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**Authorized Signature**

**Number: SPD-PT-06-024**  
**Issue Date: 06/27/2006**

**Topic:** Long Term Care

**Transmitting (check the box that best applies):**

- New Policy   
  Policy Change   
  Policy Clarification   
  Executive Letter  
 Administrative Rule   
  Manual Update   
  Other: \_\_\_\_\_

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

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

Policy/Rule Title:	Assessments		
Policy/Rule Number(s):	OAR 411-015-0008	Release No:	
Effective Date:	6/1/06	Expiration:	
References:	House Bill 3268		
Web Address:	<a href="http://www.dhs.state.or.us/policy/spd/rules/411_015.pdf">http://www.dhs.state.or.us/policy/spd/rules/411_015.pdf</a>		

**Discussion/Interpretation:**

Legislation (HB 3268) passed in the last legislative session and the need for further rule clarification have lead to a new rule, OAR 411-015-0008 Assessments, effective June 1, 2006. This transmittal reviews the new rule and explains a new, required notice mandated by the legislation.

**ASSESSMENT POLICY**

Previously, the only rules governing service assessments were the definition of assessment in OAR 411-015-0005 and some sections of OAR 411-030-0050 Case Management, in the In-Home Support Services rules.

The new rule covers the assessment and re-assessment of individuals receiving

waivered and nursing facility services. This includes Independent Choices and Spousal Pay (who are not waivered) program participants.

## **ASSESSMENT STANDARDS**

The Department's Title XIX Home and Community Based Service waiver sets a standard of a service re-assessment a minimum of once per year. Local offices may instruct Case Managers to conduct more frequent re-assessments in accordance with local office policy. Re-assessments must also be completed if the individual's health or needs change and affect the service plan.

Assessments must be completed face to face. Valuable information may be lost if the case manager is unable to observe the individual's functional abilities and environment.

Initial assessments are conducted face to face in the individual's home or care setting. As noted in the section below in this transmittal, re-assessments may be completed elsewhere. However, case managers must still visit the home to complete the re-assessment.

Information about the individual's functional abilities thirty days prior to the assessment and the expected functioning in the thirty days following the assessment may be considered when choosing need levels. Preventative needs may not be considered. OAR 411-015-0006(5(b) provides exceptions to this time frame when assessing Cognition/Behavior.

## **RE- ASSESSMENT LOGISTICS & CLIENT'S RIGHTS**

As mandated by HB 3268, individuals have the right to select the date, time and place of their service re-assessment. In selecting a place outside of the home or care setting, the individual must have a compelling reason to meet elsewhere if an alternate location is desired. Department staff must visit the home in order to complete the re-assessment and evaluate safety and risk concerns. In addition, many Activities of Daily Living must be assessed at home or in the care setting to select a need level. If individuals choose to meet elsewhere, staff may need to meet the individual elsewhere but then also visit the home or care setting to complete the re-assessment.

A compelling reason might include such situations as: if individual is fearful of others or the environment in the home or desires more privacy than available at home.

Appointments are expected to be scheduled within business days and hours barring extraordinary circumstances. Extraordinary circumstances are defined in OAR 411-015-0005(14) as:

- (a) The individual being assessed is working full time during business hours, or
- (b) A family member, whose presence is requested by the individual being

assessed, is traveling from outside the area and is available for only a limited period of time, which does not include business days and hours.

If an extraordinary circumstance exists, the individual must request and negotiate an alternate time with the local office.

If local offices see unusual demand for appointments outside of business days and hours, or at alternate locations therefore requiring multiple visits, please notify Naomi Sacks, using the contact information listed below.

Individuals have the right to have natural supports present during any assessment. When asked by the individual being assessed, local offices must make efforts to include natural supports when scheduling assessments.

### **REQUIRED NOTICE OF SERVICE RE-ASSESSMENT**

Effective July 1, 2006, the Department is required to send eligible individual's a notice of the need for a service re-assessment, a minimum of fourteen (14) days in advance. A copy of the text of the notice is attached to this transmittal.

