

Mary Lee Fay  
Authorized Signature

**Number:** SPD-AR-12-008  
**Issue Date:** 2/14/2012

**Topic:** Developmental Disabilities

**Due Date:**

**Subject:** Brokerage exits due to ineligibility for the Support Services Waiver

**Applies to (check all that apply):**

- |  |   |
|--|---|
| <input type="checkbox"/> All DHS employees                     | <input type="checkbox"/> County Mental Health Directors   |
| <input type="checkbox"/> Area Agencies on Aging                | <input type="checkbox"/> Health Services  |
| <input type="checkbox"/> Children, Adults and Families         | <input type="checkbox"/> Seniors and People with Disabilities   |
| <input checked="" type="checkbox"/> County DD Program Managers | <input checked="" type="checkbox"/> Other (please specify): Brokerage Directors; DD Regional Coordinators |

**Action Required:** Starting March 1, 2012, brokerages and CDDPs are instructed to complete the tasks necessary to exit an individual from support services and to enroll the individual into case management at the CDDP when the individual is ineligible for the support services waiver consistent with OAR 411-340-0110(4)(a)(F and G).

Brokerage personnel may become aware of the loss of waiver eligibility from a variety of sources, including:

- The individual. Verbal reports from the individual or legal representative will suffice to initiate the process, however confirmation via a review of any written correspondence from, or contact with, state or federal offices regarding the disqualifying circumstance should be obtained whenever possible.
- Suspended TCM encounter claims. When the eXPRS system identifies a PA/TCM encounter claim as suspended, one possible cause is that the individual is no longer eligible for the waiver. The "suspended claim" report can help identify the cause of the suspension.
- DHS. State staff may learn of an individual's ineligibility from a variety of sources and will relay the information to the brokerage.

Please note, the presence of DDS coding in eXPRS may not reflect the individual's eligibility for the waiver. It simply reflects their enrollment to the waiver, regardless of eligibility.

Within no more than 10 working days of learning of an enrolled individual's loss of waiver eligibility, or upon the loss of eligibility, whichever is later, the brokerage will

provide the individual with a Notification of Planned Action using the template attached to this Action Request (the Notification of Planned Action for an exit due to any other reason should be delivered via DHS 0947). The effective date of the termination should be 30 days from the date of the notice, except in the case of a CIIS transfer being exited for a reason listed in OAR 411-340-0110(4)(a)(G) when it is 10 days from the date of the notice. The effective date may be extended following consultation with a Support Services Coordinator when re-eligibility for the waiver appears imminent.

If an individual requests a hearing consistent with the Notice of Hearing Rights, ODDS will coordinate with the brokerage to gather information and respond as needed.

Immediately following issue of the Notification, using form DHS 4111, the brokerage should provide the CDDP of the individual's county of residence the name of the individual along with the expected date of the exit. The brokerage will coordinate a transition meeting prior to the exit date that includes the individual and CDDP representative, if the individual does not object.

If an individual who has been given a Notification of Planned Action regains eligibility for the waiver prior to the exit date, the brokerage will notify the individual and CDDP that the Notification has been withdrawn using the [template](#). DHS may also withdraw the Notification, even in cases where the brokerage issued the Notification. The brokerage and CDDP will be informed in those instances.

Other state policies and local practices regarding the transition of an individual out of support services and into case management should be continued, including making the relevant changes to the eXPRS system.

**Reason for Action:** The addition of waiver eligibility as a requirement for continued enrollment in support services was expected to result in a difficult transition for brokerages and the individuals who did not meet the new requirement. To minimize the impact on brokerages and to ensure a consistent and coordinated response to individual circumstances, the transition was handled centrally through the Office of Developmental Disabilities Services. The period of transition is now complete and the function of exiting individuals is being turned over to the brokerages and CDDPs.

**Field/Stakeholder review:**       Yes       No

**If yes, reviewed by:**      **Brokerage Directors**

*If you have any questions about this action request, contact:*

<b>Contact(s):</b>	Mike Parr		
<b>Phone:</b>	503-945-6109	<b>Fax:</b>	503-947-4245
<b>E-mail:</b>	<a href="mailto:Mike.r.parr@state.or.us">Mike.r.parr@state.or.us</a>		



## Notification of Planned Action

Name: \_\_\_\_\_ Date of Notice: \_\_\_\_\_

Address: \_\_\_\_\_

For Questions Contact: \_\_\_\_\_ Phone Number: \_\_\_\_\_

A decision to terminate a Medicaid services has been made.

The effective date is: \_\_\_\_\_.

You may want to appeal this decision. If you have questions, call the contact listed above.

This action affects the following service(s):

### Planned Action

Terminate **Support Services**

Describe specific service: **Not eligible for Support Services for Adults**

### Action and Reason for Action:

This Notice is about an important change to your services. You have been receiving Support Services for Adults with Developmental Disabilities. Our records indicate you are not eligible for the Support Services Waiver as described in Oregon Administrative Rule (OAR) 461-135-0750 and summarized below. Therefore, we are sorry to inform you that your Support Services will end on the date indicated above. This means you will no longer be enrolled in Support Services and will be unable to use any Support Service funds to pay for Support Services after the effective date listed above.

