A) The behavior of the individual poses an imminent risk of danger to self or others;

(B) The individual experiences a medical emergency;

(C) The service needs of the individual exceed the ability of the provider agency ~~service provider~~; ~~(D) The individual fails to pay for services~~; or

~~(E)~~ The certification or endorsement for the provider agency ~~service provider~~ described in OAR chapter 411, division 323 is suspended, revoked, not renewed, or voluntarily surrendered.

(b) A notice of involuntary reduction, transfer, or exit is not required when an employment relationship between a community or general employer terminates. Notice requirements must be met if the job or work experience is in a provider owned, controlled, or operated setting or facility.

(c) NOTICE OF INVOLUNTARY INDIVIDUAL REDUCTION, TRANSFER, OR EXIT.

(A) An provider agency ~~service provider~~ must not reduce services, transfer, or exit an individual involuntarily without 30 calendar days advance written notice to the individual, the legal or designated representative of the individual (as applicable), and the services coordinator or personal agent, except in the case of a medical emergency or when an individual is engaging in behavior that poses an imminent danger to self or others as described in subsection ~~(e)~~(B) of this section.

(Ai) The written notice must be provided on the Notice of Involuntary Reduction, Transfer, or Exit form approved by the Department and include:

(i) The reason for the reduction, transfer, or exit; and

(ii) The right of the individual to a hearing as described in subsection (e) of this section.

(Bii) A Notice of Involuntary Reduction, Transfer, or Exit is not required when an individual requests the reduction, transfer, or exit.

(eB) An provider agency ~~service provider~~ may give less than 30 calendar days advance written notice only in a medical emergency or when an individual is engaging in behavior that poses an imminent danger to self or others. The notice must be provided to the individual, the legal or designated representative of the individual (as applicable), and the services coordinator or personal agent immediately upon determination of the need for a reduction, transfer, or exit.

(d) NOTICE OF INVOLUNTARY GROUP REDUCTION, TRANSFER, OR EXIT. If a provider agency reduces, transfers, or exits more than 10 individuals within any 30 calendar day period, the provider agency must provide 60 days advance written notice to the individuals and their legal or designated representatives (as applicable), the Department, and the services coordinators or personal agents.

(A) The written notice must be provided on the Notice of Involuntary Reduction, Transfer, or Exit form approved by the Department and include:

(i) The reason for the reduction, transfer, or exit; and

(ii) The right of the individual to a hearing as described in subsection (e) of this section.

(B) A Notice of Involuntary Reduction, Transfer, or Exit is not required when an individual requests the reduction, transfer, or exit.

(~~de~~) HEARING RIGHTS. An individual must be given the opportunity for a hearing under ORS chapter 183 and OAR 411-318-0030 to dispute an involuntary reduction, transfer, or exit. If an individual requests a hearing, the individual must receive the same services until the hearing is resolved. When an individual has been given less than 30 calendar days advance written notice of a reduction, transfer, or exit as described in subsection (c) of this section and the individual has requested a hearing, the provider agency ~~service provider~~ must reserve service availability for the individual until receipt of the Final Order.

(5) EXIT MEETING.

(a) The ISP team for an individual must meet before any decision is made to exit services. Findings of the exit meeting must be recorded in the file for the individual and include, at a minimum:

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

(B) The date of the exit meeting;

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

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

(E) Documentation of the discussion of the strategies to prevent the exit of the individual from services (unless the individual is requesting the exit);

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

(G) Documentation of the proposed plan for services after the exit.

(b) Requirements for an exit meeting may be waived if an individual is immediately removed from services under the following conditions:

(A) The individual requests an immediate removal from services; or

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

(6) TRANSFER MEETING. An ISP team must meet to discuss any proposed transfer of an individual from one site to another site before any decision to transfer is made. Findings of the transfer meeting must be recorded in the file for the individual and include, at a minimum:

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

(b) The date of the transfer meeting;

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

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

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

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

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

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

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

## **411-345-0160 Individual Support Plan and Career Development Plan**

~~(1) A Career Development Plan must be completed as part of the ISP consistent with the case management requirements outlined under OAR chapter 411, division 415. An individual has the right to participate in his or her ISP meeting and must be afforded every opportunity to develop and direct his or her ISP and Career Development Plan.~~

~~(2) Providers must implement the Career Development Plan, provider implementation strategies, and any other related documents. In order to receive employment services, an individual must have an employment related goal in his or her ISP and Career Development Plan.~~

