

Mary Lee Fay
Authorized Signature

Number: APD-AR-12-024
Issue Date: 6/18/2012

Topic: Developmental Disabilities

Due Date:

Subject: Adult Foster Home (AFH-DD) Notice of Exit Requirements

Applies to (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> All DHS employees | <input checked="" 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): SPD County Relations Unit, CDDP AFH-DD licensors, CDDP service coordinators, AFH-DD providers, SEIU, DRO, Office of Administrative Hearings. |

Action Required:

Oregon Administrative Rule 411-360-0190 (6), (14)(a), and Oregon Revised Statute 443.738 (11)(a-c) and ORS 443.739 (18) state that a written Notice of Exit is required for the exit, transfer or discharge of an individual from an AFH-DD residence. Individuals will be informed of their rights to an Administrative Hearing upon receipt of a written Notice of Exit. The individual, legal representative/ guardian and service coordinator will be provided copies of the written notice of exit, 30 days prior to the exit or transfer, except in cases of medical emergency or behaviors which present an imminent risk of danger to the individual or others. When an exit or transfer occurs as a result of a medical emergency or behavior that poses an imminent danger to the individual or others, the notice does not have to be provided 30 days in advance, but a written notice must be provided as soon as possible under the circumstances.

Effective immediately the attached Notice of Exit form ([SDS 0719DD](#)) is required for all exits, transfers or discharges from the AFH-DD, for those who are receiving care, except for Multnomah County, which has, it's own forms and procedures for the Adult Care Home Program.

SDS 0719DD includes the following:

- Mandatory Written Notice of Exit or transfer
- Notification of Hearing Rights titled: What to do you do when you do not agree with a written Notice of Exit
- Request for Administrative Hearing Form

The entire document must be provided to each individual receiving notice, to assure that the notice is legally sufficient, hearing rights are provided at the time the Notice of Exit is given, and individuals have timely access to a request for an Administrative Hearing.

Notice of exit or transfer shall only be given for the following reasons as indicated on the mandated form.

- Relocation of the AFH-DD.
- The AFH-DD license has been revoked, surrendered is not renewed or is suspended.
- The AFH-DD residence will be rented sold, leased.
- The individual fails to make payment for care.
- The ISP team mutually decides that the transfer is in the individual's best interest, and all ISP team members agree.
- The individual's care needs exceed the provider's ability
- Behavior, which poses an imminent danger to the individual or others.
- Medical emergency, including an increase in level of care

Individuals who are exited for medical emergencies, or behavior that poses a danger to self or others, shall be granted an Administrative Hearing upon written request within 7 days of the transfer or exit. The AFH-DD provider must hold a space available for the individual who is appealing pending receipt of a final Administrative Order.

Individual's who request an Administrative Hearing for reasons other than medical or behavioral emergency, must continue to receive the same services until the hearing is resolved. If the individual requests a hearing while still residing in the AFH-DD, they retain the right to receive services from that AFH-DD provider until the hearing is resolved, unless the home is closing due to relocation, revocation, surrender, non-renewal or suspension of the license.

To request an Administrative Hearing page three of the attached form must be completed and submitted to:

Service Coordinator Specialist, ODDS
500 Summer Street NE, E-10
Salem, Or 97301

The Department of Human Services must receive the postmarked request within 45 days from the Date of the Notice of Exit. If a request for an Administrative Hearing is not received within 45 days of the Notice of Exit, the individual may lose their right to a hearing.

SDS 0719DD can be located on the DHS forms server.

<https://apps.state.or.us/cf1/FORMS/>

Reason for Action: To assure that Notice of Exit requirements are met per Oregon Administrative Rule and Oregon Revised Statute.

Field/Stakeholder review: Yes No

If yes, reviewed by: **Disability Rights Oregon**

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

Contact(s):	Shelly. M. Reed, Corissa Neufeldt		
Phone:	503-945-5828	503-945-6742	Fax: 503-373-7274
E-mail:	Shelly.M.Reed@state.or.us / corissa.neufeldt@state.or.us		

**Adult foster Home for Developmental Disabilities
Mandatory Written Notice of Exit
or Transfer**

A 30-day written notice is required, unless the exit or transfer is due to a medical emergency or behavioral issues presenting imminent danger to the individual or others in the home, in which case the notice may be less than thirty days; however written notice must be provided as soon as possible under the circumstances.

Notice issued to *(name of individual)*: _____ Date: _____

From *(name of AFH-DD licensed provider)*: _____

Street address of AFH-DD: _____

City, state, ZIP: _____ Email address: _____

Telephone number of AFH-DD licensed provider: _____

Copies of this notice have been issued to the following:

Name	Relationship	Address
	Service coordinator	
	Legal guardian	

Date of proposed move, transfer or exit: _____

Resident is relocating to *(if known)*: _____

This action is being taken because of *(check all appropriate boxes)*:

Based on:

OAR 411-360 0190(6)(a)(A-E), 411-360-0190 (6)(b), 411-360-0170 (9)(s), 411-360-0190 (14)(a-b), ORS 443.739 (18), 443.738 (11)(b)

- | | |
|---|--|
| <input type="checkbox"/> Behavior poses an imminent danger to the individual or others | <input type="checkbox"/> Mutual ISP team decision that a transfer is in the individual's best interest |
| <input type="checkbox"/> License is revoked, surrendered or not renewed or is suspended | <input type="checkbox"/> Medical emergency, including an increase in level of care |
| <input type="checkbox"/> Relocation of the AFH-DD | <input type="checkbox"/> Non-payment for care |
| <input type="checkbox"/> Individual's care needs exceed the providers ability | <input type="checkbox"/> Licensee intends to rent, sell or lease the AFH-DD residence |

Indicate specific reason for notice: _____

You, the resident, have the right to an informal conference and administrative hearing with the Department of Human Services (DHS) if you are in disagreement with this notice. Individuals requesting a hearing while still in the AFH-DD, maintain the right to remain in the adult foster home until such time as the final order is received. If the exit is due to medical emergency or behavior posing imminent danger to yourself or others, the AFH-DD provider must reserve your room in the AFH-DD until receipt of the final order. Hearings requested based on a medical emergency or behavior posing imminent danger must occur within seven days of the exit. To request a hearing, please complete the attached Hearing request Form (DHS 0443).