As stated in OAR 461-135-0750, in order to qualify for the Waiver, a person must: be eligible for, and enrolled in, Oregon Medicaid OSIP-M and meet the Level of Care criteria.

You are not eligible for OSIP-M. To be eligible for Medicaid OSIP-M: you must have been determined by the Social Security Administration to have a disability; your annual income cannot be more than 300% of SSI, (For example, a single person with no children cannot have income more than \$2022/month); and you must not have combined assets (property or money) greater than \$2000.

You do not meet the Level of Care criteria. To meet the level of care criteria you must have a qualifying diagnosis of a developmental disability and a need for support is one or more of the following areas: self direction, home living, community use, social, self care, communication, mobility, and health and safety.

You will be eligible to receive case management through your local Community Developmental Disabilities Program. Your Personal Agent will be coordinating your transition back to the Community Developmental Disability Program's case management

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services and you will be offered a meeting to help you transition from the brokerage.

If you disagree with this decision you may request a hearing. Please read the section: Notice of Hearing Rights.

**REASON FOR THIS ACTION:** Due to the decline in Oregon's economy, less money is available to the State to pay for many of the important programs it has in the past. The Oregon Legislature, in it's 2011-2013 budget for the Department of Human Services, only approved funding for Support Services for individuals who are eligible for the Support Services Waiver in accordance with OAR 461-135-0750 beginning October 1, 2011. Therefore, the state is unable to continue to pay for the services you are receiving or otherwise might have received under this program. This program is one of many that have been cut or reduced.

**Applicable Oregon Administrative Rule(s) *including specific rule sections:***

OAR 411-320-0060(2)(g) - Community Developmental Disability Program (Rights of Individuals Receiving Services

OAR 411-340-0100 - Eligibility for Support Service Brokerage Services

OAR 411-340-0110(4) - Standards for Support Service Brokerage Entry and Exit

OAR 461-135-0750 - Eligibility for Individuals in Long-Term Care or Waivered Services; OSIPM

*Oregon Administrative Rules can be found at: <http://arcweb.sos.state.or.us/banners/rules.htm>*

**Be sure to read the enclosed notice to learn about your hearing rights.**

*If your situation changes, please notify the person listed above.*

**Keep this notice! If you ask for a hearing, DHS will ask you for a copy.**

cc. Brokerage  
CDDP

## Notice of Hearing Rights

### Part 1 – About Hearings: *What to do when you do not agree with a DHS decision.*

- a. You have the right to talk with a person in charge. You may ask for a meeting by contacting the person listed on this notice. If you want a hearing, you must request it on time. The time limits for requesting a hearing are listed below.
- b. Hearings are conducted under rules that start at OAR 137-003-0501 and statutes that start at ORS 183.411. At the hearing, you can tell why you do not agree with the decision. You can have people testify for you.
- c. To request a hearing, you must fill out an Administrative Hearing Request form (DHS 0443). You can get this from the contact person listed on this form or by going to: <http://dhsforms.hr.state.or.us/Forms/Served/DE0443.pdf>. The contact person on this notice can help you fill out the form. Forms must be returned to: Service Coordinator Specialist, ODDS, 500 Summer Street, E-10, Salem OR 97301.
- d. DHS must receive your request within 45 days from the *Date of Notice*, given at the top of page one. If you do not ask for a hearing within the 45 days, you lose your right to have one and this Notice of Planned Action becomes the *Final Order*.
- e. If you do not ask for a hearing on time, withdraw a hearing request, or do not appear at your hearing, the agency's file and anything you have submitted will be the record of your case.
- f. You may request an informal meeting to talk about your case with DHS. Choosing to have the informal meeting will not affect your right to a hearing if you request one. No separate order will be issued. You may appeal the final order under ORS 183.482 if you file a petition in the Oregon Court of Appeals. The appeal must be filed within 60 days of the date this notice becomes a final order.
- g. At the hearing, you may have a lawyer or someone else to help you. We cannot pay the costs of witnesses or a lawyer. You may be able to get free legal services from the Disability Rights Oregon or from a local Legal Aid Office.

### Part 2 – Continuing Your Benefits: *Applies only if currently receiving this benefit.*

DHS will not continue to provide you with your current level of Support Services. However, Part 3 below explains how you may request an expedited hearing on DHS' decision not to continue your current level of services.

### Part 3 – Expedited Hearings: *Can you have a hearing sooner than usual?*

If you request a hearing to challenge the Department's decision to close your Support Services, you have the right to an "expedited hearing" to challenge DHS' decision not to continue your Support Services until a hearing decision is issued on the closure of Support Services. You must request an expedited hearing in writing by checking the appropriate box on the Administrative Hearing Request form (DHS 0443).

An expedited hearing is a telephone hearing held within five working days from the date DHS receives your written hearing request. If you request an expedited hearing, you will receive information about the time and date of the hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the expedited hearing. The only issue for the expedited hearing is the decision to deny continued benefits. If you are allowed continuing services, but after your hearing it is determined you are not eligible to receive Support Services, you may have to pay back the cost of the services provided after the date of the termination of your support services indicated above.

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*DHS will not discriminate against anyone. This means DHS will help all who qualify. DHS will not deny help to anyone based on age, race, color, national origin, sex, sexual orientation, religion, political beliefs or disability. You may file a complaint if you think DHS discriminated against you because of any of these reasons.*