~~(3) All individuals utilizing services under these rules must participate in career development planning as a part of the annual ISP.~~

~~(4) A Career Development Plan and informal vocational assessment must be developed and implemented with the ISP as follows. The Career Development Plan must:~~

~~(a) Focus on the strengths of the individual;~~

~~(b) Prioritize employment in integrated settings;~~

~~(c) Be based on person-centered planning principles;~~

~~(d) Include a current and accurate vocational assessment; and~~

~~(e) Be completed with the goal of maximizing the number of hours spent working consistent with the interests, abilities, and choices of the individual.~~

~~(5) For services provided by an agency service provider, the ISP and Career Development Plan must be implemented, and a copy of the sections of the ISP and Career Development Plan for each individual that are necessary to deliver the employment services must be available for the employment service provider prior to the start of services and at least annually or as changes occur.~~

~~(63) A provider Agency service providers must:~~

(a) Assign a staff member to participate as a team member in the development of the ISP and Career Development Plan when invited by the individual;

(b) Follow any required process and format as described in this rule;

(c) Train staff to understand the ISP, Career Development Plan, and supporting documents for each individual and to provide individual services; and

(d) Comply with Department rules and policies regarding the ISP and Career Development Plan.

~~(47) When invited by the individual, a provider Agency-service providers must participate in a face-to-face meeting annually with the ISP team of an individual. An exception is made when:~~

~~(a) The individual chooses not to participate in the meeting or the legal representative of the individual objects to the participation of the individual in the face-to-face meeting. The individual must receive a copy of the ISP and Career Development Plan related to the necessary delivery of services; or~~

~~(b) The individual objects to the participation of an agency service provider during the face-to-face meeting.~~

~~(85) In preparation for the annual ISP meeting, the provider agency must do the following, regardless of whether the service provider agency mustparticipates in the meeting:~~

(a) Gather person-centered information regarding preferences, interests, and desires of the individual supported;

(b) Review the current ISP and Career Development Plan of the individual to determine the ongoing appropriateness and adequacy of the services and supports identified in the ISP and Career Development Plan; ~~and~~

~~(c) Develop a preliminary written plan or provider implementation strategies including measurable goals to support the individual to~~

achieve career goals and outcomes outlined in the Career Development Plan; and

(ed) Share all materials drafted in preparation for the ISP meeting with the ISP team one week prior to the ISP meeting.

(6) Within 60 days of the annual ISP meeting, the provider must update, revise, or further refine the written plan or implementation strategies to reflect updates from the ISP team meeting and updates to the Career Development Plan. The plan or strategies may become part of the service agreement or job description.

(97) The provider ~~agency service provider~~ must ~~receive~~ make reasonable efforts to obtain a copy of the ~~ISP and~~ Career Development Plan, ~~or at least portions thereof, and any sections of the ISP that are~~ related to ~~the~~ and necessary for delivery of services.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

#### **411-345-0170 Behavior Support for a Provider Agency-Service Providers**

For ~~an agency service~~ a provider agency certified by the Department to ~~provide deliver~~ services under these rules and endorsed under the rules in OAR chapter 411, division 323:

(1) The ~~agency service~~ provider agency must have and implement a written policy for behavior support utilizing individualized positive support techniques and prohibiting abusive practices.

(2) The ~~agency service~~ provider agency must inform the individual, and as applicable the legal or designated representative of the individual, of the behavior support policy and any applicable procedures at the time of entry to services and as changes to the behavior policy occur.

(3) Prior to the development of a Behavior Support Plan, the ~~agency service~~ provider agency must conduct a functional behavioral assessment of the behavior, which must be based upon information provided by one or

more people who know the individual. The functional behavioral assessment must include:

- (a) A clear, measurable description of the behavior that includes (as applicable) frequency, duration, and intensity of the behavior;
- (b) A clear description and justification of the need to alter the behavior;
- (c) An assessment of the meaning of the behavior that includes the possibility that the behavior is one or more of the following:
  - (A) An effort to communicate;
  - (B) The result of a medical condition;
  - (C) The result of a psychiatric condition; or
  - (D) The result of environmental causes or other factors.
- (d) A description of the context in which the behavior occurs; and
- (e) A description of what currently maintains the behavior.

