

# 24-Hour Residential Programs for Children and Adults with I/DD

Oregon Administrative Rule Changes  
Chapter 411, Division 325

# Disclaimer

OAR references to the 411- 325 24-Hour Residential Programs for Children and Adults with I/DD rule are based on proposed language and is subject to change with public comment period and finalization of Oregon Administrative Rules on December 29<sup>th</sup>, 2014.

This Power point does not contain all of the content in the 24-Hour Residential Programs rule. It is important that you read the rule in its entirety.

## New Definitions

411-325-0020

New definitions added to the 24-Hour Residential Programs rule:

- Brokerage
- Career Development Plan
- Hearing
- Involuntary Reduction
- License
- OHP Plus
- Service Level

## Terms and Definitions Removed

A number of terms and definitions that are commonly used across all ODDS rules were removed and added to a new Definition rule, Chapter 411, Division 317. Some of the terms remain with a reference to the new Definition rule or other ODDS rules (such as the Community Developmental Disability Program Rule Chapter 411 Division 320).

The following terms and definitions were moved to, or referenced in, another rule:

- Abuse Investigation and Protective Services (OAR 411-317-0000)
- Activities of Daily Living (ADL) (OAR 411-317-0000)
- Administration of Medication (OAR 411-317-0000)
- Aid to Physical Functioning (OAR 411-317-0000)
- Case Management (OAR 411-317-0000)
- Community Developmental Disability Program (CDDP) (OAR 411-320-0020)
- Community First Choice State Plan (OAR 411-317-0000)
- Day (OAR 411-317-0000)
- Founded Report (OAR 411-317-0000)
- Health Care Provider (OAR 411-317-0000)
- Home and Community Based Waivered Services (OAR 411-317-0000)
- Instrumental Activities of Daily Living (IADL) (OAR 411-317-0000)
- Mandatory Reporter (OAR 411-317-0000)
- Medication (OAR 411-317-0000)
- Nurse (OAR 411-317-0000)
- Prescription Medication (OAR 411-317-0000)
- Productivity (OAR 411-317-0000)
- Protection (OAR 411-317-0000)
- Self-Administration of Medication (OAR 411-317-0000)
- Services (OAR 411-317-0000)
- Significant Other (OAR 411-317-0000)
- Staff (411-317-0000)
- Support (4110317-0000)
- Volunteer (411-317-0000)

## Updated Terms & Definitions

The following definitions were updated substantively to provide further clarity and consistency.

- Choice
- Crisis
- Designated Representative
- Developmental Disability
- Director
- Functional Needs Assessment
- Guardian
- Individual
- Individual Support Plan (ISP)
- Legal Representative
- Natural Supports
- Nursing Service Plan
- Person-Centered Planning
- Provider
- Special Diet
- Transition Plan

# Definitions

## 411-325-0020

- Please review all rule definitions for changes. Some rule definition changes were grammatical or stylistic in nature and are not noted in this handout.

# Conditions on License

411-325-0060

- The rule has been updated to provide clarifying language related to when the Department imposes conditions on a license.
- The rule provides additional clarifying language on administrative reviews requested by the provider and associated timelines.
- There is an addition of language requiring that conditions be posted with the license in a prominent location and be available for inspection.

# Variances

## 411-325-0110

- The rule has been updated to clarify that the Department will not grant a variance when the request violates applicable state or federal laws.
- Clarifying language has been added related to administrative review requests associated with variances.

## Medical Services

411-325-0120

- Rule update includes language related to delegation. This updated states the requirement that nursing tasks must be delegated by a nurse to a provider in accordance with the rule of the Oregon State Board of Nursing.

Individual Rights, Complaints, Notification of  
Planned Action, and Hearings  
411-325-0300

**There are significant changes to this section of the rule.**

**The Department adopted OAR 411-318-0000 that provides a standard set of rights, and a uniform complaints and hearing process.**

**It is important for you to review and become knowledgeable of the requirements contained in the OAR 411-318-0000 rule.**

# Individual Rights

411-325-0300(1)(a)-(d)(A)-(Y) (e)-(i)

- A provider must protect the rights of individuals as described in the rule and assist individuals to understand and exercise rights.
- Upon entry, request, and annually thereafter, the individual rights must be provided to the individual.
- This includes the individual being informed of and having the opportunity to assert complaints.

Individual Rights, Complaints, Notification of  
Planned Action, and Hearings  
411-325-0300

Language related to informal complaints, formal grievances, and Medicaid Fair Hearings was repealed and new language was added regarding:

- Complaints.
- Notification of Planned Action
- Hearings

Qualifications For Department Funded Services  
OAR 411-325-0390  
Entry, Exit and Transfer

Changes in rule:

- To be eligible for services in a 24-hour residential program, an individual must be eligible for Oregon Health Plan (OHP) Plus. Language stating “be eligible for OSIP-M” was removed.
- The requirement that an individual must not be receiving other department funded in-home or other funded comprehensive residential services was added.
- Other requirements continue to apply including Oregon residency, DD eligibility and meet Level of Care.

Qualifications For Department Funded Services  
OAR 411-325-0390  
Entry, Exit and Transfer

Added to the rule:

- To be eligible for Department funded relief care in a 24-hour residential program, an individual must meet the same criteria as previously outlined, be referred by a CDDP or Brokerage and not be receiving services in a Supported Living setting.

# **Transfer of Assets**

## **411-325-0390(2)(c)**

ODDS added a **Transfer of Assets section** to this part of the Rule. The information relates to an individual being **financial eligible to receive Medicaid services**.

- ✓ An individual **receiving medical benefits under OAR chapter 410, division 200 requesting Medicaid coverage for services in a non-standard living arrangement** (see OAR 461-001-0000) **is subject to 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. Includes, but is not limited to, the following assets:
  - ❖ Transfer of property when an individual retains a life estate.
  - ❖ An Annuity
  - ❖ A loan by an individual.
  - ❖ An irrevocable trust.

## Transfer of Assets

- When an individual is disqualified for a transfer of assets, the individual must be sent a notice, meeting the requirements of OAR 461-175-0310 in the same manner as if the individual was requesting services under OSIPM.

Qualifications For Department Funded Services  
OAR 411-325-0390  
Entry, Exit and Transfer

Changes to documentation upon entry 411-325-0390(4)

Adds to list of documentation requirements upon entry:

- Most recent assessments
- Protocols
- Risk tracking records
- Any support documentation if available
- Copies of power of attorney, court orders, and probation and parole information
- Written documentation to explain why preferences or choices of the individual may not be honored at that time

# Individual Support Plan 411-325-0430

- Rule update adds requirement:

“As of July 1, 2014, a Career Development Plan must be attached to the ISP of an adult in accordance with OAR 411-345-0160”