

Lilia Teninty  
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**Authorized Signature**

**Number:** APD-PT-16-033  
**Issue date:** 9/22/2016

**Topic:** Developmental Disabilities

**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 type="checkbox"/> Area Agencies on Aging                | <input type="checkbox"/> Health Services  |
| <input type="checkbox"/> Aging and People with Disabilities    | <input checked="" type="checkbox"/> Office of Developmental Disabilities Services(ODDS) |
| <input type="checkbox"/> Self Sufficiency Programs             | <input type="checkbox"/> ODDS Children’s Intensive In Home Services                     |
| <input checked="" type="checkbox"/> County DD Program Managers | <input type="checkbox"/> Stabilization and Crisis Unit (SACU)                           |
| <input type="checkbox"/> ODDS Children’s Residential Services  | <input type="checkbox"/> Other (please specify):  |
| <input checked="" type="checkbox"/> Child Welfare Programs     |   |

Policy/rule title:	HCBS Compliance Monitoring for I/DD-Funded Foster Care for Children in Child Welfare Certified Foster Homes		
Policy/rule number(s):		Release no:	
Effective date:		Expiration:	
References:			
Web address:			

**Discussion/interpretation:** When individuals receive Medicaid-funded services under the K-plan or Federal 1915 waivers, the services and settings where those services are provided must comply with federal Home and Community-Based Settings (HCBS) rules. The HCBS requirements are identified in Oregon Administrative Rule (OAR)-Chapter 411, Division 4: [http://www.dhs.state.or.us/policy/spd/rules/411\\_004.pdf](http://www.dhs.state.or.us/policy/spd/rules/411_004.pdf)

When a child is receiving Developmental Disabilities (DD)-funded foster care in a Child Welfare certified foster home, the home is considered a provider-owned, controlled or operated residential setting. Specific federal rules apply to these setting types. Provider-owned, controlled, or operated residential settings must be reviewed to determine if the setting is compliant with the new HCBS setting requirements.

Residential settings, including foster homes, must be in full compliance with the new HCBS rules no later than September 1, 2018. Providers and service settings not compliant with the new rules by September 2018 will receive Notice that they will not be eligible to receive payment for Medicaid services after March 17, 2019 and that ODDS will begin the efforts of moving individuals to alternative settings that meet full compliance with the HCBS rule.

**Implementation/transition instructions:** CDDPs providing case management services to children receiving DD-funded foster care services in Child Welfare certified foster homes must complete an HCBS On-Site Compliance Assessment for the home where the child resides.

The HCBS On-Site Compliance Assessment for Residential Service Settings may be found at: <http://www.oregon.gov/DHS/SENIORS-DISABILITIES/HCBS/Pages/ODDS.aspx>

Use the checklist that aligns with the age of individuals receiving services in the setting. The children's checklist must be applied for individuals under the age of 18, and the adult checklists must be applied for individuals age 18 or older residing in a residential service setting. When a Child Welfare certified foster home receives DD foster care funding to serve both children and adults (individuals age 18 or older), both the children's and adult checklist must be applied. Reference the instructions for guidance on interpretation and application of the checklist questions.

Additional questions and clarification:

- How does DD have the authority to complete an on-site compliance assessment for a Child Welfare certified foster home?

The HCBS rules require that the setting where an individual resides be compliant with the new federal rules. Child Welfare foster care providers that receive a payment from the DD system for the provision of foster care services for children with intellectual and developmental disabilities must be enrolled as a Medicaid provider. The provider enrollment agreement includes the requirement to comply with applicable service and setting rules related to the services provided to the individuals in the setting operated by the provider.

- When do the on-site compliance assessments have to be completed?

The expectation is that all foster care homes serving individuals in a DD funded foster care setting (regardless of certification source) will be reviewed once during the 2016 calendar year. A second annual review will take place during the 2017 calendar year. The on-site compliance assessments can occur in conjunction with licensing visits, service or site monitoring visits, or independent of any other visit to the home.

- What about children with I/DD who are living in Child Welfare certified foster homes where the foster care service is funded by Child Welfare?

If Child Welfare is funding the foster care service for the child, then an on-site compliance assessment is not required. When Child Welfare has established the living situation for a child in a familial home setting where Child Welfare is providing a stipend to the caregiver, this is considered to be an in-home situation. Children in these living arrangements who receive DD-funded services in addition to the Child Welfare funded placement are funded through DD151, children's in-home services. Individuals living and receiving services in their own home, as supported by an "in-home" services plan, are presumed to be served in a setting and manner that is compliant with HCBS rules.

- What if there are different CDDPs providing case management services to children receiving DD-funded foster care in the Child Welfare certified foster home?

If a county program provides case management to an individual in the Child Welfare certified foster home and the CDDP is the same county where the home is located, that CDDP is responsible for completing the on-site assessment for the home.

When all children receiving DD-funded foster care in a Child Welfare certified foster home receive case management services from a CDDP located outside the county of where the home is located, the involved CDDPs must coordinate to determine which CDDP will conduct the on-site compliance assessment. If no consensus can be reached between counties on which CDDP is responsible for completing an on-site compliance assessment, then each CDDP must separately complete the checklist addressing the child(or children) receiving case management from that CDDP.

**Local/branch action required:** CDDPs are responsible for the completion of the HCBS On-Site Compliance Assessment for Residential Service Settings for the home of children receiving DD-funded foster care. Regardless of licensing or certification type (Child Welfare or DD), the CDDP providing case management services to that child is responsible to ensure that an on-site compliance assessment is completed.

Upon completion of the checklists, the checklist(s) must be emailed to ODDS at: [ODDSHCBS.ResidentialReview@state.or.us](mailto:ODDSHCBS.ResidentialReview@state.or.us) . See Transmittal APD-AR-16-012 for additional instructions on submission of checklist.

**Central office action required:** ODDS will enter the checklist information into ASPEN and track compliance information for providers.

**Field/stakeholder review:**  Yes  No

**If yes, reviewed by:** CDDP policy groups

**Filing instructions:**

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

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