(4) A Behavior Support Plan must include:

- (a) An individualized summary of the needs, preferences, and relationships of an individual;
- (b) A summary of the functions of the behavior as derived from the functional behavioral assessment;
- (c) Strategies that are related to the functions of the behavior and are expected to be effective in reducing problem behaviors;
- (d) Prevention strategies, including environmental modifications and arrangements;
- (e) Early warning signals or predictors that may indicate a potential behavioral episode and a clearly defined plan of response;

- (f) A general crisis response plan that is consistent with OIS;
- (g) A plan to address post crisis issues;
- (h) A procedure for evaluating the effectiveness of the Behavior Support Plan that includes a method of collecting and reviewing data on frequency, duration, and intensity of the behavior;
- (i) Specific instructions for staff who provide support to follow regarding the implementation of the Behavior Support Plan; and
- (j) Positive behavior supports that includes the least intrusive intervention possible.

(5) The ~~agency service~~ provider agency must maintain the following additional documentation for implementation of Behavior Support Plans:

- (a) Written evidence that the individual, the legal or designated representative of the individual (as applicable), and the ISP team are aware of the development of the Behavior Support Plan and any objections or concerns;
- (b) Written evidence of the ISP team decision for approval of the implementation of the Behavior Support Plan; and
- (c) Written evidence of all informal and positive strategies used to develop an alternative behavior.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

#### **411-345-0180 Protective Physical Intervention for a Provider Agency Service Providers**

For ~~an agency service~~ provider agency certified by the Department to ~~provide deliver~~ services under these rules and endorsed under the rules in OAR chapter 411, division 323:

(1) The ~~agency service~~ provider agency must only employ protective physical intervention techniques that are included in the approved OIS curriculum or as approved by the OIS Steering Committee. Protective physical intervention techniques must only be applied:

(a) When the health and safety of the individual and others are at risk and the ISP team has authorized the procedures in a documented ISP team decision that is included in the ISP and uses procedures that are intended to lead to less restrictive intervention strategies;

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

(c) As a health-related protection ordered by a physician if absolutely necessary during the conduct of a specific medical or surgical procedure, or for the protection of the individual during the time that a medical condition exists.

(2) Staff supporting an individual must be trained and certified in OIS when the individual has a history of behavior requiring protective physical intervention and the ISP team has determined there is probable cause for future application of protective physical intervention. Documentation verifying current OIS certification of staff must be maintained in the personnel file for the staff person and be available for review by the Department or the designee of the Department.

(3) The ~~service~~ provider agency must obtain the approval of the OIS Steering Committee for any modification of standard OIS protective physical intervention techniques. The request for modification of protective physical intervention techniques must be submitted to the OIS Steering Committee and must be approved in writing by the OIS Steering Committee prior to the implementation of the modification. Documentation of the approval must be maintained in the record for the individual.

(4) Use of protective physical intervention techniques in emergency situations that are not part of an approved Behavior Support Plan must:

(a) Be reviewed by the executive director of the ~~agency service~~ provider agency or the designee of the executive director within one hour of application;

(b) Be used only until the individual is no longer an immediate threat to self or others;

(c) Be documented as an incident report and submitted to the services coordinator, personal agent, or other Department designee (if applicable) and the legal representative of the individual (if applicable), no later than one business day after the incident has occurred; and

(d) Prompt an ISP team meeting if an emergency intervention is used more than three times in a six-month period.

(5) Any use of protective physical intervention must be documented in an incident report, excluding circumstances as described in section (8) of this rule. The incident report must include:

(a) The name of the individual to whom the protective physical intervention was applied;

(b) The date, type, and length of time the protective physical intervention was applied;

(c) A description of the incident precipitating the need for the use of the protective physical intervention;

(d) Documentation of any injury;

(e) The name and position of the staff member applying the protective physical intervention;

(f) The name and position of the staff witnessing the protective physical intervention;

(g) The name and position of the person providing the initial review of the use of the protective physical intervention; and

(h) Documentation of an administrative review by the executive director of the ~~agency service~~ provider agency or the designee of the executive director who is knowledgeable in OIS as evident by a job

description that reflects this responsibility, which includes the follow-up to be taken to prevent a recurrence of the incident.

(6) The ~~agency service~~ provider agency must forward a copy of the incident report within five business days of the incident to the services coordinator or personal agent and the legal representative of the individual (if applicable).

(a) The services coordinator, personal agent, or the Department designee (if applicable) must receive a complete copy of the incident report.