Re-assessments based on a change in the individual's condition or needs are exempt from the 14-day advance notice requirement. This clause was added to the rule so that if an individual has a sudden or urgent need for a re-assessment or greater services, there is no delay in completing the re-assessment.

The information in the text was mandated by HB 3268, including the individual's right to set the date, time and place of the appointment, to invite whom they would like to participate and that the individual has a right to a hearing. This notice does not inform the client about an agency action: it just notifies the client of the upcoming need for the re-assessment. Therefore, there is no hearable right based on the notice alone. The hearing rights will be attached to the auto-generated notice and are relevant if the individual does not agree with the **results of the re-assessment**.

The Service Re-Assessment Notice will be auto-generated by CAF Client Notice system. Notices will be mailed around the 15<sup>th</sup> of the month before the end of the service assessment period. For example notices to individuals whose assessments expire 7/31/06 will be sent on or about 6/15/06.

The Client Notice system will check the SSEQ screens for the service assessment end date and also the UCMS case descriptors. The system will not generate notices for unless the UCMS case has one of the following: NFC, SPH, ICP or APD service code. If the system reads a State Plan Personal Care code such as BPA, a notice will not be generated.

The notice is also already available on the Forms Server should staff need or wish to

generate one. On the Forms Server, the notice title is "Service Eligibility Review Notice." The form number is 70B. Staff must enter the date fields.

For hearing purposes, local offices may occasionally need a copy of a sent notice. Contact Naomi Sacks, at the contact information listed below, if a copy of a notice is needed.

At this time, notices are available in Spanish. Work is in progress for Russian and Vietnamese translations as well.

State Plan Personal Care and Oregon Project Independence recipients are exempt from the service re-assessment notice requirement.

### **EXCEPTION TO THE NOTICE OF RE-ASSESSMENT REQUIREMENT**

There is one exception to the requirement of the notice of service re-assessment. OAR 411-015-0008(1)(e) states that re-assessments based on a change in the individual's condition or needs are exempt from the 14-day advance notice requirement. This provision is to protect individuals who need an immediate re-assessment due to a sudden, urgent increase in needs. Individuals who have urgent needs should not be penalized by having to wait an additional two weeks to allow time for the notice. All other re-assessments should be scheduled far enough in advance to allow for the required minimum 14 day advance notice.

### **RESPONSIBILITIES OF THE INDIVIDUAL OR LEGAL REPRESENTATIVE**

Section (3) of this new rule provides parameters for the participation of individuals and their legal representatives. Consistent with OAR 461-105-0020 Responsibilities of Clients, section (3) of this new rule, describes that an individual may not be eligible for services if they do not participate in or provide information necessary to complete assessments and re-assessments on a timely basis. This provision is not to be used to deny or close individuals who may not be able to participate on a timely basis if there are circumstances beyond their control or their legal representative's control. This clause is intended to be used in egregious situations in which the individual refuses or cancels multiple attempts to either meet with local staff or to provide necessary information. Denials based on this clause may be staffed with local office managers.

### **Implementation/Transition Instructions:**

**Training/Communication Plan:** Training sessions on new rules, including this material, are being offered at Regional Technical Training around the state. Two Netlinks which will cover these changes are scheduled in late June. Additional training may be available on request.

**Local/Branch Action Required:** Set service re-assessment appointment times, dates and places in conjunction with the eligible individual's preferences. If the individual prefers to meet outside the home or care setting, the assessment may be completed elsewhere but the case manager must still visit the home to complete the re-assessment. Notify Central Office staff listed below if there are unusual requests for assessment scheduling.

**Central Office Action Required:** Work with computer staff to assure auto-generated notice runs. Retrieve requested copies of notice. Offer training. Provide technical assistance as needed.

**Field/Stakeholder review:**      Yes      No

**If yes, reviewed by:** Operations Committee, SPD Policy Group

**Filing Instructions:**

*If you have any questions about this policy, contact:*

<b>Contact(s):</b>	Naomi Sacks		
<b>Phone:</b>	503 945-6414	<b>Fax:</b>	503 947-4245
<b>E-mail:</b>	<a href="mailto:Naomi.E.Sacks@state.or.us">Naomi.E.Sacks@state.or.us</a>		