Signature of licensed provider

Date

What to do when you do not agree with a written Notice of Exit

- a. You have the right to appeal the Notice of Exit by requesting a formal hearing, as is your right under Oregon law 411-360-0170(9)(s) and ORS 443.738.
- b. If you want a hearing, you must request it on time. The Department Human Services must receive your postmarked within 45 days of the Notice of Exit. **Department of Human Services (DHS) must receive your postmarked request within 45 days from the *Date of Notice of Exit*, given at the top of page one. If you do not ask for a hearing within the 45 days, you may lose your right to have one.**
- c. Hearings are held before an Administrative Law Judge who works for the Office of Administrative Hearings, not for DHS. 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 explain why you do not agree with the Notice of Exit. You can have people testify for you, and you may submit materials and your case file information related to this matter which is called "the record".
- d. To request a hearing, you must fill out the attached form titled **AFH-DD Notice of Exit or Transfer Administrative Hearing Request**. Your service coordinator or other designated individual can help you fill out the form if needed.
Forms must be returned to:
 - Service Coordinator Specialist, ODDS
 - 500 Summer Street NE, E-10
 - Salem, OR 97301
- e. You will receive a written Notice of Hearing from the Office of Administrative hearings, which tells you the date, time and place of your hearing.
- f. You can request a delay of your hearing, but you must contact the hearing coordinator listed on your Notice of Hearing immediately. Only the Office of Administrative Hearings (OAH) can postpone a hearing.
- g. 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 and the Notice of Exit will be the department's final decision, called the Final Order by Default. You will not get a separate Order by Default. The record submitted is used to support DHS's decision upon default.
- h. You may attend your hearing in person or by telephone.
- i. At the hearing, you may have a legal representative or friend help you. DHS does not pay the costs for witnesses or an attorney. You may be able to get free legal services from the Disability Rights Oregon or your local Legal Aid Office may be able to assist you if you have limited financial resources.
- j. The Administrative Law Judge will not make a decision at the hearing. The decision will be in writing and sent to you within 45 days following the hearing. The written decision is called the Final Order.
- k. If you disagree with the decision in the final order, 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 of the Final Order.** If you withdraw a hearing request or miss a hearing, the appeals deadline is described in the Dismissal Order.
- l. If you request a hearing while still residing in the AFH-DD for which you are appealing the Notice of Exit, you may continue to reside in that AFH-DD and continue to receive supports from that AFH-DD provider, unless the provider is not renewing their license, the license has been revoked or suspended, or your current placement results in an immediate risk to the health and safety of yourself or others in the home.
- m. If you have received a notice of exit due to a medical or behavioral emergency which places yourself or others at risk, you may be granted a hearing within 7 days of the Department's receipt of your request for Administrative hearing. The provider must maintain your room at the foster home, if you were exited or transferred for medical or behavioral risks, until the final order is issued.

AFH-DD Notice of Exit or Transfer Administrative Hearing Request

If you want a hearing regarding a Notice of Exit or Transfer from an Adult Foster Home for individuals with developmental disabilities (AFH-DD), you or your legal representative (guardian) must fill out this form **within 45 days of the date the notice is issued**. You may also get assistance to complete the form from your Service Coordinator or other representative such as an advocate or other legal counsel.

Claimant or claimant's representative completes this part

Name of claimant (*individual receiving notice*): _____

Date of birth: _____ Phone: _____

Address: _____

Name of AFH-DD provider issuing notice: _____

I did not receive written notice I received written notice Date of notice: _____

I am asking for a hearing because I do not agree with the decision to:

Exit the AFH-DD Transfer to a new AFH-DD Relocate with AFH-DD provider

Briefly explain why you disagree with the Notice of Exit or Transfer (*attach additional sheets as needed*):

Check the box if your Notice of Exit or Transfer was due to:

Medical emergency Behavior posing imminent danger

If you checked one of the boxes above you are entitled to an expedited hearing, within 7 days from the date the department receives this request for an Administrative Hearing.

Name of person other than claimant completing this form: _____

Phone number: _____

Address: _____

Relationship to claimant (*guardian, legal counsel, advocate*): _____

Signature: _____

The administrative law judge may conduct the hearing by phone. In a telephone hearing, the administrative law judge participates by phone. You may participate in your administrative hearing from the developmental disability office or another location.

Signature of claimant: _____ Date: _____

Department of Human Services (DHS) completes this part			
DHS representative for this matter:		Phone:	
Issue code:		Date:	
Date of notice:	Cost center:	Date of initial hearing request:	Date 0443DD rec'd by DHS:
Case number, prime number or DD followed by last 4 digits of SSN:			
Claimant speaks English? <input type="checkbox"/> Yes <input type="checkbox"/> No		Claimant primary language:	
Alternate format? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, specify below:			
<input type="checkbox"/> Braille	<input type="checkbox"/> Audio tape	<input type="checkbox"/> Large print	<input type="checkbox"/> Diskette <input type="checkbox"/> Oral presentation