(b) A copy of an incident report may not be provided to the legal representative or other ~~agency service~~ provider agency of an individual when the report is part of an abuse or neglect investigation.

(c) A copy of an incident report provided to the legal representative or other service provider of an individual must have confidential information about other individuals removed or redacted as required by federal and state privacy laws.

(7) All protective physical interventions resulting in injuries must be documented in an incident report and forwarded to the services coordinator, personal agent, or other Department designee (if applicable), within one business day of the incident.

(8) The ~~agency service~~ provider agency may substitute a behavior data summary in lieu of individual incident reports when:

(a) There is no injury to the individual or others;

(b) There is a formal written functional behavioral assessment and a written Behavior Support Plan;

(c) The Behavior Support Plan defines and documents the parameters of the baseline level of behavior;

(d) The protective physical intervention techniques and the behaviors for which the protective physical intervention techniques are applied

remain within the parameters outlined in the Behavior Support Plan for the individual and the OIS curriculum;

(e) The behavior data collection system for recording observation, intervention, and other support information critical to the analysis of the efficacy of the Behavior Support Plan is also designed to record items as required in section (5) of this rule; and

(f) There is written documentation of an ISP team decision that a behavior data summary had been authorized for substitution in lieu of incident reports.

(9) A copy of the behavior data summary must be forwarded every 30 calendar days to the services coordinator, personal agent, or other Department designee (if applicable) and the legal representative of an individual (if applicable).

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

#### **411-345-0190 Medical Services for a Provider Agency ~~Service Providers~~**

For ~~an agency service~~ a provider agency certified by the Department to ~~provide deliver~~ services under these rules and endorsed under the rules in OAR chapter 411, division 323:

(1) All medical records for the individuals must be kept confidential as described in OAR 411-323-0060.

(2) The ~~agency service~~ provider agency must have and implement written policies and procedures that 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) Individuals must receive care that promotes their health and well-being as follows:

(a) The ~~agency service~~ provider agency must observe the health and physical condition of an individual and take action in a timely manner in response to identified changes in condition that may lead to deterioration or harm;

(b) The ~~agency service~~ provider agency must assist an individual with the use and maintenance of prosthetic devices as necessary for the activities of the service;

(c) The ~~agency service~~ provider agency, with the knowledge of the individual, must share information regarding medical conditions with the residential contact (if applicable) and the services coordinator or personal agent of the individual; and

(d) The ~~agency service~~ provider agency must provide rest and lunch periods at least as required by applicable law unless the needs of the individual dictate additional time.

(4) The ~~agency service~~ provider agency must maintain records on each individual to aid physicians, health care providers, and the ~~agency service~~ provider agency in understanding the medical history and current treatment program for the individual. These records must be kept current and organized in a manner that permits a staff and health care provider to easily follow the course of treatment for the individual. Such documentation must include:

(a) A medical history obtained prior to entry to services including where available:

(A) A copy of a record of immunizations; and

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

(b) A record of the current medical condition of the individual, including:

(A) A copy of all current orders for medication administered and maintained at the site of the ~~agency service~~ provider agency;

(B) A list of all current medications; and

(C) A record of visits to health care providers if facilitated or provided by the ~~agency service~~ provider agency.

(5) The administration of medication at the service site must be avoided whenever possible. When medications, treatments, equipment, or special diets must be administered or monitored for self-administration, the ~~agency service~~ provider agency must:

(a) Obtain a copy of a written order signed by a physician, designee of a physician, or health care provider prescribing the medication, treatment, special diet, equipment, or other medical service; and

(b) Follow written orders.

(6) PRN orders are not accepted for psychotropic medication.

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

(a) Kept in their original containers;

(b) Labeled by the dispensing pharmacy, product manufacturer, or physician or health care provider, as specified per the written order of a physician or health care provider;

(c) Kept in a secured locked container and stored as indicated by the product manufacturer; and

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

(8) The MAR must include:

(a) The name of the individual;

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

(c) For topical medications and basic first aid treatments utilized without the order of a physician or health care provider, a transcription of the printed instructions from the package or the description of the basic first aid treatment provided;

(d) Times and dates of administration or self-administration of the medication;

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

(f) Method of administration;

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

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

(i) An explanation of any medication administration irregularity with documentation of administrative review by the executive director of the ~~agency service~~ provider agency or the designee of the executive director.

(9) Safeguards to prevent adverse medication reactions must be utilized to include:

(a) Maintaining information about the effects and side-effects of each prescribed medication;

(b) Communicating any concerns regarding any medication usage, effectiveness, or effects to the residential contact (if applicable) and the services coordinator or personal agent; and

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

(10) The service site or ~~agency service~~ provider agency may not keep unused, discontinued, outdated, or recalled medication, or medication containers with worn, illegible, or missing labels. All unused, discontinued,

outdated, or recalled medication or medication 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 the medication was prescribed. The ~~agency service~~ provider agency must maintain a written record of all disposed medications that includes:

- (a) Date of disposal;
- (b) A description of the medication, including amount;
- (c) The name of the individual for whom the medication was prescribed;
- (d) The reason for disposal;
- (e) The method of disposal;
- (f) Signature of staff disposing; and
- (g) For controlled medications, the signature of a witness to the disposal.

(11) For any individual who is self-administering medication while receiving services from ~~an agency service~~ provider agency, the ~~agency service~~ provider agency must:

- (a) Have documentation that a training program was initiated with approval of the ISP team for the individual 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 residence of the individual;
- (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) The ~~agency service~~ provider agency must ensure that individuals able to self-administer medications keep the medications secured, unavailable to any other person, and stored as recommended by the product manufacturer.

(13) The ~~agency service~~ provider agency must immediately contact the services coordinator or personal agent when the medical, behavioral, or physical needs of an individual change to a point that the needs of the individual may not be met by the ~~agency service~~ provider agency. The ISP team may determine alternative service providers or may arrange other services if necessary.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

#### **411-345-0200 Individual Summary Sheets and Emergency Information for a Provider Agency ~~Service Providers~~**

For ~~an agency service~~ provider agency certified by the Department to ~~provide deliver~~ services under these rules and endorsed under the rules in OAR chapter 411, division 323:

(1) The ~~agency service~~ provider agency must maintain a current one to two page summary sheet record at the primary place of business of the ~~agency service~~ provider agency for each individual receiving services. The record must include:

(a) The name of the individual and his or her current address, telephone number, date of entry into services, date of birth, gender, preferred hospital, medical prime and private insurance number (if applicable), and guardianship status; and

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

- (A) The legal or designated representative, family, and other significant person of the individual (as applicable);
- (B) The primary care provider and clinic preferred by the individual;
- (C) The dentist preferred by the individual;
- (D) The services coordinator or personal agent of the individual; and
- (E) Other agencies and representatives providing services and supports to the individual.

(2) An ~~agency service~~ provider agency must maintain emergency information for each individual receiving supports and services from the ~~agency service~~ provider agency in addition to an individual summary sheet identified in section (1) of this rule. The emergency information must be kept current and must include:

- (a) The name of the individual;
- (b) The name, address, and telephone number of the ~~agency service~~ provider agency;
- (c) The address and telephone number of the residence where the individual lives;
- (d) The physical description of the individual, which may include a picture and the date the picture was taken, and identification of:
  - (A) The race, gender, height, weight range, hair, and eye color of the individual; and
  - (B) Any other identifying characteristics that may assist in identifying the individual may the need arise, such as marks or scars, tattoos, or body piercing.
- (e) Information on the abilities and characteristics of the individual, including:

- (A) How the individual communicates;
  - (B) The language the individual uses or understands;
  - (C) The ability of the individual to know and take care of bodily functions; and
  - (D) Any additional information that may assist a person not familiar with the individual to understand what the individual may do for him or herself.
- (f) The health support needs of the individual, including:
- (A) Diagnosis;
  - (B) Allergies or adverse drug reactions;
  - (C) Health issues that a person needs to know when taking care of the individual;
  - (D) Special dietary or nutritional needs, such as requirements around the textures or consistency of foods and fluids;
  - (E) Food or fluid limitations due to allergies, diagnosis, or medications the individual is taking that may be an aspiration risk or other risk for the individual;
  - (F) Additional special requirements the individual has related to eating or drinking, such as special positional needs or a specific way foods or fluids are given to the individual;
  - (G) Physical limitations that may affect the ability of the individual to communicate, respond to instructions, or follow directions; and
  - (H) Specialized equipment needed for mobility, positioning, or other health-related needs.

(g) The emotional and behavioral support needs of the individual, including:

(A) Mental health or behavioral diagnosis and the behaviors displayed by the individual; and

(B) Approaches to use when dealing with the individual to minimize emotional and physical outbursts.

(h) Any court ordered or legal representative authorized contacts or limitations;

(i) The supervision requirements of the individual and why; and

(j) Any additional pertinent information the ~~agency service~~ provider agency has that may assist in the care and support of the individual in the event of a natural or man-made disaster.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

#### **411-345-0230 Incident Reports and Emergency Notifications byfor a Provider Agency-Service Providers**

For ~~an agency servicea~~ provider agency certified by the Department to ~~provide-deliver~~ services under these rules and endorsed under the rules in OAR chapter 411, division 323:

(1) A written incident report describing any injury, accident, act of physical aggression, or unusual incident involving an individual must be placed in the record for the individual. The incident 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) Follow-up to be taken to prevent a recurrence of the injury, accident, physical aggression, or unusual incident.

(2) Copies of incident reports for all unusual incidents (as defined by OAR 411-~~345317-00200000~~) must be sent to the services coordinator or personal agent within five business days of the unusual incident.

(3) The ~~agency service~~ provider agency must immediately notify the CDDP or Brokerage of an incident or allegation of abuse falling within the scope of OAR 407-045-0260.

(4) In the case of an unusual incident requiring emergency response, the ~~agency service~~ provider agency must immediately notify:

- (a) The legal representative, parent, next of kin, designated representative, and other significant person of the individual (as applicable);
- (b) The CDDP or Brokerage;
- (c) The residential contact of the individual; and
- (d) Any other agency responsible for the individual.

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

- (a) The designated representative of the individual (if applicable);
- (b) The legal representative of the individual or nearest responsible relative (as applicable);
- (c) The residential contact of the individual;
- (d) The local police department; and
- (e) The CDDP or Brokerage.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

## 411-345-0240 Emergency Plan and Safety Review for a Provider Agency ~~Service Providers~~

For ~~an agency servicea~~ provider agency certified by the Department to ~~provide deliver~~ services under these rules and endorsed under the rules in OAR chapter 411, division 323:

(1) ~~An agency serviceA~~ provider agency must develop, keep current, and implement a written emergency plan for the protection of all individuals in the event of an emergency or disaster. The emergency plan must:

- (a) Be practiced at least annually;
- (b) Consider the needs of the individuals being supported and address all natural and human-caused events identified as a potential significant risk to the individuals, such as a pandemic or an earthquake;
- (c) Coordinate with each residential provider or residential contact to address the possibility of emergency or disaster resulting in the following:
  - (A) Extended utility outage;
  - (B) No running water;
  - (C) Inability to provide food or supplies; and
  - (D) Staff unable to report as scheduled.
- (d) Include provisions for evacuation and relocation that identifies:
  - (A) The duties of staff during evacuation, transport, and housing of individuals;
  - (B) The requirement for staff to notify the Department and the local CDDP and Brokerage offices of the plan to evacuate or the evacuation of the facility, as soon as the emergency or disaster reasonably allows;

(C) The method and source of transportation;

(D) Planned relocation sites that are reasonably anticipated to meet the needs of the individuals;

(E) A method that provides a person unknown to the individual the ability to identify the individual by name and to identify the name of the ~~agency service~~ provider agency for the individual; and

(F) A method for tracking and reporting to the Department, local CDDP and Brokerage offices, or designee, the physical location of each individual until a different entity resumes responsibility for the individual.

(e) Address the needs of the individual, including medical needs; and

(f) Be submitted to the Department as a summary, per Department format, at least annually and upon revision and change of ownership.

(2) ~~An agency service~~A provider agency must post the following emergency telephone numbers in close proximity to all phones used by staff:

(a) The telephone numbers of the local fire, police department, and ambulance service, if not served by a 911 emergency service; and

(b) The telephone number of the executive director of the ~~agency service~~ provider agency and additional people to be contacted in the case of an emergency.

(3) If an individual regularly accesses the community independently, the ~~agency service~~ provider agency must provide the individual information about appropriate steps to take in an emergency, such as emergency contact telephone numbers, contacting police or fire personnel, or other strategies to obtain assistance.

(4) A documented safety review must be conducted quarterly to ensure the service site is free of hazards. The ~~agency service~~ provider agency must keep the quarterly safety review reports for five years and must make them available upon request by the CDDP, Brokerage, or the Department.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

#### **411-345-0250 Evacuation for a Provider Agency ~~Service Providers~~**

For an ~~agency service~~-provider agency certified by the Department to ~~provide-deliver~~ services under these rules and endorsed under the rules in OAR chapter 411, division 323:

(1) The ~~agency service~~-provider agency must train all individuals immediately upon entry to each service site to leave the site in response to an alarm or other emergency signal.

(2) The ~~agency service~~-provider agency must document the level of assistance needed by each individual to safely evacuate and such documentation must be maintained in the entry records for the individual.

(3) The ~~agency service~~-provider agency must provide, or assure provision of, necessary adaptations or accommodations to ensure evacuation safety for individuals with sensory and physical impairments.

(4) A site-based provider agency ~~service providers~~ must:

(a) Conduct unannounced evacuation drills one per quarter each year when individuals are present, unless required more often by the Oregon Occupational Safety and Health Division.

(A) Drills must occur at different times of the day.

(B) Routes to leave the site for the drill must vary based on the location of a simulated emergency.

(C) Any individual failing to evacuate the service site unassisted within three minutes, or an amount of time set by the local fire authority for the site, must be provided specialized training and support in evacuation procedures.

(b) Make written documentation at the time of each drill and keep the documentation for at least two years following the drill.

Documentation must include:

(A) The date and time of the drill;

(B) The location of the simulated emergency and route of evacuation;

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

(D) The type of evacuation assistance provided by staff to individuals that need more than three minutes to evacuate as specified in the safety plan for the individuals;

(E) The amount of time required by each individual to evacuate if the individual needs more than three minutes to evacuate;

(F) The amount of time for all individuals to evacuate exclusive of individuals with specialized support as described in section (3)(c) of this rule; and

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

(c) Develop a written safety plan for individuals who are unable to evacuate the site within the required evacuation time or who, with concurrence of the ISP team, request not to participate in evacuation drills. The safety plan must include:

(A) Documentation of the risk to the medical, physical condition, and behavioral status of the individual;

(B) Identification of how the individual must evacuate the site, including level of support needed;

(C) The routes to be used to evacuate the individual to a point of safety;

(D) Identification of assistive devices required for evacuation;

(E) The frequency the plan must be practiced and reviewed by the individual and staff;

(F) The alternative practices;

(G) Approval of the plan by the legal representative of the individual, services coordinator or personal agent, and the executive director of the ~~agency-service~~ provider agency; and

(H) A plan to encourage future participation in evacuation drills.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

#### **411-345-0260 Physical Environment for a Provider Agency **Service Providers****

For an ~~agency-service~~ provider agency certified by the Department to ~~provide-deliver~~ services under these rules and endorsed under the rules in OAR chapter 411, division 323:

(1) ~~All~~ provider ~~agency-service providers~~ must ensure that the service site has no known health or safety hazards in its immediate environment and that individuals are trained to avoid recognizable hazards.

(2) The ~~agency-service~~ provider agency must:

(a) Assure that at least once every five years a health and safety inspection is conducted of owned, leased, or rented buildings and property.

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

(B) The inspection may be performed by:

(i) Oregon Occupational Safety and Health Division;

(ii) The workers compensation insurance carrier of the ~~agency service~~ provider agency;

(iii) An appropriate expert, such as a licensed safety engineer or consultant approved by the Department; or

(iv) The Oregon Public Health Division, when necessary.

(C) The inspection must cover:

(i) Hazardous material handling and storage;

(ii) Machinery and equipment used by the ~~agency service~~ provider agency;

(iii) Safety equipment;

(iv) Physical environment; and

(v) 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 ~~agency service~~ provider agency for five years.

(b) Ensure buildings and property at each owned, leased, or rented 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 ~~agency service~~ provider agency for five years.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670

**411-345-0270 Vehicles and Drivers for a Provider ~~Agency Service~~ Providers**

For an ~~agency service~~ provider agency certified by the Department to ~~provide deliver~~ services under these rules and endorsed under the rules in OAR chapter 411, division- 323:

(1) ~~An agency service~~A provider agency that owns or operates vehicles that transports individuals must:

- (a) Maintain the vehicles in safe operating condition;
- (b) Comply with the laws of the Driver and Motor Vehicle Services Division;
- (c) Maintain insurance coverage; and
- (d) Carry a first-aid kit in the vehicles.

(2) A driver operating vehicles to transport individuals must meet all applicable requirements of the Driver and Motor Vehicle Services Division.

Stat. Auth.: ORS 409.050, 430.662

Stats. Implemented: ORS 430.610, 430.662, 430.670